

TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518) 694.4011 FAX (518)477-2386

MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES

June 12, 2012

Members

Tom Calamaras
Joyce Lapham
Bill Ritz III
Steve Millens
Jeff Pangburn

Also Present:

Mary Pat Donnelly, Attorney
Donna Moran, Stenographer
Alison Lovely, ZBA Secretary

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Calamaras called the meeting to order and determined a quorum of five (5) members were present. Bob Seward III & Lou Polsinello III were absent. Introductions were made.

PUBLIC HEARINGS:

Appeal#2012-02-Sandra Meineker -Area Variance & Special Use Permit: 1463 Best Road-Proposes to open commercial kennel on a residential property within 200' of property line.

- Legal Notice
- ZBA Application, Short EAF, Denial, Tax Map of parcel, Area Variance Criteria & Special Use Permit Criteria
- Bldg Permit Application
- Drawing showing existing barn where kennel is proposed
- Letter dated 6/6/12 from Kelly & Jason Meyer of Best Rd.
- Letter dated 6/3/12 from William & Wendy Nigro of Best Rd.
- Letter dated 5/30/12 from Arthur Cipperley of Best Rd.
- Letter dated 4/5/12 from Harold Dusenbery of Upper Mannix Rd.

Paul Freeman introduced himself as Katie Roppolo's attorney. He presented the survey which shows that the barn is 186.9' at its closest corner to the property line. So a variance is being sought in the amount of 13.1' in order to use the barn in its current location. The applicant plans to rehab the barn with soundproofing material, stability etc. Photos being submitted are a photo of the barn, a photo of a similar facility elsewhere, an aerial of Best Road showing the barn location in relevant to the nearest neighbor's house, the Nigro's, an aerial of Upper Mannix Road & Lashway Lane, a picture looking into the property and a photo showing the proposed location of the fence. Chairman Calamaras marked these photos as Exhibit 2012-02b 2-7. The attorney stated that the Town Board has deemed the use as kennel is allowed by Special Use Permit in this area. The hours of operation would be 7am to 6:30pm, with traffic dropping off in the am and picking up in the pm. Chairman Calamaras asked if the Board had any questions. Jeff asked Mary Pat if the new use of the existing structure is the reason for an area variance. Mary Pat stated that yes it is. Waste removal was brought up. Katie Roppolo stated that there will be a dumpster. Liquid waste will be going onto the grass, not close to any stream or wells. There will be maybe a 30' x 40' fenced in area for exercise.

Chairman Calamaras asked that if the maximum number of dogs were there at one time, how many would be out at once? Katie Roppolo stated that they will be separated by small dogs and large dogs. The dogs can be staggered when they go outside. There will be slots in the fencing for privacy and also bushes for privacy. A 6' fence is proposed unless the Town allows for an 8' fence. Chairman Calamaras asked if there was anyone present to speak in favor of the application.

- Sara Bertomen of Budd Lane she is the realtor so she will get a commission if the house sells. They have been trying to sell this property for 3 years.

Chairman Calamaras asked if there was anyone in opposition:

- Joseph Kinary of Best Road stated that there will be noise; he can hear bands when they play at the Sports Grill.

- Mary Buccino of Morner Road stated that they purchased their house where they did due to the area, but sound travels there.

- Murray Kaplan representing Best View Road LLC. Stated that his client owns 100 acres across the street and quoted certain sections of the Zoning Law in regards to why this variance shouldn't be granted.

- Tom Hiller of Best Road stated that he lives adjacent to a rooster, he can hear dogs barking in the area and he is concerned with dog waste, smell and traffic in the area.

- Jaime Thomas representing the Nigro's provided an updated petition which now has 42 signatures on it. He made a map and color coded it to show all the neighbors who signed the petition around the applicant. Chairman Calamaras marked the map at Exhibit 2012-02 B 8 & 9. He produced a letter from a professional animal trainer, Jennifer Wilhelm from the Clever Canine Academy. Mr. Thomas read a section from the Zoning Law about financial gain in granting a variance.

Chairman Calamaras stated that this area is zoned for livestock and that there could be chickens or cows allowed at this location.

- Murray Kaplan stated that the Board should follow the standards for this situation.

- Jaime Thomas spoke about animal housing in the Zoning Law.

