

TOWN OF MOUNT PLEASANT

MINUTES OF THE
MEETING OF THE ZONING BOARD
TOWN OF MOUNT PLEASANT
WESTCHESTER COUNTY, N.Y.
HELD FEBRUARY 8, 2024

CONTINUING APPLICATIONS:

NEW APPLICATIONS:

Claire Pierson (Owner) of property located on Bedford Road (proposed as 747 Bedford Road) Sleepy Hollow, NY. Section 111.15-1-2. The application is for the proposed 2-lot subdivision which is currently seeking Planning Board approval on a legal parcel (6.86 acres) in the R-40 zone. **The following variance(s) are requested:**

Z-23-59 Bedford Road (Proposed as 747 Bedford Road) Sleepy Hollow

My name is Taylor Palmer. I'm with the law firm of Cuddy & Fader on behalf of the applicant. Tonight, I am joined by Steven Spina, from JMC, our project engineer. I'm also joined by Joan Rosales and Tim, who are part of the project team. As the acting chairman mentioned, we are before your board this evening in connection with a public hearing about New York State Town Lot 280. An area variance, and we'll get into those details in just a minute.

I'll give you a brief history of the subject parcel and the reason why we're before you tonight. Several years ago, in 2018, the applicants worked with New York State, who are the abutting large property owners, in proximity to the property. They made a land swap agreement with the state. It is just north of the entrance to Stone Barns, and it's the open spaces that are on both sides of the street. The parcel that's located in red there on the screen was the original, the applicant's property. Then they swapped with the green parcel that's there located behind their existing residence. So, in exchange for that, keeping that pastoral frontage along Bedford Road, just that, and locating their residence in a green parcel. They did do this land swap, which is accessed off of a private, shared driveway off of Bedford Road.

The applicants then engaged the town to determine the required process that was associated with that. Formally recognized land swap, and, they began planning for construction of their new residence on this swapped lot. At that time, the town determined that a minor subdivision was required too. So last year, the applicants applied to the town Planning Board, and then worked with town staff to coordinate

the subdivision application. Toward the end of last year, the planning board was in the review process, and the applicants were informed by the building department that a variance was necessary, for frontage, on a public road. Again, the property is currently being accessed off an existing private driveway. Following that determination, the applicant did submit to this board for their requested variance and met with the building department to review the frontage and the application materials that we put forth. What's interesting about this application is typically a 280. A variance such as this. An application will come to you at the time of a building permit. That's the sort of driver of this. Here a building permit has been issued, and the home is currently fully constructed, and on the property which is currently accessed by the existing driveway. This is sort of, learned after the fact, just by a little additional background, The property is currently accessed from Bedford Road. There are 2 access easements over the existing paved driveway. So, there's a section that comes from Bedford Road into the site, and then there's a spur that goes over State Parkland. Both of those are access easements existing, to the existing. The McAdams driveway or the shared driveway is a 50-foot right of way. The driveway itself into the site is a 20-foot right of way, but there's also a driveway in that location. So, while we understand this issue was discussed with town council and with the planner previously, this determination was rendered and as noted by the acting chairman, zoning code section 218.9-B (6) mandates that a permit may not be issued for a building unless that lot has 25 feet of street frontage, leading us before you this evening. So, with that there is a specific provision on top of the five factors that you will discuss tonight that is before you.

For the board's reference, the premises are 15 feet off. The requirement in the town was that there'd be a minimum of 15 feet.

At no point is the driveway less than that. In fact, we're wider than that in all regards. So ultimately, in our December 18th letter, we do support that the granting of this request for relief will not result in any, undue, undesirable changes in the neighborhood, given that access is already provided to an existing residence. Again, east of the site, serving this premises, there's going to be really no change to any of those conditions really be through this application.

Steven Spina: So, what we're proposing here off the private driveway roadway here is, another private driveway all the way up to the home shown in gray on the plan. The home is a yellow structure, and it is setback within all the required setback distances. We meet all forms of the code in terms of the property itself, in terms of setbacks and trying to avoid steep slopes. We're proposing drainage to mitigate the impervious surfaces that were created and there's a wetland there with a buffer. We do have a little bit of grading that was done temporarily in the buffer for a proposed septic area and an expansion area that was done in accordance with the Westchester County Health Department.

