

Town of Clifton Park Zoning Board of Appeals

One Town Hall Plaza
Clifton Park, New York 12065
(518) 371-6054
FAX (518) 371-1136



Zoning Board of Appeals

October 19th, 2021

Present: Chairman Michael Dudick, Christopher Lemire, Mario Fantini, John Klimes, Lisa McCoy

Absent: Jerry Cifor, Randy Gifford, YiFengWang (alternate)

Also Present: Steve Myers, Director, Building and Zoning
Paula Cooper, Secretary
Neil Weiner Esq., Attorney

The meeting was called to order at 7:00 p.m.

All stood for the Pledge of Allegiance. Roll call was taken.

Mr. Dudick told the applicant that per Town Code that the applicant would need 4 out of 7 of the Board members to vote in favor of the application to pass. He let the applicant know that there are 5 voting members of the Board here tonight, so that 4 of the 5 members need to vote in favor tonight to grant the variances. He asked the applicant if they would like to come back at a later date or if they would like to proceed knowing the Board tonight needs to vote in favor of the application with at least 4 votes.

The applicants stated they would like to continue tonight knowing 4 out of 5 votes need to be in favor of the application tonight.

New Business:

An application from Matthew & Amy Petro requests a variance from Section 208-16E(s)(d) which requires 40,000 minimum lot size in the CR zone for a residence with n public water or sewer. Existing lot size = 11,125 sf, variance required = 28,875 sf. Property is located at 11 Camp Road, Rexford, NY 12148 (Permit #81307)

Applicant:

Mr. Petro stated that he lives at 3 Frank Street but owns the Property on 11 Camp Road. He stated that he would like to remove the existing building that is on the property and replace it with a new home in a different location. Mr. Petro stated that he has owned the property for about 15 years and it is occupied by a tenant. Mr. Petro stated that the existing structure on the property that would be removed is a 1,800 sf home and a 300sf garage. Mr. Petro stated that he would like to put on the property a 1,550 sf home with a detached 2 car garage. He stated that there is currently a well as well as septic on the property and feels the septic is encroaching on the neighbor's property and possibly well. He stated that since this is a concern, he would like to build the new home further back on the property and put the septic in the front yard and the well would be in the rear yard. Mr. Petro stated that there have been no complaints of contaminated water but he would like to improve the site before this becomes an issue. Mr. Petro stated that this home would be a 1 story building with 2 bedrooms and would be utilized for his mother to reside in. He stated that the well and septic would be more modern and more efficient and much smaller than the existing conditions.

Public:

Mr. Matt Cinadr – 19 Tamarac Lane – Mr. Cinadr stated that he has lived in his home since 1982 and is unfamiliar with the process of obtaining a variance from there Zoning Board. He stated that he feels 4 out of 5 votes is a good effort from the Town. Mr. Cinadr stated that he is looking to put together a packet to supply better information to those who are seeking variances. He stated that he sympathizes with the applicant as he is unfamiliar with procedures as well and is disappointed in the lack of knowledge out there for the public.

Mr. Dudick explained to Mr. Cinadr how to present or the option to have professional represent them and that speaking is minimal. Mr. Dudick explained that he Board would ask questions at the meeting and based on criteria would grant or deny an application. Mr. Dudick stated that if Mr. Cinadr or others have any questions regarding the process to contact Mr. Myers.

Mr. Dudick moved, second by Mr. Fantini to close the public hearing at 7:23 p.m.

Board:

Mr. Dudick asked the applicant how old the existing home is. Mr. Petro stated that it was built in the 1950's and his is one of the last of the camps that are being updated to homes and stated that the neighbors are in favor of this.

Mr. Lemire asked if the footprint of the new building would be larger or smaller than the existing. Mr. Petro stated the home footprint would be smaller but there would be a detached garage on the property as well. Mr. Lemire asked if it was presently rented. Mr. Petro stated it was but the tenant would be leaving and his mother would take occupancy.

Mr. Klimes asked if there are any letters from neighbors. Mr. Petro stated that there are not but they are in favor. He stated that he delivered letters to neighbors describing what he would like to do but was not aware that he needed proof of notification. Mr. Dudick stated that per law there needs to be verification but if this gets granted tonight, verification can be a condition of approval.

Mr. Klimes asked if the applicant looked at modifying the existing home or slab. Mr. Petro stated that he did but the slab is separating and uneven and would like to make modern upgrades to a new home. Mr. Klimes asked if the water and septic improvements could be done without a new home. Mr. Myers stated that the improvements to the water and sewer be able to be relocated or benefit the home or the neighbors if the location of the home is not changed.

Mr. Myers stated this is a Type II action and that no further SEQR is needed. He stated that the improvements that are proposed look good but the footprint is larger than the existing as the garage is larger. Mr. Petro stated that the overall footprint would be 600 sf larger due to the unheated 2 car garage. Mr. Myers stated that this is an improvement for the neighborhood due to the upgrades to the well and septic and sees no issues with this application.

Mr. Klimes moved, second by Mr. Fantini, to approve the variance as requested. The property is located at 11 Camp Road, Rexford, NY 12148.

Mr. Klimes read the Area Variance Criteria, Mr. Klimes answered in favor to all 5 criteria.

