

ZONING BOARD OF APPEALS
238 Main Street, Cold Spring, New York 10516

April 8, 2019
7:30 P. M.

Regular Monthly Meeting

Pledge of Allegiance

Approval of Minutes:

- March 11, 2019

Public Hearing:

Kristan Connolly, Route 403, Garrison

TM# 87.-1-2

Appeal #921

(The applicant is seeking a variance for relief from section 175-36B1, which disallows construction of dwellings on slopes that exceed 20%. The lot, which preexisted the current zoning as a separate building lot that conformed to the previous zoning is legally non-conforming. The topography, when considered in conjunction with the setback requirements imposed by the current zoning, is such that there is no place upon which one can build and avoid slopes that exceed 20%.)

Old Business:

New Business:

ZONING BOARD OF APPEALS
March 11, 2019
MINUTES

The Zoning Board of Appeals for the Town of Philipstown held their regular monthly meeting on Monday, March 11, 2019, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York.

PRESENT: Robert Dee - Chairman
Paula Clair - Member
Leonard Lim - Member
Granite Frisenda - Member
Adam Rodd - Attorney (Drake Loeb PLLC)

ABSENT: Vincent Cestone - Member

****PLEASE NOTE that these minutes were abstracted in summary from being present at the meeting and sound recording. If anyone should seek further clarification, please review the sound recording.**

Chairman Robert Dee opened the meeting at 7:30 P. M. with the Pledge of Allegiance.

Minutes

Chairman Robert Dee: Alright. Mr. Cestone won't be tonight, he's in Florida. Lucky him. Looking for approval of the minutes from January 14. Are there any corrections or changes? No? Any corrections or changes?

Leonard Lim: Better ask her.

***Ms. Clair arrived to the meeting at this time.**

Chairman Robert Dee: Okay. We'll wait. Oh, she's here, okay. I'll wait a second for her.

Paula Clair: Sorry.

Chairman Robert Dee: That's alright. Paula you got any changes in the minutes for last month?

Paula Clair: No.

Chairman Robert Dee: No, okay. Can I get a motion to approve the minutes?

Leonard Lim: I'll so move.

Chairman Robert Dee: In favor, all in favor of the minutes?

Leonard Lim: Aye.

Paula Clair: Aye.

Granite Frisenda: Aye.

Chairman Robert Dee: Aye. Minutes are approved, January 14th minutes. Alright. First thing is an application for Kristen Connolly, Route 403, Garrison. The applicant is seeking a variance for relief from section 175-36B1, which disallows construction of dwellings on slopes that exceed 20%. The lot, which preexisted the current zoning as a separate building lot that conformed to the previous zoning, is legally non-conforming. The topography, when considered in conjunction with the setback requirements imposed by the current zoning, is such that there is no place upon which one can build and avoid slopes that exceed 20%. Now this has been referred to us by Zoning Board so I'll just read the, I mean by the Planning Board and I'll just read their referral letter. Dear Chairman Dee and Board members, The above-referenced matter came before the Planning Board for site approval to construct a single family home greater than 3,000 square feet on certain real property located at New York State Route 403. At its February 21, 2019 meeting, the Planning Board granted the site plan application conditioned upon grant of an area variance from the ZBA to permit construction on slopes in excess of 20%. I am writing at the direction of the Planning Board to refer this application to the ZBA for consideration of grant the necessary variance from Town Code §175-36. Particularly, the subject property is currently a vacant lot of approximately 1.5 acres. There is no portion of the lot on which a home could be constructed which would not involve building on slopes in excess of 20%. Under Town Code §175-36, construction on slopes in excess of 20% is permitted either upon a special permit from the Planning Board or grant of an area variance from the ZBA. Because Ms. Connolly's property does not meet the criteria for grant of a special permit from the Planning Board, she must apply to the ZBA for an area variance to construct a home on slopes in excess of 20%. I guess Mr. Watson you're handling this?

Glenn Watson: Yes.

Chairman Robert Dee: Okay. You want to explain a little bit to us?

