

**APPROVED:**

**MOTION BY:**

**AYES:**

**NAYS:**

**SECONDED BY:**

**ABSTENTIONS:**

**ABSENT:**

**DISTRIBUTION:** OFFICIAL MINUTES BOOK – TOWN CLERK – BLDG DEPT.

Certification of Receipt

By:

Rosaria Peplow, Town Clerk

**ZBA MEETING MINUTES**

**TOWN OF LLOYD ZONING BOARD**

**Thursday, July 12, 2018**

**CALL TO ORDER TIME: 7:00PM**

**PLEDGE OF ALLEGIANCE**

**ATTENDANCE** Present: John Litts, Chair; Paul Gargiulo; Russell Gilmore; William Brown; Alan Hartman; Michael Guerriero, Town Board Liaison; Anthony Giangrasso, Deputy Building Inspector; Rob Stout, Town Attorney; Dave Barton, Building Department Director; Laura Oddo-Kelly, Secretary to Planning and Zoning.

**ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS; ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.**

**New Business**

**MCBS DG Highland LLC, 3584-3594 Route 9W, SBL# 88.17-6-25.110 & 88.17-6-16.110, in GMU zone.**

Dollar General / Multifamily

**\*Applicant is seeking an area variance for side yard parking in the GM Zone**

Development project of 21.7 acres of land along Route 9W. The applicant desires to take three lots (SBL: 88.17-6-15.11, 16.11 and 25.11) Lot 3 will contain a proposed Dollar General retail store with parking on the side.

John Joseph, developer and Caleb Carr, applicant’s engineer, were present to address particulars of the area variance requested.

Barton gave an overview of the proposed project and the request for an area variance for the side yard parking. The proposed project has been in front of the Planning Board for over two years.

He explained that the proposed Dollar General is not allowed to have side yard parking where it would be situated and they are unable to have parking in the front as the building is in very close proximity to Route 9W. The Dollar General building would be in an east-west direction and that it would be impossible to rotate it without demolishing the existing building that is there now.

The primary entrance and parking would be on the south side.

The ZBA viewed the maps and where vehicles would have ingress and egress.

Barton said the applicant is looking for complete relief for the side yard parking.

Litts reiterated that the applicant is looking for relief for all parking on the side yard.

Stout said the zoning for the district requires all parking to be in the back as per the code. He said the Planning Board cannot waive it; the ZBA would be the Board that the applicant would have to seek relief from.

41 Barton said there is no physical way to put a 70% frontage on that lot and still maintain the  
42 required safety apparatus lanes in and out of the site. He continued to say that the Planning Board  
43 is going to recommend some changes to the code be made to the Town Board.  
44 Stout said he spoke to the applicant's attorney, Michael Moriello, who will be making a  
45 supplemental submittal to explain more fully the area variance, the requirements and exactly  
46 what they propose to do with the parking.  
47 A **Motion** was made by Alan Hartman, seconded by Bill Brown to set the public hearing for the  
48 August 9, 2018 meeting. All ayes.

49

50 **Jackson, Vicki, 11 Milton Avenue, SBL# 88.69-8-4, in CB Zone.**

51 Applicant is seeking a residential use variance to convert an existing ground floor commercial  
52 space of approximately 2200 square feet into two equal sized apartments.

53 \* **Please refer to attached use table in code book.**

54 Applicant was present to give an overview of the intention of the proposed project. She supplied  
55 the Board with a drawing of the layout of the project. She explained that she would like to make  
56 two apartments out of the commercial space but still have the option of reverting it back to  
57 commercial space in the future if she so desires.

58 Barton said if she makes the entire commercial space into residential, she would have to go in  
59 front of the Planning Board for a commercial conversion back if she would like to rent it to a  
60 commercial tenant.

61 The ZBA would like to see a more accurate site plan at the next meeting.

62

63 A **Motion** was made by Alan Hartman, seconded by Bill Brown to set the public hearing  
64 Contingent upon the applicant providing a more extensive site plan) for the August 9, 2018  
65 meeting. All ayes.

66

67 **New Public Hearings**

68

69 **Watson, David I, 10 Bellevue Rd, SBL# 88.17-2-36.120, in R 2 Zone.**

70 Applicant is seeking an area variance relief of 13' 7" for the front yard to build a 240 sq ft  
71 accessory structure.

72 **The ZBA requested the applicant to provide them with pictures of the property which show  
73 the steep grade, where the building would be situated, and a topography map of the  
74 property.**

75 **Spiciarich complaint letter received 07.09.18.**

76

77 The applicant was present to explain his intent of the area variance.

78 Litts asked Watson if he brought pictures of the property and where the proposed project would  
79 be.

80 Watson said he supplied them two weeks ago.

81 There was a discussion on the steep slope of Watson's property.

82 Gargiulo asked how many feet was filled in on the slope by the applicant.

83 Watson said he brought in one truckload.

84 Gargiulo said it looks like much more than that and there is approximately three yards of fill at  
85 the tree line. Additionally, he said rocks and boulders that have fallen down the slope to the  
86 property on River Road.