- Karl Aiken of Upper Mannix Road spoke about Land Use Regulations, soil contamination, the fact that Mr. Thomas said it all and that the residents would lose a lot.

- Michael LaGrave of Upper Mannix Road spoke about his concern for property values and the peace and quiet being affected.

Chairman Calamaras asked if there was anyone else present that wanted to speak in regards to the project.

Paul Freeman attorney for the applicant stated that the Town Board has decided that a kennel could go in this area by a Special Use Permit. The potential is for 20 dogs for the daycare and 20 dogs for boarding for a total of 40 dogs for the day. The waste would be contained in sealed containers to minimize the odor. Katie is sincere in opening and operating a successful business. He stated that he nearest neighbors, the Nigros are 600' from the barn. There are standards that Mr. Murray addressed, but there are also standards that the applicant would address. Probably a 1/2 acre is all that will be used out of 8 acres. The requested area variance is only 8 1/2 %. Chairman Calamaras asked if anyone from the Board had any questions.

A motion to close the public hearing and hold a workshop tonight was made by Tom Calamaras – Seconded by Jeff Pangburn. Motion carried by a 5-0 vote.

Appeal#2012-07-Kevin Cook -Area Variance: 9 Delehunt Avenue-Proposes to install a 24' above ground swimming pool in the front yard.

- Legal Notice
- PB Recommendation
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Area Variance Criteria
- Bldg Permit Application
- Drawing showing pool location

Kevin Cook of 9 Delehunt Avenue stated that he didn't realize that he had two front yards. There will be no impact of the pool on his neighbors. There were no resident letters sent in opposition. The previous owner had a pool in the same proposed location as his pool. Chairman Calamaras asked the Board if anyone had any questions. No one had any questions. Chairman Calamaras asked if there was anyone present to speak in favor or opposition of the application. There was no one present to speak in either favor of or opposition to the proposed Area Variance.

A motion to close the public hearing and hold a workshop tonight was made by Tom Calamaras – Seconded by Bill Ritz III. Motion carried by a 5-0 vote.

Appeal#2012-08-Chris and Lisa Weingartner -Area Variance: 11 Delehunt Avenue-Proposes to install a 24' above ground swimming pool in the front yard.

- Legal Notice
- PB Recommendation with supplemental report by Judy Condo
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Area Variance Criteria
- Bldg Permit Application
- Drawing showing pool location

Chris Weingartner of 11 Delehunt Avenue stated that he wants to build a pool, that there will be no impact on the neighbors. The property is tree lined along Elliot Road. Chairman Calamaras stated that although the back yard is considered a front yard that the pool isn't actually being installed in the front yard. Chris stated that no it is not. Chairman Calamaras asked the Board if anyone had any questions. No one had any questions. Chairman Calamaras asked if there was anyone present to speak in favor or opposition of the application. There was no one present to speak in either favor of or opposition to the proposed Area Variance.

A motion to close the public hearing and hold a workshop tonight was made by Tom Calamaras – Seconded by Joyce Lapham. Motion carried by a 5-0 vote.

SEQR DETERMINATIONS & RECOMMENDATIONS:

Appeal#2012-02-Sandra Meineker - Special Use Permit: 1463 Best Road-Proposes to open commercial kennel on a residential property.

MOTION: A motion was made by Tom Calamaras as follows: **In regards to, the Zoning Board of Appeals Appeal#2012-02-Sandra Meineker -Special Use Permit: 1463 Best Road-Proposes to open commercial kennel on a residential property is progressing an uncoordinated review under SEQRA, declares itself Lead Agency, and determines that this is an Unlisted Action.**

Reasons Supporting This Determination:

- i) Will not have substantial adverse change in existing water quality, traffic or noise levels.
- ii) Will not result in destruction of large quantities of vegetation or habitat
- iii) Will not affect a Critical Environmental Area
- iv) Will not result in conflict with Town's current plans or goals.
- v) Will not impair the character or quality of existing community or neighborhood character.
- vi) Will not have a major change in energy usage
- vii) Will not create hazard to human health
- viii) Will not change the use of any agricultural, open space, or recreational use land.
- ix) Will not attract a large number of people for more than a few days
- x) Will not create a material demand for other actions that would result in one of the above.
- xi) Will not cause changes in two or more of the above; in combination being a substantial impact
- xii) Will not be one or two or more related actions that when considered cumulatively meet one or more of the criteria above

Seconded by Bill Ritz III - Carried by a 5-0 vote.

