

MINUTES OF THE TOWN OF WAYNE  
ZONING BOARD OF APPEALS  
June 11, 2015

The meeting opened at 6:30 PM with a roll call of the members.

MEMBERS:		PRESENT	ABSENT	LATE ARRIVAL
Bill Feinstein, Acting Chair		<u>X</u>	<u>  </u>	<u>  </u>
Greg Blessing		<u>  </u>	<u>X</u>	<u>  </u>
Candy Dietrich		<u>X</u>	<u>  </u>	<u>  </u>
Wayne Hand		<u>X</u>	<u>  </u>	<u>  </u>

ALSO PRESENT:	
Gill Harrop, Code Enforcement Officer	
Mark Titus	J R Lonergan
Mark Hufnagel	Kevin Adams
Sheri Neu	Glen Neu
Cindy Strong	Mickie Kervan

**MINUTES:**

Due to Mr. Blessing being absent, the January 29, 2015 minutes were deferred at this time, since Ms. Dietrich was the only member present at that meeting and able to vote.

For the record, Ms. Dietrich had no issue with the January 29, 2015 minutes as recorded.

**NEW BUSINESS:**

**AREA VARIANCE APPLICATION NO. 03V15:** Mark Hufnagel. Property located at 13215 Ste. Rte. 54, Town of Wayne. Request relief to construct 18' by 36' pole barn on existing non-conforming lot in R-1 district. 6.3, 7.2.3 & 7.8.11(1)

Mr. Feinstein inquired about ownership of the property.

Mr. Hufnagel stated he was one of four owners listed on the deed and would be representing the others in this request, but that he didn't have that in writing at this time.

Mr. Feinstein stated that written authorization was needed from the other owners.

Mr. Hufnagel stated the following:

- He wanted to construct an 18' by 36' pole barn for storage.
- The lot was less than 50' wide at the Lake; making it a non-conforming lot.

- The existing house is less than 10 ft. from the property line; making it a non-conforming structure.
- Requesting to have a 5 ft. setback instead of the required 10 ft. setback for the proposed pole barn.
- Plan to remove the existing 12' by 12' metal shed and trees that shield the current metal shed from State Rte. 54.
- Would like have additional storage instead of putting overflow into cottage.
- The eastside of the proposed building would be 30 to 40 ft. from the existing RV pad.

Mr. Feinstein stated in full disclosure, that he lived in the vicinity of the proposed project and noted the following concerns regarding the RV that is currently on the property:

- Not sure how it is addressed in the current LUR.
- The RV was parked there year round and seemed to be an added residence.
- Whether it was adding additional strain on existing septic system.
- How emergency service situations would be addressed.
- If the RV presence made it a miniature trailer park.
- Maybe looking for alternative, due to:
  - a) The requested structure size.
  - b) Removal of existing mature trees that now screen the existing building.
  - c) Make the requested building fit in the neighborhood.

Mr. Hufnagel stated that his parents live in the RV during the summer due to his fathers' health issues.

A question arose to how it affects the number of bedrooms for the current septic system and the fact it was used a dwelling unit in the summer months rather than just being parked.

Mr. Hufnagel stated the following:

- The RV had its own holding tanks and when full was dumped at his parents' residence in Big Flats.
- There was no plumbing from the RV to the septic system.
- Sometimes in the past the RV had been attached to the septic system.
- When they applied for the concrete pad, it was fully disclosed that it was for the existing RV.
- His immediate neighbor's Kelly and Freeman were notified about the proposed structure.

Mr. Hand stated, "That according to the current Land Use Regulations, as long as the RV is currently registered and not permanently hooked up either water or septic, it is an allowed use."

Mr. Harrop stated, "One occupied RV is allowed on one lot in each zoning district."

It was noted that the Town is currently looking into revising the LUR concerning RV's.

Mr. Hand stated the applicant was seeking 3 variances:

- Non-conforming lot due to the width size in an R-1 district.
- The proposed building would be located in the front instead of the back or side yard.
- The requested accessory building size.

Mr. Harrop differed to Planning Board Chair Mr. Neu, with regards to the Planning Board's interpretation of the side-yard setback distance requirement in conjunction to the size of an accessory building.

Mr. Neu stated that a 12 ft. by 16 ft. by 10 ft. high accessory building may not be located closer than 5 ft. from the lot line.

Mr. Feinstein stated the issue of tree removal would be addressed on the site plan application at the Planning Board level, once and if the variance request is approved.

Ms. Dietrich read the names of the 23 letters sent to the neighboring property owners, noting 3 were received back. Ms. Riorden's letter dated July 7, 2014, stated concern about potential drainage issue, both Mr. and Mrs. Dubendorfer stated concern about safety.

Mr. Feinstein opened the public hearing.

The following individuals stated their names and concerns:

Ms. Strong stated the following:

- She received notification by mail.
- Present to see what the applicant was actually requesting.

Mr. Neu inquired about the size of trees the applicant wanted to remove, citing 7.3.4(2) of the LUR regarding trees with trunk circumference of 36 inches or greater and measuring 4 ½ ft. about average ground level.

Mr. Feinstein stated the issue of tree removal would be addressed on the site plan application at the Planning Board level, once and if the variance is approved. The Zoning Board's responsibility was to address the five question test required by NYS.