Conditions:

1. Proof of written confirmation of notification to neighbors given prior to tonight's meeting provided within 4 weeks.

The Secretary called the Vote:

Ayes: 5

Noes: 0

New Business:

An application from Larry Boni, KLB Enterprises, LLC requests a variance from Section 208-11, 50' front setback required in an R-1 zone. Parcel 259.11-2-99 was a 60' wide lot undeveloped as a paper street intended to be used as access to adjoining property in the future if needed. In 2015, declaratory judgment litigation determined the property was divided between two adjoining properties (30' each). The applicant plans to combine this 30' with 30' on the front yard of his residence so that a road could be built to access an adjoining parcel which he also owns. The variance is required if the town were to accept the road. Property is located at 161 Wood Dale Drive, Clifton Park, NY 12065 (Permit #81308)

Applicant:

Ryan Boni – Mr. Boni stated that is here tonight representing his father who is the property owner. Mr. Boni stated that he is looking to keep the existing house on the property and would like egress access to the rear of the property and this cannot be done unless he is granted an easement or he removes the garage from the existing home. Mr. Boni stated that the lot is considered a corner as there was a paper road next to it and that the condition is not self-created as the courts ordered the property on the paper road to be split between the two adjacent property owners. Mr. Boni stated that he owns 30 acres to the rear of 161 and now that the paper road has been dissolved and the property given to the 2 adjacent owners via the court he now has no access to his land and that the property is landlocked and has no other access. Mr. Boni stated that the paper road was deeded to him but after a court hearing the property of the paper road was split. Mr. Boni stated that the new roadway if granted would be 42' away from the home at 161. He stated that he purchased the home and property after the court decision to allow access to the 30 acres and that he owned the 30 acres prior to the court decision. Mr. Boni stated that he had deed ownership of the paper road property with the 30 acres and they are paying taxes on it.

Public:

No public comment tonight.

Board:

Mr. Lemire asked if there are any homes in the blue section of the map indicating the paper road and if the home on 161 would be remaining. Mr. Boni stated there is not a home in the blue section of the map and that he has no plans to get rid of the home on 161. Mr. Boni stated that the roadway he would like would be closer to 161 than the required setback; he stated that he can take down the garage and relocate it to avoid needing a variance but would rather keep the viable garage in tact at its location to keep it within character of the neighborhood.

Ms. McCoy stated that the roadway would be in the blue line and asked where the road would go. Mr. Boni pointed out on the map where the road would go and stated that if the road was approved then the home would then have 2 fronts and the setback would not be in code so that is why he is here for a variance. Ms. McCoy asked if the applicant is paying taxes on the whole paper road or if the neighbor is paying half. Mr. Boni stated that he is paying taxes on the whole property.

Mr. Myers stated that this is a Type II action and that no further SEQR is required. He stated that 3 things have possibilities; the variance is granted, the garage is removed, or the road is built on

the paper street. He stated the Town does have the right to put in the road. Mr. Myers stated that a prior court case granted the 60' to be divided to each neighbor; however the town can still build a roadway on top of it and install a road. Mr. Myers stated that if the Town accepts the 60' as a roadway then there is no variance needed for the property. Mr. Boni stated that he is asking for this variance so that the Town does not need to claim it and it would keep the roadway away from the neighbor. Mr. Myers stated that the Town would only consider accepting the roadway when 80% of the 30 acre is developed if that is what the applicant is looking to do. He stated that if the Town does not accept then it would be the developers responsibility to keep the roadway in good condition and accessible. Mr. Myers stated that if the road is built to Town standards, then there is a good probability the Town will. Mr. Dudick stated that if the Town does not accept the road the owner would be responsible. Mr. Myers agreed to this statement.

Mr. Lemire stated that the bottom of the court document stated that the dirt is allowed to be used by the resident as long as the Town does not acquire a road in the area. If the Town does accept the road then it becomes Town property.

Mr. Dudick stated that this is where the access potential would be. He stated that this is a road that currently does not exist. He stated that if the variance is granted then the applicant knows he will have a road, and if the variance is not granted he needs to see if the Town would need to accept the roadway.

Mr. Klimes stated that the Planning Board would still also need to approve the subdivision and asked if this can be a condition of approval. Mr. Myers stated the Planning Board knows of the variance application. Mr. Dudick stated that it should not be as he feels the applicant would still need access to his own property.

Mr. Lemire asked if the applicant would need a variance if the home was torn down. Mr. Weiner stated he would not. Mr. Weiner stated that the Town does have the right and Mr. Boni stated the Town stated they are not willing to take the paper road at this time.

Mr. Boni stated that he feels that if he keeps the road on his own property this would keep from another lawsuit and allow him access to his rear property.

Mr. Dudick asked if the homes 161 and 159 would need variances if the Town put in a road.

Mr. Lemire asked what the variance is that is being applied for. Mr. Dudick stated that according to the agenda it is not noted. Mr. Myers stated that the applicant would need a variance of 24' and the agenda reflects the notice. Mr. Weiner stated that without the public notice stating what the applicant is asking for the notice would have to be rerun and the applicant would need to return. Mr. Dudick stated that there would be no public hearing tonight and would be rescheduled.

Mr. Dudick stated that per the ZBA Attorney, the application would be adjourned for the evening so that proper notification can be established and the application would be heard, and a public hearing held at the next scheduled meeting on November 16th, 2021.

The chairman made a motion to approve the minutes from the September 21st, 2021 meeting. All who were present at the September 21, 2021 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Ms. McCoy second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:09 p.m.

The next scheduled ZBA meeting will be held on November 16th, 2021.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals