

ZONING BOARD OF APPEALS
TOWN OF LLOYD
MINUTES
Thursday, July 11, 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, Paul Gargiulo, Bill Brown, Russ Gilmore, Shawn Zerafa, Corey Miller, and Mike Guerriero; Board Staff: Anthony Giangrosso, Paul Van Cott (via Zoom), and Sarah Van Nostrand

Absent: Board Members: Jessica Van Houten

New Business

Valentino, Kathleen: Area Variance: 281 Perkinsville Rd: SBL #95.4-2-22.522

Applicant is seeking an area variance of 0.11-acres to be able to build a two-family house.

Kathleen (Applicant) said that what she would like to do is to build a two-family house that looks like a single-family home and the levels are one over top of the other. This came up because she has three children, all college educated, good jobs, but cannot afford a home of their own or even rent a home on their own, so they are discussing leaving and going elsewhere. She is here to prevent that from happening. They have the space and she just thought if they could do something that, then they could pay the taxes and mortgage on that building and not have to go anywhere and have their own independent space. She said she submitted the subdivision from before they built their house on the 1.52-acre lot.

John asked you live on lot 1.

Kathleen said yes.

John said the house is where it is going to be where it is proposed.

Kathleen said yes.

John asked if anything here has changed.

Kathleen said nothing has changed.

Kathleen said the reason she gave the board this map because when they did the test pits, they did them in both lots, in case something went wrong in one space or the other. Both of the lots were

tested and were fine. She didn't know things had changed drastically when it comes to septic, at that time there were no issues with the test pits in either lot.

John said you are not changing the location of the proposed house, it is still basically going to be in the same area, it will be all open in the back. He asked how wet was it in the back.

Kathleen said it is not very wet, she has pictures of the cleared space and the kids played back there, it was never soggy or wet. There is drainage that comes from DuBois' farm it's in a nice stream it goes down through the lot.

John said in part of the narrative it talked about lot 5 draining into lot 2, but there is no lot 5 on the map that was submitted.

Kathleen said she believes that lot 5 is DuBois.

Larger version of the map shown to the board.

Kathleen said there is a fairly nice, structured stream that comes through there, it pools. The one that goes to the right is dry and has been for a very long time.

John said it is denoted as a drainage ditch and the other one is a stream which is fairly active.

Kathleen said when the rain comes in it might get full, but it never overflows.

John said for the total building, what are you looking for, for bedrooms. How many bedrooms per unit.

Kathleen said she is looking for two bedrooms and one bathroom per unit.

John said so it is a four bedroom.

Kathleen said she made a modification and did a quick drawing of it. Where the bedroom above the bathroom is would be an office. She would take where the toilet is and move it where the closet is and add another sink and have a larger shower without a tub.

John said the size of the septic goes by bedrooms.

Kathleen said it is a two-bedroom, one bathroom per unit.

John said it is four bedroom.

Kathleen said yes.

Paul G. asked if it was subdivided already.

John said yes.

Paul G. said so you have the two flag lots.

Kathleen said yes.

Bill asked if the property was on the right as you go down the hill.

Kathleen said yes, it is just before you go down the hill. She said that she has some pictures that she took, it shows the aerial view and the slope of the hill. You cannot see the property from the road and from all views there is nothing that it blocks for anyone. It doesn't flood, she doesn't think there will be any drainage issues.

Pictures were passed around to the board.

Russ asked if the circle on the picture is where the house is to be proposed.

Kathleen said the circle is where her house is, she put a rectangle around the lot where it would be built on. She then took pictures of the slope and the views of all directions from where the proposed house would be.

Paul G. said it is not a new subdivision.

John said no it is from 2006.

Russ said you cannot see your house from the road.

Kathleen said her personal house when you come up Perkinsville on the left, you can see it as you drive up on the left-hand side of the highway and you can see the garage when you go down the other way.

Russ said he was out there trying to find it, but he couldn't find the address, but he saw a long driveway.

Kathleen said there is a long driveway that goes up to the right to a white house which is the neighbor to the right, she is the one on the left.

Bill asked why it was before the zoning board isn't in R-1 zoning.

John said no this is Ag Zoning, this is 2-acre.

Kathleen said it is a 1-acre and she went to Dave (Building department director) he told her for a two-family she would need 4-acres and that is why she is here for the variance.

John asked for a two-family how does that work.

Anthony said it's double the acreage needed. It would be two acres to build and if you were going to do a two-family it would be four acres.

John said it is two-acre zoning.

Anthony said yes, it is two-acre zoning.

