

ZONING BOARD OF APPEALS

February 6, 2007

Present: Michael Dudick, Chairman, Jessica McCarthy, Christopher Lemire,
Eric Ophardt, Robert Ritter

Absent: Dale Gleason, Gil Kortz, Joel Koval

Also Present: Joel Peller, ZBA Counsel
Steve Myers, Director, Building & Zoning

Mr. Dudick called the meeting to order at 7:03 PM.

NEW BUSINESS

- 1. An application from Art & Ellen Bufe, requesting an area variance from Section 208-16E(2)(c) Conservation Residential zoning (allows one time subdivision of pre-existing property into two lots for family members) – variance needed from required 10 acre minimum – existing = 2.69 acres total. The property is located at 192 Ashdown Road, Ballston Lake. Permit #80632. .**

The secretary read the legal notice as it appeared in the Daily Gazette on February 1, 2007

Steve Myers explained that an additional variance is needed to meet the requirement for a minimum of two acres for each lot. He stated it was overlooked at the time the application was submitted.

Mr. Peller, Counsel to the Board, stated that he believes it is not necessary to re-notice this application, a motion to amend this application to include that sub-section and a vote by the Board should enable this application to move forward.

Mr. Dudick made a motion to amend this application to include a request for a variance from the required two acre minimum lot size as stated in Section 208-16E2(c). Mr. Ritter seconded. Ayes: Dudick, McCarthy, Ophardt, Ritter, Lemire. Noes: None.

Steve Lamb, surveyor and engineer, represented the applicant. He explained that the applicant purchased the property three years ago with the intent of subdividing it into a lot for their daughter to build a house. The parcel contains 2.7 acres of land that would be split into one lot of 1.6 acres and a second lot of 1.006 acres. He noted that this would meet the zoning minimum requirements for lot size of 40,000 sq. ft.; frontage and setback requirements would also be met..

Mr. Lamb explained that a percolation test has been conducted and the lot will support a system similar to the one for the existing home. The access for the second lot will be from Ashdown Road.

Mr. Peller made a point of order to be put into the record. He explained that the presenter is the husband of the ZBA Secretary, Mrs. Lamb, and it is his opinion that there is not a conflict of interest because she is not a voting member of the Board, she is serving in an administrative capacity and therefore it is not necessary to have anyone remove themselves for the purpose of this discussion. The Board members agreed.

Ms. McCarthy questioned the newly created lot shown on the map indicating 30 ft. setbacks and referred to the zoning requirement that all newly created lots shall have a minimum of 50 ft. setbacks from all property lines. She asked if there would be another variance needed.

Mr. Lamb stated all setbacks of 50 ft. could be met.

Mr. Myers explained that he did not feel the setback was an issue because there was not a proposed house location indicated at this time and if placed 50 ft. off the line it would not be an issue.

Mr. Dudick asked why the lots were not split more evenly. Mr. Lamb stated that it was the decision of the owner. He would like to build a pole barn in the future and therefore would like to keep enough land to make that possible. He also noted that there are other similar size lots in the area.

Mr. Ophardt also referred to the 100 ft. separation required between the well and septic system.

Mr. Myers stated that he does not have a problem with this request. He explained that the way the code is written it is for family members and that is the intent here. He also explained that this was a pre-existing lot and as long as they can meet the requirements for septic and well he does not have any problems with this request.

Mr. Dudick asked when the lot was purchased. Mr. Bufe responded 2003. Mr. Dudick asked when the zoning changed to 10 acres. Ms. McCarthy responded 2005.

There was no public comment. Mr. Dudick made a motion to close the public hearing, Mr. Ritter seconded, approval unanimous. .

Mr. Ophardt asked if there was any minimum requirement as to how long they have to live in the house or own the property. The response was no.

Mr. Lemire asked if the wood frame dwelling on lot 1 presently exists. Mr. Lamb responded yes.

Mr. Dudick made a motion to approve this variance as amended. Mr. Ritter seconded.

Mr. Lemire referred to past discussions of the Board regarding notification to neighbors and if any changes to the policy have been made and if it is applicable to this situation. Mr. Dudick responded no. Mr. Myers stated it is still not a requirement for area variances and also noted that in this particular case he is not sure how many people would have to be noticed within 500 ft. of this property.

Mr. Dudick called for a vote on the motion. Ayes: Dudick, McCarthy, Ophardt, Ritter, Lemire. Noes: None.

Mr. Ritter made a motion to approve the minutes of January 16, 2007. Mr. Dudick seconded. Ayes: Dudick, Lemire, Ritter, McCarthy, Ophardt. Noes: None.

Mr. Ritter made a motion to adjourn the meeting at 7:18 PM, Mr. Lemire seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb
Secretary

Cc: Town Clerk, Zoning Board Members, Joel Peller, Counsel, Steve Myers, Department of Building and Development, Planning Board, ECC, Assessor, Highway Superintendent