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TOWN OF LOCKPORT  
ZONING BOARD OF APPEALS  
September 23, 2014

PRESENT: Donald Jablonski  
Elaine Sobieraski  
Will Collins, Appointed Alternate  
Kevin Roth  
Tim Lederhaus, Chairman

ALSO PRESENT: Brian Belson, Senior Building Inspector  
Jane Trombley, Secretary  
Michael Norris, Town Attorney  
Corey Auerbach, Attorney

ABSENT: Kevin McCabe

The September 23, 2014 Zoning Board of Appeals meeting was called to order at 6:00 pm by Chairman Lederhaus, who then led the Pledge of Allegiance.

Chairman Lederhaus appointed Alternate Collins a full voting member due to the absence of Member McCabe.

**MOTION** made by Member Sobieraski, seconded by Member Jablonski to approve the August 26, 2014 minutes. 5 Ayes, 0 Nays, Carried.

**CASE #1**                    **Old Beattie Road – SBL #152.03-2-99 5937 Wynkoop, Inc. –**  
Requesting an area variance to allow two single family lots with 30' of frontage. Daniel Seaman presenting on behalf of the group. Town Attorney Norris recused himself from this case.

Chairman Lederhaus opened the Public Hearing.

Mr. Seaman stated they have recently received preliminary approval for a cluster subdivision from the Town of Lockport Planning Board. Mr. Seaman stated the original subdivision plan that was approved years ago, had a road running all the way through and this plan doesn't develop as much as was originally approved. The two lots are 1 acre and 1 ½ acres, with limited frontage and to put in a road to meet zoning requirements would cost around \$80,000. Mr. Seaman stated they have addressed all the criteria such as, the area is residential and is not changing, there will be less density and even though the variance is substantial, it is mitigated by the overall size of the lots for single family homes and will be well away from the other homes. The original plan called for 6 homes in this area. Mr. Seaman said this isn't setting a precedent as several years ago, the

Varallo's were given a variance for something similar and a short time ago another family was granted a variance for it.

Member Jablonski asked how close to the wetlands these lots are. Mr. Seaman stated they are partly on the NE lot and the house will have a deed restriction not to develop anything on that part of the lot.

Chairman Lederhaus asked if they have allowed for right of way for the utilities and Mr. Seaman said yes, the easements are there. Chairman Lederhaus asked if there will be two driveways or just one to share. Mr. Seaman stated probably two, but could be one.

Chairman Lederhaus asked for Public Comment.

Andrea Runfola of 6693 Old Beattie Road stated she lives right behind the lots and when she purchased her home, she knew there would be 6 homes built there and now wonders where her home is in relation to this project. Mr. Seaman showed her on the map. Ms. Runfola asked if there will be a signal light there and was told no, just a residential driveway. Ms. Runfola wanted to know if the road will stop there and Mr. Seaman told her yes, the other subdivision is there. She inquired if her taxes will go up to maintain the new town road. Member Jablonski stated we don't have a Town tax. Chairman Lederhaus said if she means the assessment, no that won't go up and Senior Building Inspector Belson said it is not like the county tax. Mr. Seaman stated the utility easement has already been filed and he believes there will be one electrical pole.

Ms. Runfola was concerned there will be a traffic hazard and was told probably only one or two more cars when the project is finished. Ms. Runfola asked how large the homes will be as she doesn't want her property value to go down. Mr. Seaman stated about 2500 square feet.

Esther Weeks of 6501 Crestfield Lane stated she was not aware of where they were going in the traffic flow as she and her children ride bikes and her fence is about 4' short of her property line. Mr. Seaman stated the property line will be respected and he expects less traffic than on the original plan with less homes and it not being a through road. Ms. Weeks wondered why they were not notified of the project. Senior Building Inspector Belson stated the notice is put in the local paper.

David Wendt of 6167 Old Beattie Road stated he disagrees and feels there will be more traffic.

