

**TOWN OF SARATOGA
ZONING BOARD OF APPEALS DRAFT MINUTES
May 20, 2013**

Due to the absence of Chairman Stephen Bodnar, Clifford Hanehan will be Acting Chairman.

Acting Chairman Clifford Hanehan called the meeting to order at 7:01 p.m., led the flag salute and explained the *Rules of the Board*.

Zoning Clerk Linda McCabe called the roll: Chairman Stephen Bodnar – absent, Clifford Hanehan – present, Thomas Carrangi – absent, Clarence Fosdick – present, G. William Moreau – present, James Burke – present, John Deyoe – present.

Also present: Zoning Officer/Building Inspector Gil Albert, Town Attorney William Reynolds, Paul Kennedy, Steve Gottman, Joseph Urbanski and other interested persons. (Sign-in sheet is on file in the Clerk’s office)

Approval of Minutes: **A motion was made by Clarence Fosdick and seconded by James Burke, to accept the minutes of the April 22, 2013 meeting.** Chairman Stephen Bodnar – absent, Acting Chairman Clifford Hanehan -aye, James Burke – aye, Thomas Carrangi - absent, William Moreau – aye, Clarence Fosdick - aye, John Deyoe – aye. **Carried 5 – 0**
Approved

Order of Business:

Area Variance

**Joseph Urbanski #13-02
32 Gronczniak Rd.
Stillwater, NY 12170
S/B/L 206.6-1-12 Lake Residential
Location: 1201 Rt. 9P Rear**

Returning Applicant is under contract to purchase a parcel with an abandoned building and trailer on it which he would like to remove and then construct a new single family home. The Applicant is seeking a lot area variance of 1,000’ and a frontage variance of 100’ in order to do so.

The Applicant appeared before the Board, reviewed the requested information of the last meeting and reviewed the updated informal survey; the formal survey will go to Building Inspector Gil Albert at the appropriate time. He again reviewed the deed showing legal access which was shown to the Town Attorney at the last meeting. He said he has contacted the sewer district and asked for a letter stating there is no issue with them, but he only has verbal approval; he has not received any letter from them.

Zoning Officer Gil Albert stated the Applicant will not get one.

The Applicant stated that he has asked his realtor to please have the owner/seller write a letter stating he approves him coming before the Board for these variances; he has, to date, received no such letter. He does have the signed contract with the owner’s/seller’s signature, which he presented to the Town Attorney last month. He read from the second page of said contract,

which lists the contingencies and: “ ...said lot to be approved building lot..” He asked if they would accept that as approval since it is a signed contract to purchase as long as he can get Board approval for the needed variances, it does contain both his signature as well as the owner/seller’s signature.

Acting Chairman Clifford Hanehan questioned that the realtor didn’t get back to the Applicant with the requested letter and the Applicant responded that is correct but he does have the signed contract. Acting Chairman Clifford Hanehan asked the Board their thoughts since the Applicant did what was requested.

John Deyoe stated the Applicant did all he could and he’s good with this.

Acting Chairman Clifford Hanehan stated the right-of-way has been answered.

Town Attorney asked who did the map and the Applicant responded Northeast Survey.

Acting Chairman Clifford Hanehan asked if the map is official and Zoning Officer/Building Inspector Gil Albert stated its fine for ZBA purposes; he will require the formal survey at the time of issuance of a building permit.

Acting Chairman Clifford Hanehan asked if there were sewer issues and Zoning Officer/Building Inspector Gil Albert said no.

Acting Chairman Clifford Hanehan then stated as far as the realtor getting back to the Applicant; the Applicant has a signed contract and that should suffice.

Town Attorney William Reynolds said no it doesn’t, he wants a letter from the owner; if the owner really wants to sell he will produce the letter.

Acting Chairman Clifford Hanehan stated the owner’s intention is clear, the contract states it is contingent on what is needed for an approved lot. The Board can make approval contingent on the Applicant getting the letter from the owner.

