

ZONING BOARD OF APPEALS
TOWN OF LLOYD
MINUTES
Thursday, May 9, 2024

CALL TO ORDER TIME: 7:00 PM

PLEDGE OF ALLEGIANCE

ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.

Attendance: Board Members: John Litts, Bill Brown, Russ Gilmore, Shawn Zerafa, Paul Gargiulo (came in at 7:07pm), Corey Miller (Alternate), Mike Guerriero (Town Board); Board Staff: Anthony Giangrasso, Paul Van Cott and Sarah Van Nostrand

Absent: Board Members: Jessica Van Houten

New Business

Harvey, David: Area Variance: 271 Vineyard Ave: SBL #95.2-1-8.100

Applicant is seeking an area variance for a shed.

Dave (applicant) said that in the upper middle corner of his property he wants to put a shed in. It is a 10 X 14 A-frame shed, just for storage of lawn equipment and things like that. He understands that the rule that a structure like that needs to be 5 feet from the property line. Right on the other side of the property line is an apple orchard. There are no structures there, there is about 35 feet of grass before the trees. There is a pool in the middle of the backyard and a pool fence, so there is not really a lot of room aside from where they want to put it and they want to put it close to that side of the house.

John said that the 5 feet is for maintenance of the shed, so you are not on neighbor's property to maintain the shed. Right now, it is an apple orchard, but who's to say that years down the road it's going to be and then you will have to go onto your neighbor's property to do any maintenance on the shed. When you measured the 1.4 feet, were you from the side of the building or the eave of the roof structure because in your application the roof actually sticks out from the side of the building, and he doesn't know how far that is.

Dave said that was done by the surveyor and he assumes based on the information he gave them that it was from the wall of the structure.

John said your roof line is even closer to the property line. He asked why do you want 1.4 feet, is it an arbitrary number, is there a reason you have to be that close.

Dave said he didn't tell them 1.4, he thinks that was the surveyor's assumption. He thinks he was including their fence which is 6 inches inside their property line which is included in the 1.4 feet.

John said if you were 5 feet, you don't need to be here. It speeds that process up. He just wants to know if there is something that is preventing him from moving the shed 3.6 feet.

Dave said it is hard to show on the survey, but the fence has a gate near the side of the dwelling. They would start to block that entrance if they moved the shed. It would be really close to the gate opening and closing and also really close to the pool fence and would make it tough to get around with a lawn mower.

John said his initial reaction is that 1.4 is a little close. If it could be moved further away, he thinks what the board would like to see is, you could take pictures of the area and put some flags where the building is going to be at 1.4 feet and another color flag at 4 feet, it is a lot easier for the board to approve a variance where they know you can get along side of the building, to do maintenance because 1.4 feet isn't enough and there is a fence as well, there would be no room to do anything.

Shawn asked what is the topography of the site, is it pretty flat. Is there a reason why you cannot place the shed somewhere else in the yard.

Dave said the area is flat, but he would rather not have a shed then have it sitting in the middle of the yard.

John asked for a motion to set a public hearing.

Motion made by Russ, 2nd by Bill.

All ayes, motion passed to set a public hearing for next month.

John said that the plot plan looks pretty good and if he can get the board some pictures, the more you can move it the easier it will be to grant the variance.

Public Hearings

Reynolds, Mark: Area Variance: 235 Hawley's Corners Rd: SBL #79.4-1-30

Applicant is seeking a variance to allow a 959 square foot accessory apartment where a maximum of 650 square feet is allowed.

John asked for a motion to open the public hearing.

Motion made by Russ, 2nd by Bill.

All ayes, motion passed to open the public hearing.

Mark (applicant) said that he had a call from a neighbor who couldn't be here tonight.

John said that the board received a letter and will read it into the record.

John read a letter from a neighbor.

John asked for a motion to close the public hearing.

Motion made by Paul G., 2nd by Russ.

All ayes, motion passed to close the public hearing.

John read the balancing test and resolution.

John asked for a motion to approve the resolution.
Motion made by Bill, 2nd by Russ.

Roll Call Vote:

John-aye

Paul G.-aye

Bill-aye

Russ-aye

Shawn-aye

5-ayes, 0-nays, motion passed to approve the resolution.

