

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 14, 2016

Members

Jeff Pangburn, Chairman
Domenico Pirrotta
Joyce Lapham
John Conway, Jr
Matt Ostiguy
Bob Seward III

Also Present:

Joe Slater, Attorney
Kateri Rhatigan, Stenographer
Alison Lovely, ZBA Secretary

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Pangburn called the meeting to order and determined a quorum of six (6) members were present. Lou Polsinello III was absent. Introductions were made.

OLD BUSINESS:

NONE

NEW BUSINESS:

PUBLIC HEARINGS:

ZBA Appeal #2016-10– Tibbits –24 Linden Avenue -Use Variance for the construction of a two family dwelling

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendations
- Planning Board recommendation
- Supplemental report from Planning Board member Ralph Viola
- ZBA Application, Short EAF, Denial, Use Variance Criteria & Authorization Form
- Bldg. Permit Application

Trent Tibbits was present as well as Steve Hart who was representing Mr. Tibbits. Steve Hart submitted a map, narrative, and five letters from neighbors (two in support and three against) which Chairman Pangburn marked as Exhibit 2016-10A, B, C, D, E, F, & G. Chairman Pangburn asked the applicant when he purchased the property. Mr. Tibbits stated that he purchased the property in October 2015. Chairman Pangburn stated that he's also referencing that there are nine letters from neighbors, expressing their support and two additional letters that the applicant give him at the meeting. Chairman Pangburn asked the Board if there were any questions. There were none. Chairman Pangburn asked if there was anyone present in favor of or opposition to the application.

- An individual spoke and stated that the lot is narrow and doesn't know how he meets the zoning for it, stated cars from the applicant's house use the vacant lot to park now, road is narrow with cars parked all over it, one lane in the (winter time), there is a ten foot easement on his lot for a culvert and the area still floods, and the applicant knew that this wasn't an area for two family dwellings.
- An individual spoke and stated that last winter there was an ice patch from the middle of the applicant's lot into the street.
- An individual spoke and stated that the flooding is the Town's problem.
- An individual who owns 26 Linden Avenue stated the applicant's house originally was going to face Linden Avenue, that water is an issue, and that the neighborhood can't handle another two family.

Domenico Pirrotta asked if the issue the Board is concerned with is just the Use Variance. Chairman Pangburn stated that is correct. John Conway asked for an analysis of the homes just built in the area to the home the applicant is proposing. Mr. Tibbits stated that those homes cost significantly higher.

Chairman Pangburn asked if the Board had any other questions.

Mr. Tibbits stated that the lot is actually 60 feet wide (50' and 10' for easement) by 128 feet deep. Mr. Hart stated that the proposal meets all the front, side and rear setbacks, that no area variances will be necessary. Domenico Pirrotta asked if there will be a parking issue and how many bedrooms that the house will have. Mr. Hart stated that the house will have two bedrooms each. Matt Ostiguy clarified that there are two story homes, two family homes and three family homes. Mr. Tibbits stated that he went to the Assessor's office and that the map he provided has two family homes as listed by the Assessor's office. Chairman Pangburn asked if there were any other questions by the Board. There were none.

A motion to close the public hearing was made by Bob Seward– Seconded by Matt Ostiguy. Motion carried by a 6-0 vote.

ZBA Appeal #2016-11– Rapp–2 Hillview Avenue -Use Variance for the storage/wholesale granite business out of the existing garage.

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendations
- Planning Board recommendation
- Supplemental report from Planning Board member Mike Bottillo
- ZBA Application, Short EAF, Denial, Use Variance Criteria & Authorization Form
- Bldg. Permit Application
- Email from resident Sue Oup

Bill Rapp presented the proposal to the Board. He presented a map of his property which Chairman Pangburn marked as exhibit 2016-11A. Mr. Rapp stated that he has one delivery a week. It is stored outside, then it is moved inside, to cut/polish, etc., then it's delivered. Mr. Rapp stated that no one has ever approached him with a problem. Chairman Pangburn told the applicant that he needs to address the Use Variance criteria. Mr. Rapp stated that he wasn't prepared. Chairman Pangburn told Mr. Rapp that he could ask for an adjournment in order to come back prepared. Mr. Rapp stated that's what he wanted.

A motion to adjourn the public hearing was made by John Conway– Seconded by Domenico Pirrotta. Motion carried by a 6-0 vote.

ZBA Appeal #2016-12– Bogucki–24 Cedarcrest Drive -Area Variance for the construction of a 18’ x 12’ pavilion 6 feet from the rear property line.

