
ZBA Members Present:
Daniel Persing, Chairperson
Stephen Day
Adrian Ooms
Christie Ellis
Chris Spencer

Public Present:
Dominic & Anita Gerace
David Ross
Amanda Cox, Harold Litardo
Maria Lull

The meeting was called to order at 7:00 PM and the Pledge of Allegiance was recited.

Chairman Persing begins by introducing the Board and explains how the procedure for a Public Hearing.

**Public Hearing:
An Application for a Special Use Permit from NYSP located at 488 State Route 295,
Tax ID#56.1-51.122, to build a barracks facility.**

A motion to open the Public Hearing was made by Ms. Ellis at 7:06pm with a second from Mr. Day, all in favor motion carried. There were no members from the public to speak on this application.

A motion to close the Public Hearing was made by Mr. Spencer at 7:07pm with a second from Ms. Ellis, all in favor motion carried.

Chairman Persing states the referral from the Columbia County Planning Board was received on July 8, 2019, recommending its approval for the project. The Columbia County Planning Board stated the project will not have any negative effects on the neighborhood, if anything it will enhance it for safety reasons giving the NYSP a more central location for Columbia County. The ZBA agrees with the Columbia County Planning Board's review of this application.

The Columbia County Planning Board also noted its appreciation for the NYSP for participating through the local review process, even though they are afforded the benefit of immunity from the zoning process. The Town ZBA also shares this appreciation, and thanks the NYSP for their willingness to apply for a special use permit and their participation in the review process.

Chairman Persing also noted that the Town of Chatham Planning Board completed its SEQRA review on July 9, 2019. The Planning Board issued a negative declaration, finding no significant adverse environmental impacts.

A motion to approve the Application for a Special Use Permit and that it is within the harmony and does not adversely affect the neighborhood was made by Mr. Spencer with a second from Ms. Ellis, all in favor motion carried.

An Application for an Area Variance from Dominic & Anita Gerace located at 89 Electric Park Rd., Tax ID#24.5-1-12, to allow a deck that does not meet rear-yard setbacks.

A motion to open the Public Hearing was made by Ms. Ellis at 7:20pm with a second from Mr. Spencer, all in favor motion carried. There were no members from the public to speak on this application.

A motion to close the Public Hearing was made by Ms. Ellis at 7:21pm with a second from Mr. Spencer, all in favor motion carried.

Mr. Spencer states that he completed the site visit and will submit the photos for the record. Ms. Gerace had also submitted photos to the ZBA prior to the meeting. Chairman Persing asks for a few clarifications on the photos. Ms. Gerace adds they spoke with the Lake Association and the Lake Association only own the land under the water. Chairman Persing states it is unclear who owns the strip of land, Mr. Lyons states there is no clear answer and the Lake Association has not raised any concerns either. Chairman Persing states they now have the 5 findings of fact questions to consider:

1. Is there an undesirable change to the neighborhood – None
2. Can the benefit be achieved in any other manor – No, this is an existing retaining wall on the property, that was there when Mr. and Ms. Gerace purchased their property. They are not adding anything to the retaining wall, but rather adapting its use and design to make it more useable.
3. Is the variance substantial – Yes. This variance will be 1 foot from the side and directly on the property line (0 feet), so it is a 100% variance. However, the test for an area variance is based on the balancing of factors, and this alone is not fatal. The retaining wall was already constructed on the Property at the time Mr. and Ms. Gerace purchased the property, and they are just adapting and changing the design for usability.
4. Is there an adverse effect on the physical environment – No. The deck will be built on the existing structure
5. Was it self-created – Yes

There was discussion about the close proximity to the neighbor's property. Mr. Spencer was concerned that the close proximity to the property line may create issues for potential buyers. Ms. Ellis states that it is speculative about potential future homeowners, and states that the current neighbor has not raised any issues before the ZBA on this application. Chairman Persing stated his concern about whether this would create a precedent. Mr. Day states there is an existing structure on the property boundary that would separate this application from others, and it does not adversely affect the water either. Ms. Gerace states this is the best possible spot on the property for them to enjoy the shoreline with tables and chairs. Mr. Lyons states to put the uniqueness of the property with the approval.

A motion to approve the Application for an Area Variance based on the characteristics of the neighborhood and that there is an existing structure where the deck is going was made by Ms. Ellis with a second from Mr. Day, all in favor motion carried.

An Application for an Area Variance from David Ross & Donna Curnow located at 240 Sutherland Rd., Tax ID#24.-1-26, to allow a two-car garage that does not meet front yard set-backs.

A motion to open the Public Hearing was made by Ms. Ellis at 7:58pm with a second from Mr. Day, all in favor motion carried. There were no members from the public to speak on this application.

A motion to close the Public Hearing was made by Ms. Ellis at 7:59pm with a second from Mr. Day, all in favor motion carried.

Chairman Persing states the Board hadn't requested any additional information at this point. Mr. Ooms states Mr. Ross may not be able to move the location back further if the leech field is there. Ms. Ellis asks about the history of the structure across the street that was also started without a permit and then went for a Variance, Chairman Persing adds that there was an appeal and it was granted. Ms. Ellis asks council if others were in violation can you use that as an example of in characteristics of the neighborhood, Mr. Lyons suggests not using that and to look at the rest of the neighborhood. Ms. Garrison adds that the Board does not want to promote building and then asking for forgiveness. Chairman Persing states at what point does the characteristics change if this is continuously allowed. Mr. Day adds that there is enough area on the property to put the structure elsewhere and the dilemma is that it is already there, it needs to be viewed as if it is not there. Chairman Persing states they now have the 5 findings of fact questions to consider:

1. Is there an undesirable change to the neighborhood – Mr. Spencer and Chairman Persing state yes because it is starting to change the character of the neighborhood. Ms. Ellis and Mr. Day are neutral. Mr. Ooms said that the barn across the road is closer to the road.
2. Can the benefit be achieved in any other manor – Yes

Ms. Garrison shows the Board an aerial map of the parcel. Mr. Ross adds if he put the garage on the other side of the driveway it would be the dominant structure people would see from the road, there are trees on the other side of the house and the property slopes down from the road and that is why it is where it is. Mr. Ross adds that he would still need a variance on the other side of the driveway as well. Ms. Garrison then zooms in on the parcel view which shows the topography as well as the vegetation that would hinder other locations. Mr. Lyons states the Board may want to do a site visit with this new information presented and Mr. Ross may want to provide other photos of the characteristics of the neighborhood, the Board does have 62 days from the close of the Public Hearing to make a decision. Mr. Ross states the Board is more than welcome to just stop by, Ms. Ellis adds she would like to do a site visit before making a decision. Chairman Persing suggests the applicant also take pictures of the slab and the property topography. Mr. Lyons adds the Board can try to locate the leech field by the septic location and if the applicant can put a stake where the tank is that would be helpful as well.

A motion to continue the public hearing until August 22, 2019 was made by Ms. Ellis with a second from Mr. Spencer, all in favor motion carried.

Other Bussiness:

Chairman Persing suggests revising the Application Form for Area Variances to help make the application more user-friendly, the Board is in agreement.

A Motion to approve the June 27, 2019 meeting minutes as amended was made by Mr. Day with a second from Mr. Ooms, all in favor motion carried.

A motion to adjourn the meeting was made by Mr. Day with a second from Mr. Spencer and the meeting adjourned at 8:58 PM.

Daniel Persing, ZBA Chairman
August 19th, 2019

Respectfully submitted by
Erin Reis, ZBA Clerk