87 Watson did not agree.

88 Gargiulo said the debris falls down to the bottom of the bluff. There are a row of trees down the  
89 slope that are collecting the fill that has been rolling off the hill of Watson's property down to  
90 River Road. The slope is very steep, almost straight down approximately 100 feet.

91 Watson asked where Gargiulo was obtaining his information from.

92 Gargiulo said he has walked the property.

93 Litts asked Watson if he had filled the area and compacted the fill.

94 Watson replied yes.

95 Litts asked if Watson has documentation or a compaction test that would show the fill was  
96 compacted.

97 Watson said he did not have a compaction test but that said it was rolled and hard and it is a lawn  
98 presently.

99 Litts explained that grass can grow on anything.

100 Litts made full disclosure that he may have set up Crowder Construction with a fill site which  
101 was the same company that the applicant used for his fill. Litts did not broker the fill but knew of  
102 a contractor who was getting rid of fill and let Crowder Construction know. Both Litts and the  
103 applicant did or do not know if it was the same fill Watson used on his property.

104 Stout said that action does not bear on Litts's position on the Board with the proposed project as  
105 long as Litts can conduct himself in an unbiased fashion.

106 Litts said he absolutely could.

107 Litts asked if the applicant had the topography map requested by the Board at the last meeting.

108 Gargiulo said there is a silt fence and palate holding back the fill on the slope. He said he went  
109 down to River Road, which is at the bottom of the slope, and saw a very small tree line that has  
110 been collecting some of the debris roll down of the fill. Gargiulo continued that Watson's  
111 neighbor (who has submitted a letter to the ZBA) at the bottom of the slope has been taking  
112 rocks and boulders off of her lawn that have rolled down the slope.

113 Litts asked Oddo-Kelly to read the letter to the Board from Watson's neighbor for the record (see  
114 attached).

115 Watson disagreed with and challenged Ann Marie Spiciarich's letter blaming the falling debris  
116 on water runoff from the construction of a water pipe built by the Town. He said he is only  
117 seeking an 18" variance all the way around the proposed structure.

118 Gargiulo said there is a formula in the code for slope, how far a building has to be away from the  
119 slope.

120 There was a discussion of how and where the formula measurement would be taken and where  
121 the build angle would be. Further discussion included interpretation of the zoning code, the slope  
122 and the amount of fill that was put on the property.

123 Gargiulo asked Watson how much fill he put on the property.

124 Watson stated he put one truckload of fill on the property. He said he could not put the structure  
125 anywhere else on his property.

126 Barton said Mr. Watson came to the ZBA a year ago for front yard relief and said the proposed  
127 project may require front yard relief as well. He said he believes Mr. Watson's representation to  
128 the Board is somewhat faulty and inaccurate saying he only brought in one load of dirt onto the  
129 property.

130 Watson said he thought he was asked how much fill was brought in recently for the proposed  
131 project.

132 Gargiulo wanted to know where the original bluff of the hill is.

133 The Board made a second request for the applicant to supply them with a survey and topography  
134 map of the property.

135 Watson asked if he could still be denied if he came to the meeting with all the required  
136 documentation.

137 Stout said there is a balancing test in the code that weighs all the criteria for all the variances. As  
138 part of Watson's application, he is to address all the questions that are part of the balancing test  
139 and explain to the Board how they are met. The ZBA has requested the applicant to supply them  
140 with a visual graphic depiction of the proposed project but the applicant also needs substantiate  
141 why the project would require or qualify for relief from the ZBA. There is a section in the code  
142 about area variances and it tells the Board exactly what they need to consider when making a  
143 decision.

144 Brown said he believes Watson stated last month that the front of the building would be in line  
145 with the wall.

146 Watson said that was right.

147 Brown stated he drove down to the property after the meeting and said that was not the case.

148 Stout said there is a section in the NYS Town code which has a section on area variances, which  
149 also includes balancing test and read the questions relating to it.

150 A **Motion** was made by Alan Hartman, seconded by Paul Gargiulo to extend the public hearing.  
151 All ayes.

152

153 **Rizzo, Thomas, 120 Lily Lake Rd, SBL# 87.2-1-5, in R1 Zone.**

154 Applicant is seeking an area variance to place a storage building in the front yard next to an  
155 existing carport. A building permit and CO were issued January 11, 1994 for a residential two  
156 vehicle carport.

157

158 There was a discussion between the ZBA and the applicant about the measurements of where the  
159 proposed project will be according to the map.

160 A **Motion** was made by Alan Hartman, seconded by Paul Gargiulo to open the public hearing.  
161 All ayes.

162 There were no public comments.

163 A **Motion** was made by Paul Gargiulo, seconded by Alan Hartman to close the public hearing.  
164 All ayes.

165 The ZBA discussed the balancing test.

166 A **Motion** to grant the area variance was made by Alan Hartman, seconded by Bill Brown. All  
167 ayes.

168

169 **Minutes to Approve:**

170

171 A **Motion** to approve the minutes of the June 14, 2018 Zoning Board Meeting was made by Paul  
172 Gargiulo, seconded by Alan Hartman. Four ayes; one abstention (Litts absent at last meeting).

