

ZONING BOARD OF APPEALS
TOWN OF LLOYD
MINUTES
Thursday, April 10, 2025

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, Jessica Van Houten, Corey Miller, Mike Guerriero (Town Board); Board Staff: Sarah Van Nostrand

Absent: Board Members: Shawn Zerafa

Old Business:

Sabuda, Robert: Use Variance: 67 Black Creek: SBL #79.2-1-24.200

Applicant is seeking a use variance for two short-term rentals.

Robert (Applicant) said that his submission provides the story of who they are and what they do. The short-term rentals they use for a variety of reasons that are specified in the submission. He is hoping to have the usage of the short-term rentals to continue to service the community in the way that they have been doing so, so far.

John said that a use variance is very difficult to get. You have to prove a hardship; prove why you are unique and you have to prove that you cannot get a reasonable return on your investment.

Robert said he feels that the services that he provides is the return.

John said that doesn't necessarily play into the board's determination.

Robert said he is willing to answer any questions that the board might have and give their perspective on it.

John said you would have to provide to the board documentation saying why you are unique for your area.

Robert said he feels that he has provided that in the document submitted. If he needs to be in a different format, he will change it to whatever is needed.

John said the two short-term rentals have you tried to rent them as long-term use as a regular apartment.

Robert said they are not really big enough for that, they are small. No, he has not tried to do that. The money is not the key contributing factor for them for the usage of the space.

John said you have to explain to the board that these two units cannot be rented as regular apartments or one of them for a reasonable return. That is the criteria that the board bases it on. You have to say there is no other way to rent these two units, you are allowed one, why you couldn't rent the other one as a regular apartment.

Robert said what you are doing is advising him that he needs to make more money.

John said the board is not advising you of anything. He is just going over the criteria and what needs to be provided, you have to prove to the board you cannot have a reasonable return for an allowed use.

Robert said what exactly does that look like in terms of verbiage or language. Does he need to go to an attorney and ask them to respond to this.

John said you have to provide the board with documentation.

Robert asked what is that documentation.

John said what you would do is go to a real estate agent and list it as an apartment if after 6 months, 9 months, a year, no one says they want to rent that apartment, then you cannot get a reasonable return as not a short-term rental. If someone says they will rent that as an apartment then no hardship is shown. You may not want to rent it, but that is not a part of the board's criteria.

Robert said you are saying 6, 9, and 12, which one of that is accurate.

John said the board can help with that process, but he is going to say 12 months.

Robert said so for 12 months he finds a real estate agent and he tells that agent to find someone to rent this apartment. Does he then decide if they are qualified to rent the apartment, or does the renter go to the board to say they want to rent the apartment.

John said the next criteria for the board is the property unique in the area. He said that you may be an art studio and all that, you are saying that is unique no other place in your area.

Robert said yes in Highland the property is unique they are the only one.

John said has presented proof that the variance would observe the spirit of the town code and would not change the character of the district. The code very clearly states one short-term rental.

Robert said that is why he is here.

John said has presented proof that the alleged hardship has not been self-created. It wasn't there before; you did the two apartments to have for short-term rentals.

Robert said yes. He thinks part of the problem here is that the board has a set of criteria that has

hard lines in it and they don't fit into that box. The board said that they will help him do that, but this box that the board is trying to put this into, they may not have all the those points. That is not the spirit of what they do. The board is talking about uniqueness and community response and being a part of the community and that is what they strive for that is what they do, so they are definitely looking forward to the board helping them fit into this box of things that you have to tick.

John said for a use variance that is what they do. What you need to do is contact the building department and they will put you in touch with the attorney, he will give you a little more guidance on what you would need to show, what you would need to prove. In the past the board has required documentation for proof that you cannot get a reasonable return. He understands what the applicant is saying about it being unique and an art studio.

Robert said their goal is not to make money.

John said right, but it is a part of the board's criteria. Whether you want to make or not, part of the board's criteria is why you couldn't get a reasonable return. Which you would do by saying no one will rent the apartments as they are allowed to be rented. If someone is willing to rent that apartment as it is allowed by the town code. It is going to be a tough ask. He understands that it is very unique as was mentioned. The board is very regulated for a use variance.

Robert said he understands. He needs to know exactly what he needs to provide; he will get it.

John said what you need to do is contact the building department and there is a pre-prepared form and he understands that this is going to be a little more unique, so after you go through that form, you can contact Sarah who can get in touch with the attorney to provide more guidance.

Public Hearings

Vineyard Ave Associates LLC: Area Variance: 88-94 Vineyard Ave: SBL #88.69-8-1

Applicant is seeking an area variance for mixed use first floor of an existing building.

Review Status: Public hearing set for April 10, 2025

Potential Action: Open public hearing

Sean (applicant's agent) said that they want to do a commercial unit up front and residential units in the back. One of the reasons for this is they can provide ADA accessible units on the ground floor to the community.

John said when you were hear the last he had to do a little bit of homework and he will bring it to the board's attention. He was unclear why this was an area variance; he has got clarification. He said "100-52(D) provides: "Prohibited uses. Residential dwelling units are allowed above any of the commercial uses as long as they meet the density and minimum floor area requirements of the surrounding district." It goes on to say that historically been interpreted to require an area variance based on the location of the apartments on the first floor as opposed to upper floor. This is based upon the Use Table, which allows multi-family dwellings as a use in the underlying Central

Business district. He asked the board if they were clear on why it is an area variance and not a use variance.