Kathleen Wood of 6689 Old Beattie questioned if the home will face Old Beattie. Mr. Seaman stated it will sit sort of kitty cornered pointing somewhat towards Old Beattie. Ms. Wood questioned who will maintain the fire hydrant. Senior Building Inspector Belson stated the hydrant and water is Town, but property owners maintain the driveway and Town code states property owners keep hydrant area clean.

Ms. Runfola asked if they will face the back of her home and who will mow. Mr. Seaman stated probably more the other way and the owner mows their yard.

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

**MOTION** made by Member Jablonski, seconded by Member Collins to grant an area variance to 5937 Wynkoop, Inc. on Old Beattie Road, to allow two large single family lots with 30' each of frontage, for a driveway to be maintained by the owner as:

1. The requested variance will not create an undesirable change in the character of the neighborhood, as it is already residential;
2. The benefit cannot be achieved by any other feasible method;
3. The request is substantial but not the only part to be considered;
4. The proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood;
5. The difficulty is not self created.

5 Ayes, 0 Nays, Carried.

**CASE #2**

**4809 Renaissance Lane – SBL #108.01-1-18 Bart & Patricia Breese –** Requesting an area variance to construct a 40 x 48' detached garage. The proposed accessory structure is greater than 1/3 of the principal structure. John Ottaviano, attorney, presenting with Mr. Breese. Mr. Ottaviano stated 4811 Renaissance Lane is a 100 x 298' vacant lot that Mr. Breese recently purchased and has combined with his lot to make a 206' x 300' lot.

Chairman Lederhaus opened the Public Hearing.

Mr. Breese stated it will be decorated block on the front that will match the front of the home and similar barns have been put up in the area. Mr. Breese showed pictures of some similar neighboring barns. Mr. Breese stated the Niagara County Jail is in his back yard, and he tries to camouflage it.

Member Collins asked what the purpose of this large of a garage is. Mr. Breese stated he has a number of ATV's, trucks, tractors, etc. that are sitting outside. Member Jablonski asked if he runs a business from the property that he needs to store equipment for. Mr. Breese stated no, he is self-employed, but not with the equipment.

Mr. Breese stated he has letters from his neighbors and some have come with him.

Member Jablonski asked how large the home is. Attorney Ottaviano stated 2496 square feet.

Chairman Lederhaus asked who owns the other empty lots near his and Mr. Breese stated he is looking into purchasing them.

Chairman Lederhaus asked for Public Comment.

Douglas Rademaker of 4805 Sebastian Drive states he has lived there for 17 years and respects Mr. Breese's decisions.

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

**MOTION** made by Member Jablonski, seconded by Member Sobieraski to grant an area variance to Bart and Patricia Breese at 4809 Renaissance Lane to construct a 40 x 48' garage which is greater than 1/3 the size of the principal structure on a recently combined lot based on:

1. The requested variance will not create an undesirable change in the character of the neighborhood or be a detriment to nearby properties;
  2. The requested variance cannot be achieved by any other feasible method;
  3. The requested variance is substantial, but mitigated by the size of the lot;
  4. The proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood;
  5. The difficulty is self-created.
- 5 Ayes, 0 Nays, Carried.

**CASE #3**

**5283 Saunders Settlement Road – SBL #122.03-1-3 – Maureen Weinert/Maureen's Doggy Daycare** – Requesting a use variance to allow overnight canine boarding. Ms. Weinert presenting with her

husband Vince. Ms. Weinert stated she would like to keep up to 5 dogs overnight and she has spoken to the neighbors and they are agreeable.

Ms. Weinert states she has a doggie daycare in North Tonawanda without problems. The current building located on Saunders Settlement is soundproof. Vince stated there is an 8' high fenced in area that the dogs are allowed out in and it is cleaned every day.

Mr. Weinert explained to the Board members that due to her running the two businesses in North Tonawanda and Lockport, with the need and cost for employees because she can't be physically at both locations, the inability to have dogs overnight at the Lockport location is causing a severe financial strain on her business operations and causing the Lockport location to lose money. However, by expanding her business model to allow overnight stays, it will alleviate the financial hardship and allow the Lockport business to become profitable.

Chairman Lederhaus opened the Public Hearing.