Board Member Comments: I have some questions, perhaps Mister Palmer. I'll open up to the board as a whole, but if initially, you stated that in 2018, there was a formal land swap. Is that recorded somewhere? Mr. Palmer replied; there are deeds recorded for these parcels, and there actually are tax IDs that are

associated with these parcels as well. That came about when they were working to get electric to the property as well. There are tax IDs and these are deep-recorded deeds on a file with the county.

Taylor Palmer: They've actually, I believe, been paying taxes for the specific lot that's illustrated, but because it wasn't formally done as a formal subdivision through the planning board's process, from a town perspective, it doesn't truly exist as a as a formalized lot. So, the county's tax parcel viewer, as convenient and useful as it may be to see the old historical aerials, shouldn't be relied on, for that. The town's tax map will need to be updated, and then the county's parcel viewer actually won't change, but you'll be able to click on it.

What I'm really getting at is that there's a legal distinction between a mapped road, a private road, and a private driveway and easement. I think we would agree there are distinctions there, to say the least. If we were a town road or a private road, then we wouldn't be before you because we would have the frontage we would need. However, the parcel could have been drawn up and would have frontage along that. As it's a private driveway, even if it's by road standards, it doesn't meet the distinction in New York town law. And as a result, we need to appear before you.

Acting Chairman DeCicco: Are you aware or maybe if your attorney is aware that houses have been legalized or have pre-existing nonconforming uses?

What's the nature of those lots in those houses? Mr. Palmer replied" It would have been the same answer that Ms. Pearson, I believe, would have given, though I won't speak for her. We do not believe they're pre-existing nonconforming, but to the extent otherwise, they're not. There's no record. So as far as being able to access this site, put a home on it, and build a driveway to access it, you'd be impacting some pretty significant steep slopes. For example, if you try to come through the residence here, this doesn't do a good job of representing the topography. For those who have been out to the site, you know that the house is perched up on a hill. So, to answer the question directly, an easement could go over the land of the adjoining property, creating a flag lot and, otherwise, creating a sort of meandering, second driveway, sort of impacting really the character and quality of that area. The idea is to set back.

Why would it have the additional cost that you referred to just for constructing a driveway through the steep slopes to get into the site.

There's an existing spur and when they come onto the site they avoid the steep slopes. This was designed by the consultants that are with us this evening, to help environmental sustainability and to encourage development that sort of fits with the character and sort of builds into the landscape of both these homes. This home was designed with all that in mind, but also because it was a direct land swap with the state to try and affect us.

Board Member Hlapatsos: So, is the short answer esthetics?

I think esthetics but also cost and access purposes. But the cost. I'm not. I'm not really accepting that because, in effect, you had 2 available options. You chose 1 and invested the money that you invested in order to make that lot accessible. If you had chosen not to require a variance, and had chosen to use the front lot,

which is again, an available option because it's shared ownership, you wouldn't have needed a variance at all. Understood.

You would have then used the resources that you allocated towards making the current drive, the access, and, basically, I don't see why it would have been. I think I can answer the question a different way. In 2018, when this came before the planning board, the access, the location, where it was, was discussed with the council, was discussed with the planner, and this issue wasn't identified as being an issue that required any belief from your board. The applicant proceeded with the project, got a building permit issued, which should have triggered it again, but didn't. The whole home has been built and constructed. The driveway, the drainage, all those materials were built.

If we were in a hypothetical circumstance for this house and residence didn't exist, all those improvements hadn't been done pursuant to validly issued building permits and otherwise. I think those are reasonable, but the cost to adjust and change this in this state does weigh into the considerations of the alternative analysis, because an alternative can't be so significant as to necessitate the applicants. Well, you have to understand. Our analysis usually doesn't

Mr. Palmer replied: The cost associated with constructing a home, and that creates the uniqueness here. The cart doesn't come before the board. I'm with you.

Acting Chairman DeCicco: I do have one more question. Perhaps your client can answer it. No problem. Just wondering for how many years there have been 3 houses utilizing this access point approximately?

Ms. Pierson replied" So, the house we live in is a Victorian farmhouse, so it was built by a farmer, so it was probably in its 18th nineties. The stone house at the top of the second one on the driveway, not counting the new building, is the carriage house for the Christian Brothers Monastery, so it's been there for a couple of 100 years. The cabin at the top of the hill was probably built in the seventies. Larry Rockefeller built that, and I don't know, but I think probably the seventies would be my guess.