173 A **Motion** to adjourn was made by Russ Gilmore, seconded by Bill Brown, at 8:09PM. All  
174 ayes.

July 9, 2018

Town of Lloyd Zoning Board of Appeals

Town Hall, 12 Church St.

Highland, NY 12528

Re: Application of David Watson, 10 Bellevue Road, Highland NY for an area variance relief of 13'7" for a 240 square foot accessory structure on the side yard.

To the Members of the ZBA:

Thank you for the notification of this variance relief application. You may recall that approximately a year ago, Mr. Watson applied for a variance in order to put a two car garage on the same piece of property. Mr. Watson never came to the meeting to present his case. He had already started placing forms for concrete footings for the structure prior to the hearing. Thankfully, the board did not allow him to build said structure. I am very grateful for that ruling for the following reasons:

Over the past decade or more, Mr. Watson has expanded his back and side yard, which basically is a bluff overlooking River Road. There is a very steep hill below the bluff, which ends in my property with very little footage until it meets River Road. Mr. Watson has dumped tons of fill (some of it donated by members of this board) over the bluff with no retaining wall and no way to keep rubble from coming down the hill. Multiple times during this expansion large boulders have rolled down the hill at speed, sometimes bouncing across my property and landing in the middle of River Road. Workers at the waste treatment plant watched one large rock come down at the hill at speed, destroy a small wooden structure on my property and come to rest close to my garage. This is quite a distance at speed to travel.

One 50 plus pound boulder landed on my lawn, well away from his bluff after I had finished mowing my side lawn. I never would have heard the rock coming at me and could have been seriously injured or killed. In the past, I have had the Town Supervisor come to witness boulders of various sizes landing in the roadway. The police have been called to witness large chunks of tar debris in the roadway. My side lawn is littered with boulders of varying sizes that have broken free and come down the hill. I have video of Mr. Watson coming on my property without permission to move stones and debris back onto the hill so I would not notice.

Any of these pieces of debris are large enough and travelling at enough speed to maim, seriously injure, or kill someone. In addition to vehicular traffic, River Road is a well-traveled road for pedestrians and bicyclists. I shudder to think what effect one of those rolling boulders would do to a child in a stroller. Mr. Watson is well aware of the dangers of the debris and how they have landed in the roadway. He has been advised by me, the Town Supervisor in years past and present and the police, yet he continues to build out the bluff without any type of retaining wall. In addition, he has denuded the bluff of trees and vegetation, so there is no natural retainment of the manmade bluff he has created. These instances

have been documented by this writer both in writing to the ZBA and Town Board, personal appearances by this writer at meetings, and photographically.

In addition to the safety issues, Mr. Watson's changes to the hill have caused drainage difficulties on my property. Instead of the water draining properly down the hill, it has now rerouted and does not drain properly into the drainage ditch on my property that was done by the Town, causing icing on the road in the winter. This creates a danger to any motorist driving past my house, as it is on a curve and they would not see the extensive icing until the last moment.

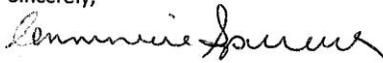
Over the past several weeks, I have seen and documented Mr. Watson again expanding the bluff. He now has a small backhoe type vehicle on his property. I have heard dump trucks once again dumping loads of dirt, which has also been confirmed by the expansion of the bluff that is easily visible from the road. In addition, he has continued to denude the hill of trees in that area, further destabilizing the hill.

His actions are a recipe for disaster. I am hopeful that the ZBA will again deny him the variance and make him cease and desist in this activity. Another structure on an already unstable hillside could result in fatalities if it gives way.

I am unable to make the ZBA meeting in person on July 12, 2018, so I am submitting my official objection to the granting of this variance to Mr. Watson in writing and hand delivering to Town Hall, as requested by your letter. In addition, I am requesting that the Board make sure that Mr. Watson does not continue to expand the bluff as he has done for many years, as his modus operandi is to ignore warnings from the Town. Again, I am grateful for your rejection of the previous variance request.

Thank you for your time and consideration in this matter.

Sincerely,



Annmarie Spiciarich

24 River Road

Highland NY 12528

(845)206-1901

Owner of parcels: 88.17-2-32, 88.17-2-62

NEW YORK  
COUNTY OF ULSTER SS  
ON THIS 9 DAY OF 7 2018 BEFORE ME PERSONALLY CAME  
ANNEMARIE SPICIARICH  
TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN, AND WHO  
EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED  
THAT HE/SHE EXECUTED THE SAME.



**ROSARIA PELOW**  
Notary Public, State of New York  
Qualified in Ulster County, Reg. # 01PE4850895  
My Commission Expires Jan. 27, 2022