Board agrees that they are clear.

John asked for a motion to open the public hearing.

Motion made by Bill, 2nd by Russ.

All ayes motion passed to open the public hearing.

No public comment

1. Undesirable change in neighborhood character or to nearby properties?

John said that no change.

Jessica said it would be an improvement.

2. Whether benefit can be achieved by other means feasible to applicant?

John said no because the property has been vacant for years.

3. Whether the request for relief is substantial?

John said it is not substantial because it is an allowed use and would become a mixed use.

4. Whether the request will have adverse physical or environmental effects?

John said no he thinks the town could use more residents in that area.

5. Whether alleged difficulty is self-created?

John said it is a self-created difficulty, but it doesn't change the board's decision.

Straw Poll:

Bill-aye

Russ-aye

John-aye

Paul-aye

Jessica-aye

Friedberg, Larry: Area Variance: 129 Costa Rd: SBL #87.3-5-28.300

Applicant is seeking an area variance for minimum acreage to build an accessory structure with an apartment.

Review Status: Public hearing set for April 10, 2025

Potential Action: Open public hearing

John said he needed some clarity on this one. The board is determining the relief from acreage. The

applicant's will still have to go in front of the planning board for the accessory. What the applicant is asking this board for is relief from the 2-acre which is also his existing house which is pre-existing non-conforming. The accessory apartment is for the Planning Board. The board is giving him a variance for him to apply to the Planning Board. The board is not giving him permission or a use, the board is allowing him to apply to the Planning Board for it. He said on the environmental form on question 11 you had answered no to that question you would have to amend that to yes because you are hooking up to private septic.

Dorcas (applicant) said right now it says no, but it needs to say yes.

John said that is correct. This is just allowing you to go in front of the Planning Board for a special use permit for an accessory apartment. Your lot was pre-existing non-conforming, so when you built the house it was pre-2-acre zoning correct.

Larry (applicant) said yes.

John said that is what is in front of the board now, the rest of it you guys took off, the side yard setback was taken off, which is good, so the board doesn't have to deal with any of that. What the board has to determine is relief from the 2-acre because they have 1.07-acres. He asked if everyone is clear on that.

John asked for a motion to open the public hearing.

Motion made by Bill, 2nd by Russ.

All ayes, motion passed to open the public hearing.

No public comment

John said the one thing that you did was add a vegetative buffer between the golf course. He knows you put in some trees. He doesn't think the board is going to put a restriction on the maintenance of the vegetative buffer, they could, but he doesn't know if they need to.

Dorcas said that they would do it anyway.

John said he understands that it is a unique situation because their neighbors are a golf course. He is comfortable granting the variance because it is up against a golf course, not in a dense neighborhood.

Russ asked what about the amount of relief that the board is looking to give them.

John said it is substantial and when the board gets to that they will discuss it.

Russ said he visited the site and he likes the buffer they have in the back, no one is going to see what they do there.

John said if that is a concern then the board could put in the variance that they need to maintain a vegetative buffer.

Dorcas said which they plan on doing.

John said it seems that the applicant is planning on doing that anyway. If the board puts it in the variance then it is in perpetuity, if they ever sell then the new owner will have to maintain it.

Larry said they don't plan on it.

John said every case is unique, but the board likes to look to the future because the variance will run with the land. If someone buys it and clear cuts it, the golf course probably isn't going to be too happy.

1. Undesirable change in neighborhood character or to nearby properties?

Paul asked how many apartments are on the street.

John said there are a few.

Paul said so it is not changing the character of the neighborhood.

2. Whether benefit can be achieved by other means feasible to applicant?

John said not really they have what they have a building lot that is pre-existing non-conforming, so there really is no feasible way.

3. Whether the request for relief is substantial?

John said it is on a 2-acre it is 0.93. To mitigate that as the board has brought up and agreed. They will require a vegetative buffer to be a restriction for the variance. The applicant has provided a sketch of that, if the applicant can give a little more detail on the vegetative buffer, the type of tree, spacing, evergreen something like that. Give the board a plan to look at by the next meeting, he feels comfortable with having a draft resolution prepared for next meeting as most of the leg work is done. He doesn't remember if the trees were listed or not.

Larry said they were not.

Dorcas said they have a buffer that is on the north that is existing pine trees. They have a buffer on the east, which is a combination of pine, maple, blackberry bushes.

John said that is exactly what the board is looking for. Since it is there already it would just be a stipulation that it has to be maintained, it has to stay there forever. Not necessarily the same tree, but the same type of tree, in the same general area.

Larry said is that essentially just notes on the plans indicating the type of tree.

John said it is, you don't have to do a full architectural plan, if you just take the plan that you provided and give a little more information on type and spacing of the trees, he thinks that will suffice.

4. Whether the request will have adverse physical or environmental effects?

John said no he doesn't believe it will, he feels that it will be good for the environment because they plan on installing solar panels.

5. Whether alleged difficulty is self-created?

John said that it is a self-created difficulty.

John asked for a straw poll of the board granting the variance with the restriction of a vegetative buffer.

Straw Poll:

Bill-aye

Russ-aye

John-aye

Paul-aye

Jessica-aye

Minutes to approve:

March 13, 2025

John asked for a motion to approve the minutes.

Motion made by Paul, 2nd by Corey.

4-ayes, 0-nays, 2-recusals (Russ and Bill)