

TOWN OF LOCKPORT  
ZONING BOARD OF APPEALS  
November 23, 2010

PRESENT: Charles Dahlquist  
Donald Jablonski  
Tim Lederhaus, Chairman  
Michael Bartus  
Frank Loiars

ALSO PRESENT: Brian Belson, Senior Building Inspector  
Jane Trombley, Secretary  
Daniel Seaman, Town Attorney

ABSENT: Kevin Roth, Alternate

The November 23, 2010 Zoning Board of Appeals meeting was called to order at 7:00 pm by Chairman Lederhaus, who then led the Pledge of Allegiance.

**MOTION** made by Member Jablonski, seconded by Member Loiars to approve the October 26, 2010 and the August 24, 2010 minutes. 5 Ayes, 0 Nays, Carried.

**CASE #1 6599 Tonawanda Creek Road – SBL #167.02-2-15.1 – Erin McCarthy –** Returning from October meeting requesting an area variance to construct an attached garage 10'6" from east property line, the required setback is 20'. Erin McCarthy presenting.

Chairman Lederhaus stated the Public Hearing has remained open.

Ms. McCarthy stated Senior Building Inspector Belson had been out to measure the property with her contractor.

Building Inspector Belson stated his recommendation is to either construct a 1 ½ car garage or move the door over slightly. He stated that the front yard setback was compliant based upon average setbacks.

Chairman Lederhaus stated when the first variance was given for this property, the garage location was discussed, but no further variance was requested.

Member Loiars asked Ms. McCarthy if the garage could be placed in the back of the home. Ms. McCarthy stated she would have to put a driveway all the way around and doesn't feel it is the best way as an attached garage makes the home look nicer.

Member Dahlquist stated having the garage in the rear seemed to be a viable alternative.

Ms. McCarthy stated most of the neighbors don't have that much width and now days, most people prefer a 2 car garage and the home will have nicer appeal. Ms. McCarthy stated to move the front door over, would put it in the middle of her living room. Building Inspector Belson stated the door wouldn't have to be moved over that far.

Ms. McCarthy stated most of the homes in the area are 80' lots and when she split the lot, she was expecting her daughter to move next door, but things have changed.

A history of the property was reviewed. First the applicant sought and obtained a variance to split a conforming lot into two undersized lots because she wanted to build homes for her daughter and herself. Then the applicant abandoned that idea and sold the easterly part of the lot to her neighbor for \$35,000. Then the applicant asked for and received side yard variances because the house she wanted to place on the lot was too wide; now the house has been built and the applicant seeks yet another variance to build a garage even closer to the lot line.

Member Loiars asked Ms. McCarthy if she is currently living in the home and Ms. McCarthy stated no.

Carolyn Robinson of 5662 Young Road asked if the home is too big, or if the garage is too big. Chairman Lederhaus explained Ms. McCarthy has an 80' wide lot and bought a prefab home that is too wide for the lot to include a 2 car garage.

Hearing no further comments, Chairman Lederhaus closed the Public Hearing.

**MOTION** made by Member Loiars, seconded by Member Dahlquist to deny the requested variance for Erin McCarthy returning from the October 26, 2010 zoning board meeting to construct a garage 10'6" instead of the required 20' from the property line under Town Law 267b, based on the following findings:

1. The requested variance will create an undesirable change in the character of the neighborhood;
  2. The benefit can be achieved by another feasible method such as moving the garage over a couple of feet and moving the front door;
  3. The requested area variance is substantial;
  4. The requested variance will have an adverse effect on the neighborhood; and
  5. The difficulty was self-created because of subdividing the property and doing the construction in such a fashion as to now require another variance.
- 4 Ayes, 1 Nay (Member Bartus), Carried.

**CASE #2 Young Road – SBL #94.00-1-16 – John Marotta & Craig Wing** – Requesting an area variance to construct a house with less than the 100’ frontage requirement at the end of Young Road. Craig Wing presenting with authority from John Marotta’s attorney giving him permission to speak on Mr. Marotta’s behalf. Mr. Wing stated he has a contract with Mr. Marotta to purchase the property at the end of Young Road that is the hammerhead and has a 476’ depth. Mr. Wing stated he would like to construct a 1400 square foot home and the way the property sits, it doesn’t allow for more frontage.