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendations
- Planning Board recommendation
- Supplemental report from Planning Board member Mike Bottillo
- ZBA Application, Short EAF, Denial, Area Variance Criteria & Authorization Form
- Bldg. Permit Application
- Resident Letter from Scott & Kim Goodfriend
- Resident Letter from Marilyn Price

Jason Bogucki presented the proposal to the Board. He stated that they want to construct a 18’ x 12’ pavilion in the rear yard and addressed the Area Variance criteria. Chairman Pangburn asked the Board if anyone had any questions. John Conway asked if they had looked into alternatives such as awnings off the house or a smaller pavilion. Mr. Bogucki stated that a neighbor had put up a retractable awning but that it didn’t work. Bob Seward confirmed with the applicant that he can’t orient the pavilion to not have a variance. Mr. Bogucki stated that was correct. Chairman Pangburn stated that the applicant is required to have at least a 10.5 foot setback from the house and the applicant has 13 feet. Chairman Pangburn asked if there anyone present in favor of or opposition to the application. There was none.

A motion to close the public hearing was made by Bob Seward– Seconded by Joyce Lapham. Motion carried by a 6-0 vote.

SEQR DETERMINATIONS & RECOMMENDATIONS:

MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency

In regards to Appeal 2016-10: 24 Linden Avenue – Application for a Use Variance, the Zoning Board of Appeals has determined that this is an Unlisted Action is progressing an uncoordinated review under SEQRA, and declares itself the Lead Agency.

Motion by: Jeff Pangburn;

Second by: Matt Ostiguy (*Discussion*)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

MOTION: In regards to Appeal #2016-10, the Town of East Greenbush Zoning Board of Appeals hereby determines, based on the information and analysis submitted for Part 1 of the Short Environmental Assessment Form and other materials submitted by the project sponsor, or otherwise available to the reviewers, and after careful review of Part 2 – Impact Assessment, that the proposed action will not result in any significant adverse environmental impacts.

Motion by: Jeff Pangburn;

Second by: Joyce Lapham (*Discussion*)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

ZBA Appeal #2016-12– Bogucki –24 Cedarcrest Drive -Area Variance for the construction of a pavilion in the rear yard

This is a type II Action-there is no further action necessary.

WORKSHOPS:

ZBA Appeal #2016-10– Tibbits –24 Linden Avenue -Use Variance for the construction of a two family dwelling

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

1. The applicant failed to provide sufficient financial evidence to substantiate that he cannot realize a reasonable rate of return as documented by materials submitted at the public hearing.
2. The property does not suffer a unique hardship as several properties already contain pre-existing, non-conforming two family homes and have small lot sizes.
3. The Use Variance will not alter the essential character of the neighborhood as several existing properties already contain pre-existing, non-conforming two family homes.
4. The alleged hardship has been self-created as the property owner purchased the parcel in 2015 as an R-2 zoned parcel.

Resolved, that the application for a Use Variance for a two family dwelling be DENIED.

This resolution was moved by Jeff Pangburn and seconded by John Conway Jr. at a meeting duly held on June 14, 2016.

(Discussion)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

ZBA Appeal #2016-12- Bogucki -24 Cedarcrest Drive -Area Variance for the construction of a pavilion in the rear 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 there is a fence in the back and large pine trees protecting and hiding the pavilion.
2. There is no other method available to the applicant due to the orientation of the pool and separation to the house.
3. The requested variance is not substantial as six feet remain of the 25 foot setback in the back of the lot.
4. The proposed variance will not have an adverse effect on the neighborhood given the consistency of the neighborhood homes and location.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for the construction of an 18' x 12' pavilion in the rear yard be GRANTED with the following condition.

1. The pavilion will be the primary use of this variance.

This resolution was moved by Matt Ostiguy and seconded by Bob Seward at a meeting duly held on June 14, 2016.

(Discussion)

A vote was taken as follows:

John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Absent</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0

NEXT MEETING: The next meeting will be held on June 28, 2016

APPROVAL OF MINUTES:

Motion by Joyce Lapham to approve the meeting minutes from the May 24, 2016 meeting. Second by John Conway. Motion carried by a 6-0 vote.

MOTION TO ADJOURN

There being no further business before the Board, the meeting was adjourned upon a motion by Bob Seward. Seconded by Matt Ostiguy. Motion Carried by a 6-0 vote.

Respectfully Submitted

Alison Lovely, ZBA Secretary