

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
June 23, 2015

PRESENT: Kevin McCabe
Donald Jablonski
Will Collins, Appointed Alternate
Tim Lederhaus, Chairman

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

ABSENT: Kevin Roth
Elaine Sobieraski

The June 23, 2015 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 absences.

MOTION made by Member Jablonski, seconded by Member McCabe to approve the May 16, 2015 minutes. 4 Ayes, 0 Nays, Carried.

CASE #1 **5737 South Transit Road – 123.13-3-2.21 – Lockport Partner** – Jim Thew of Thew Associates presenting. To allow one parcel with a lot width of 121.38’ where 150’ required, which is Bon-Ton; and one parcel with a lot width of 144.44’ where 150’ is required, which is Arby’s with a lot area of 28,967’ where 30,000’ is required in the General Business District. Mr. Thew stated nothing is really changing; they just need the hearing to subdivide the lots.

Chairman Lederhaus opened the Public Hearing for subdividing the lots.

Member Jablonski asked if there is a copy for file of the size of the parcels with the variances needed. Town Attorney Norris stated yes. Senior Building Inspector Belson stated there are also cross access agreements.

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

MOTION made by Member Jablonski, seconded by Member Collins to grant the multiple variances as requested and include the map outlining the lots received as “Exhibit A”, to Lockport Partners as:

1. The requested variance will not create an undesirable change in the character of the neighborhood as it is not changing;
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 or impact on the physical or environmental conditions in the neighborhood;
 5. The difficulty was not self-created.
- 4 Ayes, 0 Nays, Carried.

CASE #2 6451 Cloverleaf Drive – 123.11-3-13 – Ronald & Victoria Hillman –
Requesting an area variance to construct a 16 x 24' pole barn which is greater than 1/3 of the square footage of the principal building on a lot area less than 14,520 square feet. Ronald & Victoria Hillman presenting. Ms. Hillman stated their home is tiny and they need storage room.

Member Jablonski asked if there will be heat, electric or water. Ms. Hillman stated no. Member Jablonski asked if there will be a concrete floor and gutters and if it will match the home. Ms. Hillman said yes, and it will match the home as close as possible.

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

MOTION made by Member Jablonski, seconded by Member Collins to grant an area variance to Ronald and Victoria Hillman at 6451 Cloverleaf Drive to construct a 16 x 24' pole barn that exceeds the square footage of the main dwelling 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 variance is substantial, but using the balance test, it will be fine;
 4. The proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood; and
 5. The difficulty is self-created but will be a good addition to the property.
- 4 Ayes, 0 Nays, Carried.

CASE #3 6607 Wicks Road – 81.04-1-37 – Denis Hathaway – Requesting an area variance to construct a garage which is 8.3' from the side property line where 10' is required and 46.44' from the road where 50' is required. Mr. Hathaway stated he would like to convert the existing garage to be part of the home and put the new garage right in front of the current one.

Member Collins asked if there will be a fire wall between the buildings and Mr. Hathaway stated yes, it will be done to the letter as he is getting an FHA mortgage and they are very particular.

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

MOTION made by Member Jablonski, seconded by Member McCabe to grant an area variance to Denis Hathaway at 6607 Wicks Road that doesn't meet the front and side setbacks as:

1. The requested variance will not create 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 variance is not substantial;
4. The proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood; and
5. The difficulty is self-created, but using the balance test, shows this to be a good addition to the neighborhood.

4 Ayes, 0 Nays, Carried.

Attorney Norris left the meeting at this time and was Attorney Auerbach replaced him.

CASE #4 1000 Meadow View Drive – 124.03-3-351.1 – HGR Developers Inc. –
Requesting an area variance to construct a single family residence on a lot with 60' of frontage where 85' is required. F. Gerard Hogan, Attorney, presenting. Mr. Hogan stated that the purchaser has withdrawn his purchase contract but the seller wishes to go ahead with the area variance as he still plans to sell the property.

Mr. Hogan stated he has the information that was requested on the easements, general, not specific and there are easements on all sides and his client is also willing to give easements for whatever is needed for the road. Chairman Lederhaus told him there is nothing to be done at this time for the road until the property is purchased. Mr. Hogan stated they would like to sell the 4.3 acres to one buyer that would not subdivide it.

Chairman Lederhaus opened the Public Hearing.

David Zimmerman of 7209 Woodhaven Drive asked if they are still short on frontage and Chairman Lederhaus told him yes, about 25' the frontage hasn't

changed. Mr. Zimmerman asked if the drainage will be taken care of. Chairman Lederhaus stated yes by allowing access all around the property.

Sam Vitello of 7257 Woodhaven Drive asked if the variance will stay with the property. Chairman Lederhaus stated yes.

Bradley MacDonald of 7216 Meadow View Drive asked if the pond will stay as is. Senior Building Inspector Belson told him New York State law requires the pond to stay. Mr. MacDonald stated sometimes that pond is filled to the top.

Cindy MacDonald of 7216 Meadow View Drive asked who will be in charge of keeping the pond cleaned up as it is very overgrown. Senior Building Inspector Belson told her the pond can be cleaned if the Town chooses, as it is part of the natural drainage. Ms. MacDonald asked if the property will be sold as a single lot. Senior Building Inspector Belson told her that it can be a single lot, but the purchaser could choose for it to be multiple homes. Senior Building Inspector Belson explained the dedicated road versus driveway to her and that everyone maintains some Town property for the 30' required Town easement.

Amy Loiacano of 7264 Woodhaven Drive feels there will be an adverse effect on her property that will affect her property value and feels there will be drainage issues with the neighboring properties.

Diane Daigler of 7202 Brookside is concerned about the 60' of frontage and if everyone will try to get that when she needed 85'. Senior Building Inspector Belson stated no, it would still be required to have an 85 x 150' lot and if a developer wants the property, he would come in and work all that out, but a variance for a single family is different. Attorney Auerbach asked what the impact would be on her for a single family home with 60' of frontage versus the 85' of frontage, showing her the most likely spot for a home to be built on the 4.3 acres. Ms. Daigler was concerned the proposed road would go behind her home. Senior Building Inspector Belson told her there is no plan before the Board for a road.

Sam Vitello asked if the utilities for the Town are in place. Senior Building Inspector Belson told him, no, the developer takes care of that.

Bradley MacDonald felt that a home with less than the required frontage would cause a potential change in the neighborhood. Attorney Auerbach noted that the majority of the homes in this particular neighborhood have less than the required 85' of frontage.

Cindy MacDonald questioned if the variance can be approved when we don't know what is going in there. Chairman Lederhaus told her everything would be in place for a buyer.

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

MOTION made by Member Jablonski, seconded by Member McCabe, who stated he doesn't feel this lot will hurt the neighbors, to grant an area variance to HGR developers for a lot with 60' of frontage to adequately protect the lot as the majority of the lots in this development are inadequate, and this is probably the largest lot in the development, with deed restrictions and subject to a condition that easements to the Town of Lockport are recorded as described in a letter from Jones, Hogan & Brooks, LLP dated June 23, 2015 defining the designated easements, and received as "Exhibit B" 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 not substantial as most of the properties in the development have less than the required frontage, but this one does have less frontage than most;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
5. The alleged difficulty was not self-created as this is part of a deal that is left from a long time ago.

4 Ayes, 0 Nays, Carried.

MOTION made by Member McCabe, seconded by Member Collins to approve tonight's decisions. 4 Ayes, 0 Nays, Carried.

The next Zoning Board of Appeals Meeting will be July 28, 2015 at 6:00 pm.

MOTION made by Member Jablonski, seconded by Member McCabe to adjourn. 4 Ayes, 0 Nays, Carried.

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