Acting Chairman DeCicco: From to the best of your knowledge and recollection, since the 1970s, there have been 3 families and 3 houses utilizing Correct. This one. Correct. Thank you. Thank you. Alright. If there's nothing else, we will open up.

Any other questions for the attorney? **Board Member Trivella:** Yeah. I just feel like it's necessary to explore, at least for the record. You mentioned there were environmental factors. Can you expound to them what led you to construct the driveway the way it's currently to exist? Yes. I'll have Joan, just the environmental consultant, speak to that. Thank you. I'm sorry. Yes. And yes. I will please tell the truth, the whole truth, and state all of your comments as accurately as possible. Yes. Happy to. I was hoping to answer your question. If, if you look at the way the driveway driveway cuts down here, if we had to move the driveway on the property even to the other existing, you can see that this is all wooded. You saw that it was all wooded, and it was all on steep slopes. What this does is it allows

you to make the shortest driveway from this spot and utilizes an existing clear path that would eliminate the need to cut down all those trees. This is actually sort of a natural. It's not a declared wetland, but it is a drainage area.

By allowing that to stay, you're actually allowing that absorption into the ground naturally. You wouldn't have to put a cold tech system in or something like that. This whole thing is actually much shorter than trying to get down the road on its own. So that road helps, you know, helps to preserve a lot of the property as it is.

Taylor Palmer responded: I think in terms of just being a sustainable property, this is sort of a completely non-polluting house. It's going to retain its heat. It's going to use an incredibly small percentage of heat compared to a house. It's basically a net-zero house. So, the whole property is going to contribute to that as well as the driveway. Just for the record, just because of the nature of the application, and it is a planning board pending application as well. We would ask the board, if it does decide to proceed to a decision this evening, whether it will hold the meeting over until next month so that we can send information. It's not a referral, but an informational reference to the county.

Acting Chairman DeCicco replied:" Through that comment, we cannot make a decision today.

Taylor Palmer Absolutely. I'm asking you not to make a decision this evening, but if the board would see fit after its business discussion to potentially consider setting it up for resolution.

Acting Chairman DeCicco I am not sure that we are going to be in a position to make a decision tonight. What you're saying is you would prefer that we didn't, right?

Taylor Palmer Understood. Thank you.

Application was adjourned per the applicant.

Frank Gregory (owner) of premises located at 186 Evelyn Avenue, Thornwood, NY. Section 106.19, Block 2, Lot 29. The application is for the proposed installation of a 14KW generator on a legal sub-standard parcel (4,451 SF.) in the R-10 Zone. **The following variance(s) are requested:**

Z-24-1 186 Evelyn Avenue, Thornwood

Okay. My request is rather simple, I think. It's just for a 14KW power generator in case we lose power. It's an automatic generator so that if I'm away or something happens, I still have heat and hot water and my pipes won't freeze. As I told some of the board members who came on-site, myself and my two neighbors who are also applying for generators, we're all getting up there. We're all seniors now, and we're all dealing with certain health issues, so we can't be without heat and hot water for any length of time. We're looking at this, taking the opportunity now that the gas moratorium has been lifted, that we're all going to get generators.

Acting Chairman DeCicco: Did you explore any alternatives as to placement of the generator? Mr. Gregory replied" I did with Mister Nicoletti, the town engineer. We looked at the site plan, and he said this was the simplest, most straightforward position to put the generator. Mr. Nicoletti said any other place would require

running gas and electric lines all around the house, and we don't want to do that. In addition, where the generator is located, we proposed this location is on the side of my garage to, on the other side inside is where the electric panel is. So, it's a straight right through the wall hook up to the transfer switch.

Acting Chairman DeCicco: Just with regard to the location of your home, with respect to the adjacent home. Yeah. What's the distance between the two? Mr. Gregory replied; I didn't measure it, but I'd say about 20 feet between me and Allison. She's also applying for a generator too, by the way. Alright. I want to thank the Board and especially, Ms. Naclerio for helping me through the process. Mister Bregante for the site visit and his advice too.

Acting Chairman DeCicco: Is there anybody in the audience that would like to speak in favor of Mister Gregory's application? Thank you. Seeing none, is there anybody in the audience that would like to speak against Mister Gregory's application? Yes, sir.