Glenn Watson: Yes. Glennon Watson from Badey & Watson. The Connolly family is here, they hope to build their home on this piece of property. The property is located on 403 opposite that little short, it's called Cross Road, the one that goes from Route 9 to 9 just behind the Appalachian Market. Basically, the story is it's a highly constrained piece of property that pre-existed zoning and without some kind of variance or relief, we basically can't use the property. We have been to the Health Department and we have Health Department approval. We have been to the Conservation Board and have a wetlands permit. We've been to state, we have a state DOT permit. I should just qualify that state DOT permit is actually expired but they've told us they will reissue it they just didn't want us to have an active permit over the winter so they made it so it expired at the beginning of the winter. And we actually have Site Plan approval but it's subject to the, as the letter stated, it's subject to obtaining a variance of some sort with, from your board. So, I'm going to show you what we have. She's gonna yell at me, she always yells at me when I step away from-

Chairman Robert Dee: Yeah, she's gonna yell at you cuz you're not by the, not by the microphone.

Glenn Watson: Okay. So, this is Cross Road, the road that goes, just north of the Appalachian Market. This is the property. I believe you, they, I believe it's about 1.6 acres. What you have is, we're proposing a driveway that goes up the hill and comes in to the proposed house. The proposed house is roughly in the middle of the lot. Our first constraint is the wetlands, we have wetlands there.

Chairman Robert Dee: Did you get approval on that?

Glenn Watson: Yes, we do. We have a wetlands permit and we have a Health Department permit and what they do is they gang up on us. That's our wetlands buffer being added to the map. Then within that wetlands buffer, which is unusual for the Health Department but they recognize the difficulty, we have a permit to put the septic system in the wetlands buffer and really quite close to the wetlands itself but we have provided some protections in the design to keep the septic water from migrating directly into the wetlands. Then we have, the thing we're here for, next is we have the slopes over 20%, which is the subject of this application for this variance. And you'll see that as you look at this, the house, you'll see that we've got a substantial amount of steep slopes within the footprint of the house. And we, we think in the- the next restrictions are zoning setbacks. So, really what's available to us is what you see in white. So were seeking a variance on the wetlands. Our other alternative would have been to move the house back and seek a side or rear line variance, but this is State Park land. We felt we didn't want to go that close to the land, I think that was the sentiment, and I'm a little talking out of, I'm not absolutely certain but I think that was sort of the sentiment of the Planning Board as well. So, what we've done is back the house as close to the setback as possible. We still have some steep slopes that we, that we're building on and they're not tremendously steep slopes but they are there and so we're seeking a variance to allow us to construct the house over the steep sloped area. I'd be happy to answer any questions if I'm able.

Paula Clair: I have a question. If you move the house to the right some, you'd be further away from the wetlands buffer. I was wondering why that wasn't considered.

Glenn Watson: Well it was a matter of the length of the driveway to get up there and a little bit it was the most favorable spot on the ground to build the house. I will admit there's some subjectivity to that.

Chairman Robert Dee: (Inaudible) if you moved it further back it would be, I'm just trying to figure out the Planning Board's thinking because if you did move the house further back and you got a variance for the rear yard variance it would be a lot further away from the wetlands.

Paula Clair: Yeah.

Glenn Watson: Well we've got some rock to deal with right in this general area which also makes it difficult.

Paula Clair: But what about to the right, is, I don't- it looks like it's the same topography as where you're building.

Chairman Robert Dee: You're talking about where the driveway is?

Glenn Watson: Yeah, it's about the same, yes.

Paula Clair: So, I mean that would, if you moved it to the right more you, it would definitely be further away from the wetlands buffer.

Glenn Watson: It would be but it would increase our disturbance to the steep slopes. And it would make our driveway more difficult to build.

Leonard Lim: How long is the driveway?

Glenn Watson: 4-300-just under 400 feet.

Leonard Lim: And that transverses all the steep slopes.

Glenn Watson: Yes. This comes up- the yellow is the steep slope and it's on top.

Leonard Lim: Where does the runoff go?

Glenn Watson: The runoff goes, there's a series of check dams along the side of the road so what we're doing is trapping pools of water during a storm so they'll, the idea is that they'll hit this check dam, there'll be a big puddle, foot deep maybe. It will drop the solids and stuff, the runoff from the road, it will settle there and eventually it will, some of it will absorb into the ground and some, others will pass more slowly down here. It's being put into a basin here for absorption and, with an overflow system that will eventually let it settle and clean itself and then go into the wetlands.

Leonard Lim: So, it all winds up in the wetlands.

Glenn Watson: Oh yeah. Yes.

Chairman Robert Dee: What, on the driveway, it's gonna be, what's the grade, percentage of grade going to be? Are you gonna have any 20% grades there?

Glenn Watson: This is the driveway profile here; maximum grade is 12%.

Chairman Robert Dee: 12%. Okay.

Adam Rodd: So, the location of the house, as depicted on the plans that already received approval from the Conservation Board. Correct?