Town Attorney William Reynolds disagreed with that and Acting Chairman Clifford Hanehan stated that weighed heavily with him. Town Attorney William Reynolds said it’s a small thing to ask; if the seller wants to sell, he’ll get the letter to the Applicant.

John Deyoe stated the Applicant has done everything he was asked and he feels they can approve with contingencies.

Zoning Officer Gil Albert agrees. He asked if the Board is going to make the Applicant come back before them for a third month in a row or can he bring the letter to him.

Town Attorney William Reynolds stated he can come back before the Board with a letter with the seller’s signature on it. Clarence Fosdick agreed.

Motion made by Clarence Fosdick, seconded by Bill Moreau to postpone and wait for a letter from the seller with the seller’s signature on it. Chairman Stephen Bodnar – absent, Acting Chairman Clifford Hanehan -aye, James Burke – aye, Thomas Carringi - absent, William Moreau – aye, Clarence Fosdick - aye, John Deyoe – aye. **Carried 5 – 0**
Returning

Area Variance Public Hearing

Paul E. Kennedy #13-03
8504 Zyle Rd.
Austin, TX 78737
S/B/L 193.10-1-17
Location: Fitch Rd.

Applicant seeks an area variance of 8,000 square feet, a front setback of 20', two-side setback of 10', a minimum lot width variance of 30' and a frontage variance of 30' in order to construct a single family home on this parcel. The application states the house will be approximately 1500 square feet and the lot size and setbacks are similar to the existing neighboring properties.

The Applicant appeared before the Board explaining he resides in Austin, TX and he's looking to purchase this property on which he plans to build his retirement home. He introduced his attorney, Steve Gottman who will speak on behalf of the Applicant.

Attorney Steve Gottman stated he sent in a notarized letter from the owner of the property giving approval for the Applicant to seek the variances needed; Acting Chairman Clifford Hanehan stated the letter is on file.

Attorney Steve Gottman explained that Saratoga County Sewer, through appropriations, took a piece of the property and never filed a deed. Prior to the taking of the land through eminent domain, this parcel was lot 17 & 18 originally. After a great deal of research he was able to attain that information and has the documentation proving it; he gave that information to Town Attorney William Reynolds. He stated his client would like to build a single family home on this parcel. Tommell and Associates conducted the survey and they are before the Board seeking area variances and a setback variance. They have frontage on Fitch Rd. He stated there is a building envelope with setbacks on the map; they don't have exact building plans yet but it shows it can be done within the required setbacks. He feels the Applicant can build a reasonable home with the requested variances and they don't see any detriment to the neighborhood. Aside from the one neighbor, the majority of the lots within 500 feet of this parcel are nonconforming lots so this would be in conformity with those. He sees no environmental impacts and they are trying to do this the right way. The property was made noncompliant due to the taking of part of the property by the county.

Bill Moreau asked if lot 17 & 18 was the original parcel and Attorney Steve Gottman responded yes, prior to the county using eminent domain.

A discussion between the Board and Attorney Steve Gottman concerning the variances, issues of wetlands and construction costs and drainage ensued.

Town Attorney William Reynolds stated he wants a stormwater study done.

Zoning Officer/Building Inspector Gil Albert stated that they need clarification if there are any delineated wetlands, but those are issues he deals with, not the Zoning Board.

Attorney Steve Gottman stated those are all issues that will be taken up with the Building Inspector; they are before this Board for area variances. He had asked Jason Tommell if there were designated wetlands there and he was told no.

Acting Chairman Clifford Hanehan questioned if the present owner was the same owner when the county took the land.

Attorney Steve Gottman said no, Ray Stone, the current owners' husband, owned it with Mr. Germain at that time in 1983. Gail Stone, who inherited this property, is the current owner; same family but she owns it.

Acting Chairman Clifford Hanehan stated then she knew it was a small lot when taking ownership.

