

ZONING BOARD OF APPEALS
APPROVED MINUTES OF MEETING
July 12, 2010

The regular meeting of the Zoning Board of Appeals of the Town of Clay, County of Onondaga, State of New York was held at the Town Hall of Clay, 4401 State Route 31, New York on July 12, 2010.

Chairman Mangan called the meeting to order at 7:30 P.M. and upon the roll being called the following were:

PRESENT: Charles V. Mangan	Chairman
Arthur Fennhahn	Deputy Chairman
Eugene Young	Member
Karen Liebi	Member
Mark Smith	Member
Vivian Mason	Secretary
Robert Germain	Attorney
David Balcer	Town Planner

MOTION made by Mr. Young that the Minutes of the meeting of June 14, 2010 be accepted. Motion was seconded by Mrs. Liebi. Unanimously carried.

MOTION made by Chairman Mangan for the purpose of the New York State Environmental Quality Review (SEQR) all new actions tonight will be determined to be Type II actions, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mr. Young. Unanimously carried.

OLD BUSINESS:

None.

NEW BUSINESS:

Chairman Mangan asked the board members if they had all visited the sites and they said they had.

Case # 1368 - VARIANCE - Loretto Oswego Realty Corp, East side of Burnett Road (Tax map #049.-01-12.2);

Case # 1369 - INTERPRETATION - Loretto Oswego Realty Corp, East side of Burnett Road (Tax map #049.-01-12.2) and:

Case # 1373 - USE VARIANCE - Loretto Oswego Realty Corp, East side of Burnett Road (Tax map #049.-01-12.2) :

Case #1368: The applicant is seeking an area variance to allow for a reduction in the required 100,000 square foot minimum lot area. The proposed lot area is 82,415 square feet. Secondly, the proposed Lot #2 does not meet the definition of a "Lot" because it does not have "Frontage" on a public or private right-of-way or an officially approved "right-of-way".

The secretary read the proofs of publication for all three cases.

David Norcross of Pioneer Companies, 250 South Clinton, representing the applicant, gave a brief overview. The location of Lot #2 is to the back portion of Cicero Commons in the Town of Cicero, but is located in the Town of Clay. They have received an amended zone change from the Town of Cicero for 13 senior living homes on an 18 acre parcel. They need the 1.9 acres of land in Clay for a drainage/retention pond (100,000 square feet or 2.3 acres are required). Addressing the “Frontage” issue for lot #2, Mr. Norcross advised the board that they would grant a joint easement to Cicero and Clay for access and this easement would be accessible from Meltzer Court.

Mr. Young asked why they couldn't acquire extra acreage, to increase the 1.9 acres to 2.3 acres, and then they would not need the variance for the square footage.

Mr. Norcross explained that they would have to buy that extra portion and they felt it would be a financial hardship.

Mr. Smith asked who owned the land and Mr. Norcross said all the land is owned by New Dimensions. Mr. Smith then noted that it's the same owner, and Mr. Norcross said yes, but Loretto would have to buy that small slice from New Dimensions.

Chairman Mangan also inquired as to why they can't make Lot #2 larger. The access easement, the Board can understand, but why not enlarge the lot.

Mr. Norcross addressed the standards of proof:

1. They believe that using the lot for drainage will not change the character of the neighborhood nor have a detrimental effect.
2. They feel there is no other feasible method, because it would cost them money to add to the lot and the land is wetlands and with wetlands there are restrictions.

Chairman Mangan pointed out that they would still need a variance for an accessory use.

3. With it only being a 17% difference to the lot size requirement, they do not feel the variance is substantial.
4. They believe there will be no adverse or environmental impact on the neighborhood.
5. To a certain extent they feel the need for the variance is self-created, because they could have bought more land.

Case #1369: The applicant is seeking an interpretation that applicants proposed use of Lot #2 is an allowable use pursuant to the zoning code.

Mr. Norcross explained that Lot #2 is a drainage area already to land to the east and they don't see any substantial use for the lot.

Chairman Mangan inquired as to what they are asking for. Are they asking if a drainage/retention pond is an allowable use.