Mr. Steve Surace (4 Lilac Place) My name is Steve Surace. I live at 4 Lilac Place in Thornwood, and I own the Kingsview subdivision directly behind those three neighbors. So, basically, we have a non-conforming lot and a non-conforming side yard. I think that although the variance is very small, the percentage of that variance is very large, and I don't think the Board should grant that variance. The size of the percentage of the variance whether the neighbor agrees with it or not. I just think it's too big of a variance on a non-conforming lot.

Board Member Trivella: You said you own the lot behind it? What do you do with that property? Do you live there? Do you have tenants there? Mr. Surace replied; I'm developing it. Mr. Trivella replied; what issue do you see with the placement of the generator? Mr. Surace replied" I just think that there's another place that he could put it that he doesn't need to try to get such a large variance for it. Also, Mr. Gregory did mention that the moratorium has been lifted, but there is no gas on that road. So, to put a generator in now, it would have to be propane, which would also require tanks there.

Motion made by George Hlapatsos, to approve the application per plans submitted, seconded by Herb Doer. Carried by 4-0 AYE.

Michael & Susan Martinez (owners) of premises located at 10 High Street, Valhalla, NY. Section 117.19, Block 1, Lot 58. The application for the legalization of an existing retaining wall, on a legal standard parcel (10,018 SF.) in the R-10 Zone. **The following variance(s) are requested:**

Meeting Adjourned.

Kateryna Kotova (owner) of premises located at 11 Point Place, Chappaqua, NY. Section 99.10, Block 3, Lot 47. The application is for the proposed installation of a 15 ft. x 34 ft. in-ground pool, on a legal parcel (26,863 SF.) in the R-40 zone. **The following variance(s) are requested:**

Z-24-3 11 Point Place, Chappaqua

Nicholas Shariah of Hudson Engineering is here, representing the applicant and

homeowner Katrina Kotova, who's here tonight. As you previously stated, this application is for a variance for a swimming pool in the rear yard, with the required setback is 50 feet and we're requesting a 50% variance. This application has already been approved for steep slope disturbance to the planning board and currently has a construction and a building permit for construction. During the course of construction, we discovered that the original location of the pool was too close to this area, as shown on our map here. It would not have been ideal for the pool in that, that location. We came to our realization afterward. We had some inaccurate information in the topographical survey. So, as discovered by the contractor on the field and myself, we discovered that the best location for the pool was to set it back, 25 feet. However, that does encroach into the rear yard setback. This, this property is kind of unique in the way it's set up. Most of the rear yard is steep slopes, as you can see. There is a chunk of that rock that was basically cut out of the rear yard to make this area, the immediate backyard, flat. Not a lot of areas are used for recreational activities for a family. I believe Katrina has 2 kids, and they definitely like the use of their backyard. We figured out the only place to put this pool would be in this area here.

Acting Chairman DeCicco: Do you know if the rear property is potentially buildable or protected by any law or statute which would prevent anybody from building back there? Or is it just effectively non-buildable because of the Con Edison easement? Mr. Shariah replied; Well, I would say, for the most part, it's non-buildable. I mean, there's an abundance of steep slopes in the rail yard, and that 50-foot easement here kind of cuts this area pretty much by 25%. So, I don't think we would meet zoning setbacks or zoning requirements for a lot in that zone. This is the Zappi subdivision that was built a few years ago.

Chairman Doerr: If you place this exact pool as it is in this area, you would essentially walk out of your house 2 steps into a pool. Well, we have setback requirements for pools of houses. It might have been a less variance if you had placed the pool off of the top of the hill closer to the house, but it required a far less than 50% variance. Nicholas replied: Yeah. Although, there is still a variance.

Chairman Hlapatsos: I understand, any noise that comes from this pool is going to be heard for around 500 feet. It's going to have a significant noise impact on all the neighbors in the area, which we recognize. I don't know if, perhaps it was recognized by the homeowner or by the pool installation company or even by the neighbors, but it's because of again, topography, the fact that this pool is located on top of a hilltop which is significantly above the level of all homes in the cul-de-sac. It's going to be like a giant stage, and if they put lights around it, it's going to be like a stadium.

Motion was made by Scott Trivella to approve the application per plans submitted with the condition that there is fencing on one side, fast-growing evergreens surrounding the pool on the other three sides to serve as a buffer, seconded by Herb Doerr. Carried by 4-0 AYE

INSPECTION MEETING WILL BE HELD ON

Site Inspections were held on Saturday, February 3, 2024.

[MIN_SIGNATURES]