Conte, John: Area Variance: 225 Martin Ave: SBL #79.2-2-10.110

Applicant is seeking a variance to allow an 860 square foot accessory apartment where a maximum of 650 square feet is allowed.

John asked for a motion to open the public hearing.
Motion made by Russ, 2nd by Paul G.
All ayes, motion passed to open the public hearing.

John read a letter from a neighbor.

John asked for a motion to close the public hearing.
Motion made by Bill, 2nd by Paul G.
All ayes, motion passed to close the public hearing.

John read the balancing test and resolution.

John asked for a motion to approve the resolution.
Motion made by Paul G., 2nd by Russ.

Roll Call Vote:

John-aye

Paul G.-aye

Bill-aye

Russ-aye

Shawn-aye

5-ayes, 0-nays, motion passed to approve the resolution.

Continued Public Hearings

DePuy, Trevor: Area Variance: 4 Eagle Ct.: SBL #86.4-3-9.100

Applicant is seeking a variance to allow 2 flag lots in a two-lot subdivision where only 1 is allowed.

Patti (applicant's agent) submitted pictures that were taken today.

Paul Ackerman (Lawyer for the Roosa's and the Sisilli's) asked if he wanted to address the issue of the vegetation.

James (14 Falcon Dr) said that the vegetation is not that thick it is still clear as day. It grows more in the summer and in the wintertime, there is absolutely nothing there. For 6 months of the year, you can see everything perfectly and the other 6 months of the year there is kind of a view block, but the vegetation is not that thick. There is no buffer that can prevent this from being seen.

Paul A. said can you also explain the pooling water.

James said the wetland issue that he raised last time is still there. That comes and goes depending on the season and the amount of rain that they have and how dry the ground is. Due to the warm winter and all the rain, it is currently a pond right now, especially the back corner of his property that leads into that property, which is where the DEC has a federally listed wetland on their maps.

Paul A. said that his clients just want everyone to play by the rules. They brought these properties knowing that potentially there could be a development behind them, but they also knew that it would be limited to a single flag lot. Now the applicant is requesting two flag lots which is a substantial change from what is permitted in the zoning code. The applicant knew that it was not permitted and made an application to this board, which the board rightly denied in 2022. The application that is before the board is not that different, he has heard the words substantially different, but it is not. A 50-foot moving of the structure is really not going to have any impact. A structure that is 150 feet away isn't much different than 50 feet away, it is going to be seen the same way. There is a continuing concern with the pooling of water, once the property is developed that water has to go somewhere and his client's property is downhill from there and it is going to start impacting his property. The board set a precedent when it denied the application in 2022 and there is no rationale basis to disturb the decision. The new application is not substantially different, it is a minor tweak which really does not impact the criteria that was weighed by this board. He would just ask that the board stand by its precedent, its previous denial of the application and make a determination that this is not a rationale change that would permit disturbing the precedent and deny this application also.

Patti said that they only thing new she added was in regards to the change in character and also the benefit to be gained the applicant versus the detriment to the community and she just pointed out the fact that if the applicant were to construct a 650 foot road and dedicate it to the town, that would be a cost burden for the entire municipality for caring for that road for only two houses, coupled with the fact that right now a 13-14 foot wide driveway and it would need to be expanded to 25 feet wide to meet the code, which would also impact the drainage ditches along side the driveway as well as utilities.

Paul A. said that the alternative is not only to construct the road which is a viable alternative, but there is another alternative which is to find another lot that is buildable and approved.

John asked for a motion to close the public hearing.
Motion made by Russ, 2nd by Bill.
All ayes, motion passed to close the public hearing.

John said there was a change from the previous denied application, there was an additional buffer put in. He doesn't think that changes the board's opinion; he doesn't think that it mitigates the concerns that the board had.

Paul V. asked if the board would like him to go over some of the homework that they asked for.

John said yes please.