Appeal#2012-02-Sandra Meineker -Area Variance: 1463 Best Road-Proposes to open commercial kennel on a residential property within 200' of property line.

MOTION: A motion was made by Tom Calamaras as follows: **In regards to, the Zoning Board of Appeals Appeal#2012-02-Sandra Meineker -Area Variance: 1463 Best Road-Proposes to open commercial kennel on a residential property within 200' of property line is progressing an uncoordinated review under SEQRA, declares itself Lead Agency, and determines that this is an Unlisted Action.**

Reasons Supporting This Determination:

- i) Will not have substantial adverse change in existing water quality, traffic or noise levels.
- ii) Will not result in destruction of large quantities of vegetation or habitat
- iii) Will not affect a Critical Environmental Area
- iv) Will not result in conflict with Town's current plans or goals.
- v) Will not impair the character or quality of existing community or neighborhood character.

- vi) Will not have a major change in energy usage
- vii) Will not create hazard to human health
- viii) Will not change the use of any agricultural, open space, or recreational use land.
- ix) Will not attract a large number of people for more than a few days
- x) Will not create a material demand for other actions that would result in one of the above.
- xi) Will not cause changes in two or more of the above; in combination being a substantial impact
- xii) Will not be one or two or more related actions that when considered cumulatively meet one or more of the criteria above

Seconded by Jeff Pangburn - Carried by a 5-0 vote.

Appeal#2012-07-Kevin Cook -Area Variance: 9 Delehunt Avenue-Proposes to install a 24' above ground swimming pool in the front yard.

MOTION: A motion was made by Tom Calamaras as follows: **In regards to, the Zoning Board of Appeals Appeal#2012-07-Kevin Cook -Area Variance: 9 Delehunt Avenue-Proposes to install a 24' above ground swimming pool in the front yard. is progressing an uncoordinated review under SEQRA, declares itself Lead Agency, and determines that this is an Unlisted Action.**

Reasons Supporting This Determination:

- i) Will not have substantial adverse change in existing water quality, traffic or noise levels.
- ii) Will not result in destruction of large quantities of vegetation or habitat
- iii) Will not affect a Critical Environmental Area
- iv) Will not result in conflict with Town's current plans or goals.
- v) Will not impair the character or quality of existing community or neighborhood character.
- vi) Will not have a major change in energy usage
- vii) Will not create hazard to human health
- viii) Will not change the use of any agricultural, open space, or recreational use land.
- ix) Will not attract a large number of people for more than a few days
- x) Will not create a material demand for other actions that would result in one of the above.
- xi) Will not cause changes in two or more of the above; in combination being a substantial impact
- xii) Will not be one or two or more related actions that when considered cumulatively meet one or more of the criteria above

Seconded by Bill Ritz III - Carried by a 5-0 vote.

Appeal#2012-08-Chris and Lisa Weingartner -Area Variance: 11 Delehunt Avenue-Proposes to install a 24' above ground swimming pool in the front yard.

MOTION: A motion was made by Tom Calamaras as follows: **In regards to, the Zoning Board of Appeals Appeal#2012-08-Chris and Lisa Weingartner -Area Variance: 11 Delehunt Avenue-Proposes to install a 24' above ground swimming pool in the front yard is progressing an uncoordinated review under SEQRA, declares itself Lead Agency, and determines that this is an Unlisted Action.**

Reasons Supporting This Determination:

- i) Will not have substantial adverse change in existing water quality, traffic or noise levels.
- ii) Will not result in destruction of large quantities of vegetation or habitat
- iii) Will not affect a Critical Environmental Area
- iv) Will not result in conflict with Town's current plans or goals.
- v) Will not impair the character or quality of existing community or neighborhood character.
- vi) Will not have a major change in energy usage
- vii) Will not create hazard to human health
- viii) Will not change the use of any agricultural, open space, or recreational use land.
- ix) Will not attract a large number of people for more than a few days
- x) Will not create a material demand for other actions that would result in one of the above.
- xi) Will not cause changes in two or more of the above; in combination being a substantial impact
- xii) Will not be one or two or more related actions that when considered cumulatively meet one or more of the criteria above

Seconded by Joyce Lapham - Carried by a 5-0 vote.