Glenn Watson: Yes.

Adam Rodd: Correct?

Glenn Watson: Yes. That's correct.

Adam Rodd: Alright. And the other thing, this is just a perhaps housekeeping thing, the street address for the parcel, is that also 425 Sprout Brook Road?

Glenn Watson: No.

Adam Rodd: No?

Glenn Watson: No. This is Cat Rock Road.

Adam Rodd: Okay. What is the street address?

Glenn Watson: Is it assigned yet?

James Connolly: It comes up as 37 Route 403, Cat Rock Road.

Glenn Watson: Yeah, they're-

Adam Rodd: Okay.

Glenn Watson: Cat Rock Road.

James Connolly: I'm 475 on Sprout Brook.

Adam Rodd: 37 Route 403.

Glenn Watson: Yes. The reason I'm hesitant is because there's a piece next door and the assessments were fouled up with this house; the piece next door has a house on it and the assessments were all fouled up. We just gave a whole bunch of paperwork to get the assessor and the lawyers to straighten that out.

Paula Clair: I have a question also. Who's Jean Berg? I mean who is-

Glenn Watson: She's the property owner.

Paula Clair: She's the property owner and-

Glenn Watson: Correct.

Paula Clair: So-

Glenn Watson: Let me qualify that. She is the executrix of the estate of her parents who own the property.

Paula Clair: Right.

Glenn Watson: They are the property owner, or the estate it.

Paula Clair: And the Connolly's are?

Glenn Watson: They're contract vendees. They're gonna, they're purchasers.

Chairman Robert Dee: Only if they get the approval.

Glenn Watson: Yes. Right.

Paula Clair: They're purchase, oh they're purchasing the property if you get the approvals.

James Connolly: Yes.

Paula Clair: Okay. Alright, yeah. Okay. That clarifies that.

Chairman Robert Dee: Alright. I see that you've got everything here. You've got the, the deeds here and I saw the survey and everything else like that. Anybody, is there anything else anybody needs that they would need to- I mean we're gonna set it for a public hearing you know but I'm just saying is there anything anybody, anybody think there's anything missing.

Leonard Lim: I didn't see anything. I didn't come across anything I think I need.

Chairman Robert Dee: No. Alright. And you got the list of neighbors and all like that right?

Glenn Watson: I believe so.

Chairman Robert Dee: Yeah, I think I saw it, right.

Paula Clair: I have a question. Did the health, I mean I know the Conservation Board rules on the wetlands issue. Does the Health Department also weigh in on that?

Glenn Watson: Yes, we do have a Health Department permit to construct the system as shown here on, as shown in this area-

Paula Clair: In the wetlands?

Glenn Watson: Which is in the wetland buffer but as I mentioned in my presentation, we did put a, basically it's a dam, for lack of a better term; it gets buried into the ground to hold back the sewage. What happens is, the septic tank, if you flush the toilet it goes into a septic tank. Now the septic tank separates the solids from the liquids. The solids are captured in the septic tank and

that's why you're supposed to have it pumped out every couple of years. The liquid waste passes into the septic system and it is, there's processes, biological processes that go on there but essentially what happens is the wastewater seeps into the ground and as it's going through the ground it is cleaned by that process, it's scrubbed by the soil. There's pretty strict rules about the depth of the soil, it's not affective if it went through 6 inches of soil and then went into the wetlands. The minimum it needs to go through is 5 feet, I believe. It's 7-foot hole, 2 foot down on the thing, so 5 feet. And it has to be 5 feet of suitable soil that's dry. So, what can happen with a septic system is if it ages and fails, it can start going laterally which would be a problem. Instead of going down, seeping through and eventually hitting the water table, it can start to migrate sideways and it could theoretically get into the wetlands prior to being sufficiently cleaned. So, in order to avoid that, we've put this barrier up. Now the barrier is not just a surface barrier, it's dug into the ground and buried to make sure that the water is, gets through.

Paula Clair: How far in the ground is it?

Glenn Watson: I'd have to look to tell you the truth but, I don't know but it's several feet. It's not 10 feet, it's probably 5 to be honest with you but I'd have to look, I don't know.

Leonard Lim: Glenn get the number before the public hearing.

Glenn Watson: Pardon me? I will.

Leonard Lim: Get the number before the public hearing.

Glenn Watson: Okay. Sure.

Paula Clair: This, isn't this the public hearing?

Chairman Robert Dee: No. This is just for the application. We set the public hearing tonight.

Adam Rodd: (Inaudible).

