

APPROVED
2-16-16

ZONING BOARD OF APPEALS

January 5, 2016

Present: Michael Dudick, Chairman (7:08), Denise Bagramian, Michael Bloss, Jerry Cifor, Mario Fantini, Tony Morelli

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

Absent: Randy Gifford, Chris Lemire

Mr. Dudick called the meeting at 7:10 p.m.

PLEDGE OF ALLEGIANCE

Mr. Dudick informed the applicants this is a seven member board with one alternate. Tonight five members are present, plus the alternate. Mr. Fantini, the alternate, will be sitting in for Mr. Lemire who was unable to attend tonight. To receive approval, an application one must receive 4 yea votes regardless of the number of members present. There are six voting members present tonight so the applicant must receive four out of six votes for approval.

OLD BUSINESS

None

NEW BUSINESS

The secretary read the legal notice as it appeared in the Daily Gazette on December 31, 2015

An application from Guy P. Bassi for area variances from Section 208-11 for 6 proposed lots in new subdivision. 40,000 sq.ft. lot size minimum required for lots without public sewer. Applicant proposes between 30,119 sq.ft. & 30,437 sq.ft. for 6 of 10 lots, max variance required = 9,881 sq.ft. for Lot#2. Remaining variances less than 9,881 sq.ft.

Property is located at 309 Miller Road, Rexford, NY 12148 (Permit#81066)

The application was presented by Duane Rabideau, Van Guilders Associates, representing Guy Bassi. Mr. Dudick inquired if Mr. Rabideau has documentation, for the record, authorizing him to represent. Mr. Myers confirmed he does.

Mr. Rabideau explained they are here for variances from Section 208-11 for property on 309 Miller Road, Rexford. He indicated their intent is to subdivide the twelve acre parcel into ten building lots. The new lots would have public water and on-site septic systems. An 800 foot public road is proposed. He explained six of the ten lots do not meet the code which requires 40,000 sq. ft. in an R-1 zone when you do not have both public water and public sewer. He informed the other four lots meet that requirement. He asserted that their layout will have no impact on wetlands or the 100 foot boundary area.

Mr. Rabideau described the property as located on the east side of Miller Road in the R-1 zone. He explained the way the zoning is set up, if you have both public water and public sewer you can build a home on 20,000 sq. ft. otherwise you need 40,000 sq. ft. He repeated that the first six of the proposed homes are approximately 30,000 sq. ft. and the other four (indicating on the map) meet the 40,000 sq. ft. He reminded they have public water but they do not have public sewer.

He asserted they had an engineer go to the site and perform perk tests and other tests. He presented a letter from the engineer informing the septic systems will work on the 30,000 sq. ft. lots. He suggested they are flip-flopping the utilities around because if you have public sewer you can have 30,000 sq. ft. so they are asking for the variances for 30,000 sq. ft. because they have public water.

Mr. Peller inquired whether they have been to the Planning Board.

Mr. Rabideau answered they have not been to the Planning Board, but they have talked to John Scavo who recommended they go to the Zoning Board first. He asserted Mr. Scavo told them if they can get the variances the Planning Board would have no issue with the 30,000 sq. ft.

Mr. Peller asked if the proposed road will be private. Mr. Rabideau responded it will be dedicated to the Town, adding this is their first step in the proposed subdivision.

Mr. Cifor inquired how they would handle storm water runoff from the road without sewers. Mr. Rabideau answered they will have a storm water management plan and pointed out on the map the area behind Lot 7 which will collect the runoff. Mr. Cifor wanted to know if that area would receive the surface water flow as well and Mr. Rabideau assured it would.

Mr. Cifor commented on the estimated cost is \$300,000-\$400,000 for the road, asking how they came up with that figure. Mr. Rabideau explained the cost is based on the linear footage of the road of approximately \$500 per linear foot.

Mr. Cifor asked Mr. Myers if there is a certain standard set they would follow for the Town to take over the road. Mr. Myers said there is.

Mr. Peller asked Mr. Myers if the board has ever flip-flopped on the utilities before.

Mr. Myers answered "not to my knowledge" adding he would talk about that more.

Mrs. Bagramian asked why they are planning septic systems instead of public sewer. Mr. Rabideau responded there is no public sewer in the area. He speculated that eventually, at some time in the future, the sewer system would extend to that area and then building lots would go down to 20,000 sq. ft.

Mr. Dudick asked if there was a plan for that expansion. Mr. Rabideau answered there is not but he guessed it would be within 20 years.

Mr. Cifor inquired the price range of the homes to be build and Mr. Rabideau estimated they would be high \$200,000's to low \$300,000's.

Mr. Dudick wanted to know the location of the closest sewer. Mr. Rabideau estimated it is about 1/3 mile away.

Mr. Myers declared this project to be a Type II action under SEQRA and therefore the Board need to take no further action.

Mr. Myers summarized the plan, saying there are actually eleven lots with one reserved for storm-water runoff. He informed the ECC had some concerns that ground level water had never been recorded. Mr. Myers said he spoke with the applicant who indicated they never encountered ground water and, therefore, that issue would be determined by the Planning Board. He indicated the ECC's other concern was with the wetlands to the East, but informed the wetlands had been re-delineated so this does not interfere with this proposal.

Mr. Myers explained there is no allowance for having only public water although they have a decrease in the lot size to 30,000 for having only public sewer. He repeated there is nothing in the law about having only public water. He said he assumes that is because septic systems require more land area than water and reminded the (proposed) lots have been confirmed that they will support septic systems. He speculated the closest sewer is probably more than ½ mile away.

Mr. Myers also pointed out that the Board has approved other lots of around 20,000 sq. ft. with septic systems. He informed the reason for the code is because there must be 100 feet of separation between a well and septic system and therefore, with the lots having public water, there is no issue.

Mr. Dudick stated, from his perspective, he understands there is a reduction in the land requirement if there is sewer and the two things necessary for residential development are sewer and water. He commented he is not sure why there is a requirement for only sewer and not water because water seems a more driving force.

Mr. Myers interjected that the driving factor is for larger lots when you need to put in both water and septic because you must have a 100 foot separation.

Mr. Dudick continued, saying he believes the project is reasonable, logical and well thought out. He stated from a development standpoint, the fact there is public water available that the septic system on the six lots is not a problem. He informed he is in favor of the project.

Mr. Dudick announced the public hearing and asked for comments. There were none. Mr. Dudick made the motion to close the public hearing. Mr. Morelli seconded the motion. All approved. Public hearing closed.

Mr. Morelli made the motion to approve the application as submitted. Mr. Cifor seconded the motion.

Ayes: Fantini, Bagramian, Cifor, Dudick, Morelli, Bloss Noes: none
Application approved as submitted.

Mr. Dudick made the motion to approve the minutes for the December 15, 2015 meeting. Mr. Bloss seconded the motion. Mr. Dudick, Mrs. Bagramian, Mr. Bloss, Mr. Morelli and Mr. Fantini, who were present at that meeting, approved the minutes.

The next meeting is February 2, 2016.

Mr. Dudick thanked Susan White, who is retiring as secretary, for her years of service. He thanked Denise Bagramian for her service as a board member, informing she is moving to the Planning Board.

Mr. Dudick made the motion to adjourn. The motion was seconded by Mrs. Bagramian. The meeting was adjourned at 7:30 pm.

Respectfully submitted,

Susan White
Secretary

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