Chairman Lederhaus asked how long they had owned the daycare and Ms. Weinert stated since 2011. She has a signed letter of support from one of her neighbors that is a schoolteacher and another neighbor that has dogs and chickens.

Vince stated they are open from 7 am until 5 pm and they have one of their own dogs there, as they had a break in, in the past.

Town Attorney Norris asked if there are dog runs. Vince stated no, everything is inside overnight, but there is a 20 x 20' fenced in play area where the dogs go out during the day.

Member Jablonski asked if there are confined kennels. Vince stated yes 6 x 6'. The dogs won't be loose overnight.

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

**MOTION** made by Member Jablonski, seconded by Member Collins to grant a use variance to Maureen Weinert of Maureen's Doggy Daycare to allow not more than 5 dogs for kenneling and overnight stays, as:

1. The applicant cannot realize a reasonable return as demonstrated by competent financial evidence without it;

2. The hardship is unique;
  3. The requested variance will not alter the essential character of the neighborhood; and
  4. The hardship is not self-created.
- 5 Ayes, 0 Nays, Carried.

**CASE #4**

**6613 Wicks Road – SBL #81.04-1-38 – Phil Rudnick** – Requesting an area variance to construct a 30 x 40' pole barn, as the proposed pole barn is greater than 1/3 the size of the principal structure. Mr. Rudnick presenting. Mr. Rudnick stated the lots are north/south and he plans to extend the driveway and bring it over a little.

Chairman Lederhaus opened the Public Hearing.

Chairman Lederhaus asked if there will be underground drainage. Mr. Rudnick stated yes and it will tie in and drain along the driveway.

Member Jablonski asked what the rear setback is. Mr. Rudnick isn't sure. Attorney Norris stated the rear setback needs to be at least 50'. Mr. Rudnick can make sure it is.

Member Collins asked what the purpose of the building is. Mr. Rudnick stated he has a couple of classic cars.

Chairman Lederhaus asked about the siding. Mr. Rudnick stated metal in earth tone colors, gutters, 2 garage doors and 1 man door, no windows. There will be electric but no plumbing.

Chairman Lederhaus asked for Public Comment.

Denis Hathaway of 6607 Wicks Road was wondering how close the structures would be to his property line. Chairman Lederhaus told him it has to be at least 10' off his property line. Mr. Hathaway questioned if the driveway will run between the two houses and Mr. Rudnick said yes. Mr. Hathaway asked if there will be storage and power tools in the structure as he is concerned because his children's bedrooms are on that side of the property. Mr. Rudnick said yes, but that it would be insulated to control excessive noise.

Mr. Hathaway had no objection to the proposal and acknowledged he was satisfied with the answers to his questions.

Member Collins asked how tall the building will be. Mr. Rudnick said 14' walls with a 7-12 pitch. Member Collins asked if he will be raising the land for the foundation. Mr. Rudnick stated no, there are 3 sets of drain lines.

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

**MOTION** made by Member Jablonski, seconded by Member Collins to grant an area variance to Phil Rudnick at 6613 Wicks Road to construct a 30 x 40' pole barn which is greater than 1/3 the size of the principal structure with underground drainage and colors to match the current home as:

1. The requested variance will not create an undesirable change in the character of the neighborhood or be a detriment to nearby properties;
  2. The benefit sought by the applicant cannot be achieved by any other feasible method;
  3. The requested area variance is substantial;
  4. The proposed variance will not have an adverse effect on the neighborhood; and
  5. The difficulty is self-created.
- 5 Ayes, 0 Nays, Carried.

**MOTION** made by Member Collins, seconded by Member Jablonski to approve tonight's decisions. 5 Ayes, 0 Nays, Carried.

The next Zoning Board of Appeals meeting will be October 28<sup>th</sup> at 6:00 pm.

**MOTION** made by Member Sobieraski, seconded by Member Collins to adjourn. 5 Ayes, 0 Nays, Carried.

**BY ORDER OF THE TOWN OF LOCKPORT  
ZONING BOARD OF APPEALS**