WORKSHOP SESSION:

Appeal#2012-02-Sandra Meineker -Area Variance & Special Use Permit: 1463 Best Road-Proposes to open commercial kennel on a residential property within 200' of property line.

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will be an undesirable change in the character of the neighborhood due to the noise levels of proposed use which will be a detriment to nearby properties created by the granting of the area variance.
2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance by constructing a shelter elsewhere on the property.
3. The requested variance is not substantial.

4. The proposed variance will have an adverse effect on the neighborhood or impact on the environmental condition in the neighborhood or district due to the increase in noise levels.
5. The alleged difficulty is self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Resolved, that the application for an Area Variance for a proposed kennel with a distance of less than 200 feet as required from any residential lot line be DENIED.

The application for the Special Use Permit will not be considered at this time due to the denial of the Area Variance.

This resolution was moved by Jeff Pangburn and seconded by Tom Calamaras at a meeting duly held on June 12, 2012.

(Discussion)

A vote was taken as follows:

Tom Calamaras	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Steve Millens	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Lou Polsinello III	<u>Absent</u>
William Ritz III	<u>Yes</u>
Bob Seward III	<u>Absent</u>

Motion carried by a 5-0 vote

Appeal#2012-07-Kevin Cook -Area Variance: 9 Delehunt Avenue-Proposes to install a 24' above ground swimming pool in the front yard.

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as the property borders two streets, therefore has 2 frontages and also there was no one who spoke against the appeal.
2. There is no other method available to the applicant as the property fronts on two streets and the previous owner also had a pool in the same location.
3. The requested variance is not substantial due to being considered as having two frontages instead of having a normal front and rear setback.
4. The proposed variance will not have an adverse effect on the neighborhood, area of proposed pool in back of house and buffered by fencing and landscaping.

5. The alleged difficulty is not self-created; due to having two streets frontages, however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for an Area Variance for the installation of a 24' above ground pool in the front yard be GRANTED with no conditions.

This resolution was moved by Bill Ritz III and seconded by Jeff Pangburn at a meeting duly held on June 12, 2012.

(Discussion)

A vote was taken as follows:

Tom Calamaras	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Steve Millens	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Lou Polsinello III	<u>Absent</u>
William Ritz III	<u>Yes</u>
Bob Seward III	<u>Absent</u>

Motion carried by a 5-0 vote

Appeal#2012-08-Chris and Lisa Weingartner -Area Variance: 11 Delehunt Avenue-Proposes to install a 24' above ground swimming pool in the front yard.

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as the property borders two streets, therefore has 2 frontages and also there was no one who spoke against the appeal.
2. There is no other method available to the applicant as the property fronts on two streets.
3. The requested variance is not substantial due to being considered as having two frontages instead of having a normal front and rear setback.
4. The proposed variance will not have an adverse effect on the neighborhood, area of proposed pool in back of house and buffered by fencing and landscaping.
5. The alleged difficulty is not self-created; due to having two streets frontages, however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for an Area Variance for the installation of a 24' above ground pool in the front yard be GRANTED with no conditions.

This resolution was moved by Bill Ritz III and seconded by Jeff Pangburn at a meeting duly held on June 12, 2012.

(Discussion)

A vote was taken as follows:

Tom Calamaras	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Steve Millens	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Lou Polsinello III	<u>Absent</u>
William Ritz III	<u>Yes</u>
Bob Seward III	<u>Absent</u>

Motion carried by a 5-0 vote

STATUS - New Appeals-6/26/12

NONE

APPROVAL OF MINUTES

Motion by Tom Calamaras to approve the meeting minutes of May 22, 2012. Second by Joyce Lapham. Motion carried by a 4-0-1 vote. Jeff Pangburn abstained.

NEXT MEETING: The previously scheduled meeting June 26, 2012 is cancelled since there is no new business.

MOTION TO ADJOURN

There being no further business before the Board, the meeting was adjourned upon a motion by Tom Calamaras. Second by Steve Millens. Motion Carried by a 5-0 vote.

Respectfully Submitted

Alison Lovely, ZBA Secretary