Paula Clair: Oh. Mine says public hearing.

Chairman Robert Dee: Right. Now we're just going through here to see if he needs anything else before the public hearing. If there's any other information you require. Okay. And Conservation Board approved this right?

Glenn Watson: Yes.

Chairman Robert Dee: Okay. You have that in here? Have a copy of it-

Glenn Watson: I will.

Chairman Robert Dee: Of the approval for the -

Glenn Watson: I will.

Chairman Robert Dee: Public hearing, okay? Not that I don't believe you.

Adam Rodd: It's referenced in the, which is included, the Planning Board resolution granting site plan.

Glenn Watson: Mentions it.

Adam Rodd: Yeah. I think it was granted on January 8th, 2019 and Planning Board granted site plan, conditional approval pending what this board does, on February 21, 2019.

Glenn Watson: Correct.

Chairman Robert Dee: And Conservation Board?

Adam Rodd: January 8th, 2019.

Chairman Robert Dee: Conservation Board?

Adam Rodd: Yeah.

Chairman Robert Dee: That's when they approved it?

Granite Frisenda: Yeah.

Adam Rodd: Conservation Board approved, gave a wetlands permit on January 8th, 2019.

Chairman Robert Dee: Okay.

Adam Rodd: And then it went to the Planning Board and the Planning Board granted conditional site plan on February 21, 2019 pending approval of a variance from this board.

Chairman Robert Dee: Okay. Anybody have any other questions or need more information on this or anything like that? Alright at this point I make a motion that we, for a public hearing on this to set for April 8th.

Leonard Lim: I'll so move.

Granite Frisenda: Second.

Chairman Robert Dee: All in favor?

Leonard Lim: Aye.

Paula Clair: Aye.

Granite Frisenda: Aye.

Chairman Robert Dee: Aye. Alright, April 8th.

Glenn Watson: Thank you.

Chairman Robert Dee: 7:30. And you're done. Any old business? Any new business? Alright just one quick thing on the new business. Tara do me a favor, speak to Greg on you know like this piece of property here, we could really use signs. Like you know a lot of towns in different locations have signs up saying you know there's gonna be a public hearing on something or something like that. You know they have the 2 x 3 or 3 x 4 foot signs up, we don't have any. You know I think that he, maybe by next month's meeting he can give me a little letter as to what they cost or you know so on and so forth. You know, what wording needs to be on it and run it by the Town Board or something like that because like in this particular area you're looking, you're guessing, you know what I'm trying to say? I would be happy to see a sign on that so if I went by, I would know that. I know a lot of towns have it so I don't see any reason-

Glenn Watson: The Planning Board has them (inaudible).

Chairman Robert Dee: Planning Board has them?

Tara Percacciolo: Like notifying the public of the public hearing?

Chairman Robert Dee: Yes. Correct. A public hearing on the Zoning Board. You said, Mr. Watson said the Planning Board has them so you know it would be the same type of thing. Okay. Thank you very much. Any body else? I make a motion to adjourn.

Leonard Lim: Second.

Chairman Robert Dee: All in favor?

Leonard Lim: Aye.

Paula Clair: Aye.

Granite Frisenda: Aye.

Chairman Robert Dee: Aye. Thank you very much.

(The meeting adjourned at 7:48 pm by a unanimous decision.)

NOTE: These minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation and approval thereupon.

DATE APPROVED: _____

Respectfully submitted,

Tara K. Percacciolo
Secretary

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Zoning Board of Appeals of the Town of Philipstown on Monday, April 8, 2019 at 7:30 P. M. at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York to hear the following appeal:

Kristan Connolly, NYS Route 403, Garrison, New York. Tax Map # 82.7-1-2. The applicant seeks to obtain a variance for relief from Section 175-36B1, which disallows construction of dwellings on slopes that exceed 20%. The lot, which pre-existed the current zoning as a separate building lot that conformed to the previous zoning is legally non-conforming. The topography, when considered in conjunction with the setback requirements imposed by the current zoning, is such that there is no place upon which one can build and avoid slopes that exceed 20%. The applicant is seeking the variance in order to construct a Single-Family residence. The property is approximately 1.5 acres located in an RR (rural Residential) Zoning District in the Town of Philipstown.

At said hearing all persons will have the right to be heard. Copies of the application, plat map and other related materials may be reviewed in the office of the Building Department at Philipstown Town Hall.

Dated 3/22/2019

Robert Dee, Chairman of the Town of Philipstown Zoning Board of Appeals