Mr. Lonergan noted the following items after review and discussion with neighbors and others:

- The unified opinion is that it's the applicant's desire to construct a non-conforming structure on a non-conforming lot on an R-1 district on waterfront property.
- The Town's Comprehensive Plan and community objectives encourage the appropriate use of land to conserve and enhance property value.
- Noting that a 36 ft. by 18 ft. barn on a non-conforming Keuka Lakefront lot failed that test.
- The application before the Zoning Board is flawed; the request alters the character of the neighborhood and would negatively affect the neighbor's property value and should not be granted.

Mr. Feinstein further noted that Mr. Lonergan has submitted his remarks in written form and is on file.

Upon further discussion, the Zoning Board recommended the applicant look for alternative to his request for variance, due to:

- The requested structure size.
- The overload on a non-conforming existing lot.
- The removal of existing mature trees that now screens the existing building.
- The aesthetics' to the neighborhood.

Mr. Hufnagel stated even if he kept the existing 12 ft. by 16 ft. size shed, some trees may need maintenance.

Mr. Feinstein stated before the Board took the variance to vote, the applicant may want to table the original variance and revise his application.

Mr. Hufnagel inquired what size of structure would be considered middle ground.

Mr. Feinstein stated size and visibility were major issues when revising the application, but it's up to the applicant to address the stated concerns.

Ms. Dietrich made a motion to table the application, seconded by Mr. Hand.

A roll call vote was taken to table Variance Application 03V15. Ayes-3. Nays-0. Abstain-0. Absent-1.

**VARIANCE APPLICATION 04V15:** Sharon Kelly. Property located at 9620 Silsbee Rd., Town of Wayne. Request to add onto existing non-conforming structure.

Mark Titus, Contractor for Ms. Kelly was present to represent her at this time. (Representative letter on file).

Mr. Titus stated the following:

- The existing structure is pre-existing non-conforming as it is located on the property line.
- The applicant would like to add detached a 26 ft. by 14 ft. screened-in porch with a deck above.

The question arose as to when the structure was built.

Mr. Neu, neighbor to the property, gave a brief history:

- The prior owner was Mr. Gleason, who rented out a trailer that was located on the property.
- The property was subdivided by Mr. Morrison, into 2 buildable lots.
- A trailer was removed and the existing structure was there prior to 1970's.
- The structure sits on 1.079 acres and has an existing drive.

Mr. Feinstein stated if its pre-existing non-conforming structure, the owner has rights to maintain the structure under the zoning ordinance.

Mr. Harrop stated that the owner may not expand upon a pre-existing structure without a variance.

Mr. Feinstein opened the public hearing.

The following persons were present to express their concerns:

Mr. Neu, stated the following:

- If the applicant was making this a detached structure, fire issues would need to come into play.
- NYS Fire code regulations state there needs to be 10 ft. from another structure.
- Would like to know if the use of the structure changes from a storage building to a living unit.
- One complaint is that the property has been for the most part, left unattended and unkempt. Further noting, that the last contractor left a roll back containing trash at the site for almost a year.

Ms. Kervin stated the following:

- She owned a vacant lot and home across from the proposed site.
- Object to letting the applicant add a non-conforming addition onto an existing non-conforming structure.
- Wells need to 100 ft. from any septic system and the proposed septic would be uphill from her property and too close to her existing well.
- Not sure a building permit was issued for the new windows, cement floor and French doors make it hard to believe it's just a barn.
- Saw people last year staying at the structure.
- Concerned about who would stay and where potential waste water would go. (According to Mr. Kelly, it would be used as a bunkhouse for overflow from their lake cottage).
- They live in a quiet neighborhood and would like to keep it that way.
- As they're aware of the Holstein law, they will contact 911 when needed.
- Totally object to the proposed project.
- If the Board would like a written commentary, she would be happy to comply.

Ms. Griffin stated the following:

- She lived between the Neu's and Kervin's and also owned the lot next to the Kelly's.
- The structure was actually encroaching on her property.
- How would the screen porch support the second floor?
- It's visually not acceptable.

Mr. Harrop stated that the drawing showed the addition to be attached, and if the structure is detached, according to NYS building code, it must be 10 ft. away from another structure. He further noted that the application must be made clear as to what the applicant is applying for.

Mr. Titus stated he wasn't sure.

Mr. Feinstein stated that the applicant could place an accessory building anywhere on the lot, as long as it met the required setbacks.

Mr. Harrop stated the property is a non-conforming lot, due to it having a non-conforming structure located on the lot.

Mr. Neu stated that if the applicant moved the barn into the proper setbacks, it would make both the structure and the lot conforming.

Mr. Feinstein reviewed of 7.2.3 (2) and 7.2.3(3) and stated they were separate issues. Noting that 7.2.3(3) states it's a conforming lot. If the applicant abuts or ties

into the barn, it would be allowing the structure to be visually more non-conforming. The applicant must definitely state what they want to do in order for the Zoning Board of Appeals to reach knowledgeable decision.

Mr. Hand stated the short term plan states that people would be staying there; further noting septic and well concerns needed to be addressed.

Mr. Feinstein closed the public hearing.

Ms. Dietrich made a motion to table the application until the applicant could clarify what they wanted to do, seconded by Mr. Hand.

A roll call vote was taken to table the application. Ayes-3. Abstain-0. Nays-0. Absent-1.

Mr. Harrop stated concerns over interpretations and the need to have clarification.

Mr. Neu stated they were currently revising the definitions.

As there was no further business, Ms. Dietrich made a motion to adjourn, seconded by Mr. Feinstein. Ayes-3. Nays-0. The meeting was adjourned at 8:00PM.

Sincerely,

Maureen Kurtz