Chairman Lederhaus opened the Public Hearing.

Attorney Seaman asked if the hammerhead is on the lot. Mr. Wing stated he is unsure as the property hasn’t been surveyed yet, but will work with the Highway Department to not impede them.

Member Loiars asked if it is a wetland area. Mr. Wing stated not that he is aware of. Building Inspector Belson stated he doesn’t believe it is. Mr. Wing stated the lot behind there is a cornfield.

Attorney Seaman asked if the property is landlocked, other than the road end, and Mr. Wing stated yes.

Chairman Lederhaus asked Mr. Wing if he plans to keep the premises as one property and Mr. Wing stated initially, yes. Chairman Lederhaus asked if he was thinking of a subdivision and Mr. Wing stated no.

Member Loiars asked how much frontage there is and Mr. Wing stated about 94 or 96’, but if the hammerhead is on private land, about 60’ (the width of the road).

Chairman Lederhaus asked for Public Comment.

Heidi Hildreth of 5659 Young Road stated her property borders on this property as well as the Robinson’s property and she was told that the turnaround end is actually on her property. Attorney Seaman asked Ms. Hildreth if the turnaround is dedicated. Ms. Hildreth stated she doesn’t know, was just told that the Town had the right of way.

Carolyn Robinson of 5662 Young Road stated this is where the school bus turns around as well.

Attorney Seaman asked Mr. Wing how far back he would build. Mr. Wing stated probably 150’ back from the property line.

Ms. Hildreth stated Mr. Marotta, the property owner, doesn't live there and only has a vested interest and questioned if the variance is granted, would it stay on the property if the current contract with Mr. Wing falls through as she is concerned with how the property would be used. Attorney Seaman stated yes, it stays on the land but would only be for this particular use. Building Inspector Belson stated whoever builds would have to meet the minimum setbacks. Ms. Hildreth stated she has concerns because there is an area on Sunset Drive that became high density and homes were built from a driveway. Building Inspector Belson stated they would have to apply for a subdivision to do that.

Ms. Robinson asked if Mr. Wing is able to construct a subdivision. Chairman Lederhaus stated there is a process to follow, but there is always a possibility.

Maynard Hagen of 5609 Young Road stated he welcomes a new neighbor and unlike the Sunset Court site where it spins off the T, this area is landlocked and he just wants to make sure that it can't go to a subdivision. Attorney Seaman stated that under current zoning and subdivision regulations, a subdivision would require a road. Attorney Seaman stated that the requested variance would not prevent a future subdivision of this property. Building Inspector Belson stated the driveway has to be somewhere in the 60' frontage, it can't come out of the hammerhead.

Member Dahlquist questioned if the highway department needs to be involved. Building Inspector Belson stated no, the road probably has a 26' right of way and the driveway will have to utilize this right of way.

Hearing no further comment, Chairman Lederhaus closed the Public Hearing.

**MOTION** made by Member Jablonski, seconded by Member Dahlquist to grant an area variance to Craig Wing & John Marotta for Young Road that encompasses a dead end street, conditional on Highway Department approval, and constructing the home at least 50' off the adjacent lot lines, under Town Law 267b based on the following findings:

1. The requested variance will not produce an undesirable change in the character of the neighborhood;
  2. The benefit sought by the applicant cannot be achieved by any other feasible method;
  3. The requested area variance is not substantial;
  4. The proposed variance will not have an adverse effect on the neighborhood;
- and
5. The difficulty was not self-created.

5 Ayes, 0 Nays, Carried.

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The next Zoning Board of Appeals meeting will be on December 8, 2010.

**MOTION** made by Member Bartus, seconded by Member Loiars to adjourn. 5 Ayes, 0 Nays, Carried.

**BY ORDER OF THE TOWN OF LOCKPORT**

**ZONING BOARD OF APPEALS**