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

Paul G. said this 0.11 is what she needs for relief.

John said correct.

Public Hearings

Panzella

John said just as a note the Panzella variance has been pulled he believes they sold the house. He asked if anyone was here for the project.

Vineyard Portfolio: Use Variance: 19-25 Vineyard Ave: SBL #88.69-3-5

Applicant is seeking a use variance for two first floor apartments in the CB Zone.

John said when your representative was here last meeting, there was some homework that had to be done. He asked if financial statements were provided, a map with a unique condition for this particular building.

David (applicant) said no he didn't receive anything. Two days ago, he got an email, the attorney was supposed to contact him, but he wasn't here last time, his representative told him that everything was going to come to him. He checked a few times with the office and called the attorney but got no answer and only received it two days ago from the attorney with the same things that are on the application.

John said the board explained what was needed at the last meeting. The attorney was just going to help you with the process.

David said what she told was that they were going to reach out and tell them exactly what they need. He didn't know what exactly to get for the financial.

John said basically what it is that you have to show a hardship. You have to show that for this particular property you can't rent it, sell it, or get a reasonable financial gain being commercial, being what is allowed in that zone.

David asked how does he show that.

John said you can list it for rent.

Paul G. said rent for anything a beauty parlor, shoe store, anything.

John said you have to prove that you cannot recover a reasonable return for your property. On top of that, you also have to show why it is unique in the zone, why your building is different from the buildings that are around you in that zone.

David said none of the buildings around them have commercial.

John said so then you are not unique. You are allowed to do certain things in a zoning district, you want to do something that is not allowed. You have to convey to the board why you are different from everybody else, why you are unique to the zone. You would have to go around, then you would have to say okay this is whatever zone district it is, and I am the only one that has this condition that prevents me from getting a reasonable return.

David said all of them are residential none of them have commercial over there, that stretch of street where the sidewalks end, and the stretch keeps on going all of them are just residential none of them are commercial.

John said then you would be unique that you are the only commercial, he doesn't see that, but you would have to show that to prove that.

Paul G. said you go to the tax map, you take a shot of the tax map and that will show you all the property on both sides of the street, if you take a red crayon and you say this is all residential and blue would be commercial, show the board where and how you stand out that you are the only one out of all those properties that is commercial. Then you will have to show that you had it listed in the newspaper or advertised for commercial space. If you don't get anyone to want it, then you have a grievance saying that you cannot get an economic return.

Anthony said the point the board is making is if you come to us, they can show him which ones that were commercial that became apartments, that would help your case.

David asked there are some on that street that were commercial but are now residential.

Anthony said yes.

David said right now there are no commercial everything is just residential on both sides.

John said at the last meeting, the board had discussed that, that end of town the times have changed. The town board representative here, and this may be a town board issue to actually change the limits or clarify the zoning district to be more in line with the times.

Mike (Town Board) said right, and he believes that there used to be a shoemaker shop up the street from this property.

John said they discussed that at the last meeting.

Paul G. said you are going back 50 years to when it was commercial.

John said an area variance is much easier to get than a use variance. A use variance the board is

very limited on what they can allow. You have to clear certain thresholds to present to the board that says okay, I cannot get a reasonable return on your investment doing what's allowed. It may be something to bring to the Town Board to actually change the district or change the criteria for the CB zone, that might be an avenue you want to explore.

David said he owns other properties in the town that might be in the CB zone, and it makes sense for those to be commercial as they are in the center of town and there are sidewalks, so it is designed for businesses.

John said the board's hands are tied by what they can do, what they can allow and what they can disallow. He thinks the applicant has a good point to possibly go to the town board, it may be easier to change the zoning or change the criteria.

Anthony said prior to 2022 when the town redid the comp plan, the zoning board, these projects would come in for a special use permit to go from commercial to residential.

John said that wasn't through the Zoning Board.

Anthony said yes it was. When they changed it they took an overlay the Hamlet overlay zone and that put the damper on this and that is why he has to come in for a use variance.

Paul said the projects being referred to were special use permits because back then the ZBA had the authority to issue a special use permit and then when they put the Hamlet overlay down they made it a restriction that would require a use variance for the very same thing that they had allowed by special use permit previously.

John asked for a motion to open the public hearing.

Motion made by Bill, 2nd by Paul G.

All ayes, motion passed to open the public hearing.

No public comment

John said that the board will leave the public hearing open.

Administrative:

Minutes to approve:

June 13, 2024

John asked for a motion to approve the minutes.

Motion made by Russ, 2nd by Bill.

All ayes, motion passed to approve the minutes.