Attorney Steve Gottman responded no; the deed on this property showed both lot 17 & 18 as the deeded parcel, so she was completely unaware. The county never had a legal deed for the land they took from the Stone's. Prior to Attorney Steve Gottman's research, no deed existed for the county's portion of the parcel they took. Due to Attorney Steve Gottman's exhaustive work, one has now been written. He stated again that his client is here for variances so he won't inherit a hardship. They're trying to clear this up prior to purchase.

After providing Proof of Notice in the Saratogian on May 10, 2013, Acting Chairman Clifford Hanehan opened the Public Hearing at 7:56 p.m. asking those wishing to speak to please stand and state their name and address.

Mr. Joe Newman, 1318 Rt. 9P addressed the Board stating his opposition to this.

Acting Chairman Clifford Hanehan then read the letter from the Saratoga County Planning Board which stated no significant county wide or intercommunity impact.

Acting Chairman Clifford Hanehan asked if there were any other comments; seeing none he closed the Public Hearing at 8:12 p.m.

Town Attorney William Reynolds reiterated he wants to see a stormwater study.

Attorney Steve Gottman responded the stormwater study will be reviewed with the building permit application. He is here before this Board for area variances and lot dimensions, adding they would like to address these other issues but will do so at the appropriate time with the appropriate departments. He reiterated they are here concerning lot dimensions and variances.

Zoning Officer Gil Albert stated stormwater will be addressed if/when they come for a building permit and he sees no detriment to the neighbors. Zoning Officer Gil Albert questioned if the Board wants a full blown stormwater plan or will they accept a preliminary study? He can't see making anyone pay for that until they receive approval; there's no reason an applicant should have to pay to have it done twice.

Attorney Steve Gottman stated, again, the stormwater plan will be seen with the building permit application. He and his client are here concerning lot dimensions and variances; they will address these concerns at the appropriate time with the appropriate department.

Board discussion continued on lot area, building envelope feasibility and drainage.

Town Attorney William Reynolds suggested the Applicant bring in a stormwater management study or an engineer's letter of field study and delineated wetlands.

Acting Chairman Clifford Hanehan said he feels the variances are excessive and added that houses don't absorb water; it will affect the flow of water and could affect neighboring property.

Zoning Officer Gil Albert stated that it goes to the back, away from neighboring property. We may require he put in french drains and we can have him run drainage away from the home; there are ways to mitigate this issue.

Zoning Officer Gil Albert told the Board to let this Applicant know if he's spinning his wheels here. Acting Chairman Clifford Hanehan said he is against this. Clarence Fosdick agreed with him. The Board feels it may be too excessive.

Attorney Steve Gottman responded that the majority of the houses within 500' of this parcel are 40' – 50' lots; variances must have been given. He then stated he and his client will discuss this and may be returning. He thanked the Board.

Zoning Officer Gil Albert stated he agrees with the Board, but Board history shows they do give these types of variances out there. He just doesn't want to waste people's time or money and if the Board is going to start to stick to the regulations now he won't send anyone before them for these types of variances.

Attorney William Reynolds stated this could come in as a pre-existing lot due to the taking of the land by the county.

Zoning Officer Gil Albert said this is not a self-created hardship; they are only buying it if approved. It's not self-created by the current owner either; the county took a portion through eminent domain. Zoning Officer Gil Albert reiterated this application is for an area variance.

Acting Chairman Clifford Hanehan asked if there were any other Board comments. There were none.

Old Business: None.

New Business: None

John Deyoe made a motion, seconded by James Burke, to adjourn the meeting at 8:35 p.m.

Chairman Stephen Bodnar – absent, Clifford Hanehan - aye, James Burke – aye, Thomas Carrangi - absent, William Moreau - aye, Clarence Fosdick - aye, John Deyoe – aye.

Carried 5 – 0

Adjourned

The next Zoning Board of Appeals meeting will be held June 24, 2013.

Respectfully submitted,

Linda McCabe
ZBA Clerk