Mr. Young further pointed out to Mr. Norcross that when the Board is asked for an interpretation, the applicant has to tell them what part of the code they want interpreted.

Mr. Norcross stated that Lot #2 is a residential lot, and any residential lot has drainage. It is a vacant lot and only a small portion will be used as a drainage/retention pond. They didn't see anything in the code that stated no drainage/retention pond was not allowed for a residential lot.

Mr. Young noted the Commission of Planning and Development's letter stating "Proposed Lot 2 requires "frontage on a public or private right-of-way or an officially approved right-of-way" according to the definition of a "Lot"; this does not meet this requirement." He then asked the applicant if they are saying they don't agree with Commissioner Territo's denial?

Mr. Norcross replied that it was a lot no one wanted to build on.

Chairman Mangan inquired if they are asking that a drainage/retention pond be an allowable use?

Case #1373: The applicant is seeking a use variance to allow Lot #2 to be used as a Retention/Detention Pond without a principal use.

Mr. Norcross explained that this parcel is vacant land and they are not intending to build anything on it and that it can't be used for anything else than what they intend, a drainage/retention pond.

Mr. Norcross addressed the standards of proof:

1. Without being able to use this lot for drainage/retention, there is no point in buying the land in Clay.
2. The applicant doesn't want to buy any more land in the Town of Clay if they can't use the lot for a drainage/retention pond.
3. They don't believe it will alter the essential character of the neighborhood.
4. Whether it was self-created hardship was not addressed.

Chairman Mangan asked if there were any alternatives, anything in Cicero Commons they could use for drainage.

Mr. Norcross responded that this was the only acreage not affected by wetlands.

Chairman Mangan referred to the land to the south and Mr. said it didn't make economic sense.

Mr. Smith noted that he thought it was unclear as to whether they have another alternative and Mr. Norcross said they looked into alternatives, but not at the cost.

Chairman Mangan advised Mr. Norcross that the Board needs the financial documentation to alternatives.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he suggested they negotiate with New Dimensions and if they can't reach a reasonable cost for the additional land, they should point out to New Dimensions they could lose the sale of the land in Clay.

Mr. Smith pointed out that they do have an access easement to maintain drainage and Mr. Norcross said

yes, a thirty foot easement.

Town Planner David Balcer stated that Town of Clay would need an access easement to access the parcel from Burnet Road. Since that would be unlikely, there would be no need to give the Town of Clay any easement to access this parcel.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and those opposed to granting the variance and there was none.

MOTION was made by Chairman Mangan for Case #1368, Case #1369 and Case #1373 be adjourned to August 9, 2010. Motion was seconded by Deputy Chairman Fennhahn. Ayes-5 and Noes-0. Unanimously carried.

Case #1370 - SPECIAL PERMIT - Tabatha Housel, 8751 Oswego Road (Tax map #017.-02-17.1) :

The applicant is seeking a Special Permit to allow for a home occupation in a residence for a hair salon.

The secretary read the proof of publication.

Tabatha Housel explained that she would like to have an in home occupation, a hair salon.

Chairman Mangan noted that the Onondaga County Planning Board advised that the applicant should have adequate on site parking, and that they also received correspondence from a resident who is opposed to their request.

Ms. Housel stated that business would be by appointment only and that there would only be one or two cars in her driveway at a time.

Deputy Chairman Fennhahn asked where she would be parking her car and the applicant said in her garage. Deputy Chairman Fennhahn then asked if it would be acceptable if the Board conditioned their approval that her car be parked in the garage.

Mr. Housel commented that six cars could be parked in their driveway.

Deputy Chairman Fennhahn asked Ms. Housel to describe the activity, how many chairs. Ms. Housel said one chair. He then commented one chair, one waiting, two cars. Possibly three cars, replied Ms. Housel but most likely only two. Deputy Chairman Fennhahn told the applicant that she couldn't have anyone parking on the road, that they have to park in their driveway.

Chairman Mangan explained that Ver Plank Road is narrow, so the Board does not want anyone parking in the road.