Paul V. said this relates to the balancing test, one of the things that he looked at was the question of neighborhood character. One of the things that he found from looking at flag lots, they are disfavored as something that municipalities do and that is because of the neighborhood character. The pattern of development in a neighborhood is important to its overall character and one of the things that has happened along Falcon Drive is as development has occurred the houses are pretty much the same distance away from Falcon Drive. On the left-hand side of Falcon Drive the houses are further back, but generally less than 300 feet away from the drive and they all face Falcon Drive. On the right-hand side of Falcon Drive the houses are generally 50-75 feet away from the road and they all face onto the driveway that creates the character of the neighborhood that surrounds this area including where the existing flag lot, that the applicant owns and has built his house on. By contrast what would happen if the variance were granted would allow the creation of a new lot and house that would be over 500 feet away from Falcon Drive and instead of fronting on Falcon Drive it would front on the neighboring parcels. There is an inconsistency in the overall character potentially, the board could find an inconsistency in the character by granting the variance, it would not be the same as what you have for the prevalent character. The applicant's lot was authorized by a 2019 subdivision which consolidated 3 lots of the Pleasantview Subdivision into one lot and established it as a flag lot, and it was authorized as a part of that subdivision. The house that was shown on the original subdivision map, he is not sure if it is as far back as the applicant's house is now constructed, but it was substantially farther back than where the new house would be constructed, if the second flag lot is allowed and the board has seen that based on the site plan that shows that that will be much closer to the existing houses on Falcon Drive, than those properties every expected. The Sisilli's house was built in 2017, prior to the 2019 subdivision, the Roosa's house was built in 2020, as the attorney has suggested the Roosa's made their decision based on what the zoning code provides, and the subdivision was approved which provided for one flag lot and a house that was much farther away on that flag lot and is currently proposing a second flag lot. In terms of the potential impacts on the character of the neighborhood and potential determinant to the neighbors the ZBA may want to talk further about what potential impacts there might be and this whole question of how this relates to the character of the neighborhood. The other thing that the board asked staff to look into were there any other flag lot decisions that the ZBA made. The one that they found was the Alessi project, which was a proposed subdivision and creation of two flag lots at the end of John White Road. The difference here was that this involved a two-lot subdivision of a parcel where there were existing single-family dwellings on each of the lots, so you were not talking about new construction, these houses are both about the same distance away from the end of John White Rd, one is a little bit farther away. Again, it was an existing development, and this was a variance that the ZBA approved in 2022. In terms of the other variance

factors there doesn't appear to be another feasible alternative that would not require a variance. The applicant has talked about the cost of constructing the road as being cost prohibited, that is not necessarily dispositive of the application. It is a substantial variance; he thinks the board would agree it is 100% as it would be doubling the number of flag lots that are allowed. The potential for impacts would be the same in terms of impacts to the neighboring property in particular, in terms of potential noise, visual, other privacy issues and stormwater impacts, those are all the things the board can consider. This is a tough matter for the board in his estimation the applicant has made some adjustments to try and move the house as far away as possible from the neighbors and has provided buffering a 50-foot buffer. The board has received some photographs of the nature of that buffer, and it does primarily appear to be deciduous trees, so there may be seasonal differences in terms of the magnitude of any potential impacts.

John read the resolution.

John asked for a motion to approve the resolution of denial.
Motion made by Russ, 2nd by Bill.

Roll Call Vote:

John-aye
Paul-aye
Bill-aye
Russ-aye
Shawn-aye

5-eyes, 0-nays, motion passed to approve the denial resolution.

Paul V. asked if he could have a motion to clean up the resolution.

John asked for a motion to have Paul V. clean up the resolution.
Motion made by Paul G, 2nd by Shawn.
All ayes, motion passed to allow Paul V. to clean up the resolution.

First Presbyterian Church of Highland: Area Variance: 26-28 Church St: SBL #88.69-1-9

Applicant is seeking an area variance for 8.1 feet of relief for the rear yard setback.

No public comments

John asked for a motion to close the public hearing.
Motion made by Bill, 2nd by Russ.
All ayes, motion passed to close the public hearing.

John read the balancing test and resolution.

John asked for a motion to approve the resolution.
Motion made by Paul G., 2nd by Russ.

Roll Call Vote:

John-aye

Paul G.-aye

Russ-aye

Bill-aye

Shawn-aye

5-ayes, 0-nays, motion passed to approve the resolution.

Administrative:

Minutes to approve:

April 11, 2024

John asked for a motion to approve the minutes.

Motion made by Russ, 2nd by Bill.

4-ayes, 1-nay (Paul G.), motion passed to approve the minutes.