Deputy Chairman Fennhahn asked what the hours of business would be. Ms. Housel said Monday through Friday, 9:00 am to 6:00 pm, possibly 8:00 pm at the latest, and Saturday 9:00 am to 2:00 p.m.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said the Town's only concern was no parking on the road.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan

asked for those in favor and those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

MOTION was made by Mrs. Liebi in Case #1370 to grant the Special Permit with the condition that there be no parking in the road. Motion was seconded by Deputy Chairman Fennhahn.

Roll call: Chairman Mangan - in favor
Deputy Chairman Fennhahn - in favor
Mr. Young - in favor
Mrs. Liebi - in favor
Mr. Smith - in favor Unanimously carried.

The Special Permit request in Case #1370 is granted.

Case #1371 - VARIANCE - Gary Bell, 7422 Oswego Road (Tax map #104.-03-10.0) :

The applicant is seeking an area variance to allow for a reduction in the required eighty (80') foot side property line to sixty nine feet three inches (69'-3") and a reduction in the required eighty foot (80') rear property line to forty six feet six inches (46'-6").

The secretary read the proof of publication.

Gary Bell, owner of Northside Collision, stated that he purchased the former Valvoline building and he wants to build an addition to accommodate his business. He would like to relocate the dumpster enclosure to the side yard so that the trash hauler has easy access. Also since he will be making the building bigger, he needs a variance for that also.

Town Planner David Balcer commented that the trash haulers had a problem with pick up where it was originally approved.

Mr. Bell addressed the standards of proof:

1. He does not believe there will a change in the character of the neighborhood.
2. He feels there is no other feasible method that will enclose the dumpster and allow the trash hauler easy access and he needs more building space for his collision shop.
3. He does not feel the variance is substantial.
4. He believes there will be no adverse of environmental impact on the neighborhood.
5. He stated the need for the variance is self-created.

Ms. Liebi asked if a traffic study was done on how to get in and out and Mr. Bell said yes, there will be a right in only and a left out only.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said the Planning office sees no problem. Mr. Bell is competent in keeping his businesses neat.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Smith in Case #1371 to grant the variance with the condition that the construction be in substantial compliance with Exhibit "A". Motion was seconded by Mrs. Liebi.

Roll call: Chairman Mangan - in favor
Deputy Chairman Fennhahn - in favor
Mr. Young - in favor
Mrs. Liebi - in favor
Mr. Smith - in favor Unanimously carried.

The variance request in Case #1371 is granted.

Case #1372 - VARIANCE - John and Kimberly Klaisle, 8094 Maple Road, (Tax map #075.-01-04.0) :

The applicant is seeking a variance to allow for a reduction of the required twenty-five foot (25') side property line to twenty-one feet nine inches (21'-9").

The secretary read the proof of publication.

Mr. Klaisle explained that they want to add a 14 foot by 24 foot addition so that they can enlarge their kitchen and add a bathroom. The deck and sunroom will be removed.

Mr. Klaisle addressed the standards of proof:

1. He doesn't believe there will be any undesirable change in the character of the neighborhood.
2. The house is too small inside to change, so they feel here is no other feasible method to give them more room.
3. He does not feel the variance is substantial.

Chairman Mangan noted that they would be extending the house line and Mr. Klaisle said yes.

4. He believes there will be no adverse impact on the neighborhood.
5. He stated that the need for the variance is self-created.

Chairman Mangan asked Mr. Balcer, Town Planner, if he had any comments and he said only that there be a condition of construction per the exhibit.

Chairman Mangan asked if there were any further questions and there were none. Chairman Mangan asked for those in favor and those opposed to granting the variance and there was none.

Chairman Mangan closed the hearing.

MOTION was made by Mr. Young in Case #1372 to grant the variance with the condition that the construction of the addition be in substantial compliance with Exhibit "A". Motion was seconded by Mrs. Liebi.

Roll call: Chairman Mangan - in favor
Deputy Chairman Fennhahn - in favor
Mr. Young - in favor
Mrs. Liebi - in favor
Mr. Smith - in favor Unanimously carried.

The variance request in Case #1372 is granted.

There being no further business, Chairman Mangan adjourned the meeting at 8:53 P.M.

Vivian I. Mason, Secretary
Zoning Board of Appeals
Town of Clay