Town of Sand Lake
Zoning Board of Appeals (ZBA)
December 9, 2021

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript or the actual proceedings. The transcript of this meeting is on a digital voice recorder and available at the Town Hall.

CALL TO ORDER: Melissa Toni opened the meeting at 7:04 PM

MEMBERS PRESENT: Geraldine Burger
Scott Bendett
Amy Lent
Wayne Gendron
Craig Crist, Esq.

MEMBERS ABSENT:

OTHERS PRESENT: William Glasser, Frances Bossolini, PE, Dan Sanchez, Bob Loveridge, Christine Hennessy, Monica Ryan (Town Planner)

RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

Melissa Toni (MT) explained the process for the following Area Variance applications.

Area Variance Application and Public Hearing

Thomas & Michelle Darling (Applicant)
113 Second Dyke Road
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 169.2-2-19.2

Lot Size: .26 acres

An Area Variance application for insufficient front and side yard setbacks for the replacement of a single-family dwelling with flood damage.

Surveyor William Glasser presented and summarized the project which had been initially presented at the November 16, 2021 Zoning Board of Appeals (ZBA) meeting. MT stated that area variances were needed for 7' at the front yard setback and 13.8' for the side yard setback. With no questions from the Board members, MT opened the Public Hearing at 7:07pm; seconded by Scott Bendett (SB) and all approved. It was noted that a phone call had been received in Planning Office earlier in the day on the project asking for clarification however the caller did not have any issues or concerns. With no other further public comments received, MT motioned to close the Public Hearing at 7:08pm; seconded by SB and all approved.

MT motioned to classify the project as a Type 2 action under SEQR and identified the Town of Sand Lake ZBA as Lead Agency; seconded by Geraldine Burger (GB) and all approved.

MT read the criteria that ZBA members considered upon making the determination for the 7' front yard setback area variance.

1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*
   MT stated that the home would be quite isolated; thus, there would not be any potential impact on the neighbors or the character of the neighborhood. It was noted that while a phone call had been received in the Planning Office, the caller did not have any issues or concerns. Board members agreed it would not cause a detriment or undesirable change to the character of the neighborhood.
2. *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.*
   MT noted that the project had been configured as best as possible to achieve the desired outcome and the discussions on the possibility of shifting the home had been exhausted. Board members agreed.
3. *Whether the requested area variance is substantial.*
   MT stated that as a 50' front yard setback was required by zoning, the requested area variance for 7' was fairly substantial however was created by the layout of the lot which consisted of the lake on one side and a pond on the other side. Board members agreed.
4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*
   MT stated that she did not believe this to be the case as it had already been a housing lot. She noted the impervious surface would increase however would be within the Zoning code. Board members agreed with the statement made by MT.
5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.*
   MT stated that, as with many of the requests before the ZBA, the difficulty was self-created.

MT motioned to approve the area variance for a front yard setback of 7' as submitted; seconded by GB and all approved.

MT read the criteria that ZBA members considered upon making the determination for the 13.8' side yard setback area variance.

1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*
   MT restated the same as for #1 above. Board members agreed it would not cause a detriment or undesirable change to the character of the neighborhood.
2. *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.*
   MT restated the same as for #2 above. Board members agreed.
3. *Whether the requested area variance is substantial.*
   MT stated that the requested 13.8' side yard setback was typical of the area variances considered and that the Board historically issued similar ones which were not typically classified as substantial. Board members agreed.
4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*
   MT stated that she did not believe this to be the case as it had already been a housing lot and noted that the impervious surface would be below the threshold. Board members agreed with the statement made by MT.
5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.*
   MT stated that, as with many of the requests before the ZBA, the difficulty was self-created.

MT motioned to approve the area variance for a side yard setback of 13.8' as submitted; seconded by Amy Lent (AL) and all approved.

Area Variance Application and Public Hearing

Ed Seabury (Applicant)
Harriman Road Extension
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 158.4-3-36.3

Lot Size: 1.6 acres

An Area Variance application for insufficient front yard setback for the construction of a single-family dwelling.

Engineer Francis Bossolini represented and summarized the project which had been initially presented at the November 16, 2021 ZBA meeting. MT noted that a new drawing had been submitted. Mr. Bossolini explained that based on the first ZBA meeting and comments, the proposed detached garage was moved closer to the home so less clearing was needed and increased the buffer zone for the neighbor property to the south. He noted this move would also reduce the impervious surface for a total of approximately 10%; thus, within the Zoning code. MT asked if the drainage had been explored per Wayne Gendron's (WG) comments at the last meeting. Mr. Bossolini replied that there would be roof leaders and pre-case dry wells were being considered. MT asked if what was being proposed would be for 100% of the roof drainage. Mr. Bossolini replied that they would do everything, including the garage, going towards the south half of the lot, and added that the gutters on the northerly side would also be reviewed to see if more would be needed. MT asked if the driveway would be pervious or impervious to which Mr. Bossolini replied that he assumed it would be some sort of paved surface.

MT motioned to open the Public Hearing at 7:19 pm; seconded by GB and all approved. Monica Ryan noted that the Planning Office had received a call from the adjacent property owner wanting to understand the project. She added that the caller did not have any issues or concerns with the project.
Bob Loveridge stated that he had a three-season camp at the foot of the hill next to the lake below the proposed project. Mr. Loveridge stated his reason for speaking was two-fold in that he wished to caution the applicant as well as express concern regarding the significant amount of water runoff. He then cautioned the applicant to have well-designed, engineer involved plans due to that issue and then explained the flow of water runoff. Mr. Loveridge shared a layout of his property to help understand the issue of water runoff and pointed out a berm that had arisen as a result. He added that as a result of the July 2021 storm, his driveway washed out and a new one had to be installed at the cost of $1,200 as. He explained that neighbors and himself had dug their 3' deep by 2' wide trenches off Harriman Road and added riprap which helped a little. He stated that when news was heard about the project and land clearing needing to be done, it concerned the nearby folks on how it would affect the water flow. He stated that National Grid had installed three water basins to capture the water which had helped some, however, did not stop the flow but rather slowed it down. He added that the applicant may also want to consider some type of trench or culvert across the roadway to lessen the impact of the water flow as it appeared the berm may be removed by the project. MT then asked Mr. Bossolini what he knew about the berm. Mr. Bossolini stated that as he was an engineer, whatever engineering needed would be done. Mr. Bossolini added that Mr. Loveridge had made their case regarding placement of the proposed home. He explained that the amount of runoff which came from uphill had been noted from his various work at the property. He added that in consideration of the requested setback, the proposed location would reduce the footprint of the development and minimize the impact on the lot. Mr. Bossolini stated he did not know about a berm but noticed there was some sort of ditch line along the road, which was not public road, but was unsure who owned or maintained it as a dozen houses existed on it. He explained that there were not any plans to change the drainage pattern. Mr. Bossolini stated that for the applicant's

property, it had been discussed to mitigate the roof runoff and the impervious surface to be contained within the area of development. MT and Mr. Bossolini agreed that the neighbors concern was a bigger issue however concerns would be taken into consideration as several techniques could be utilized regarding drainage. MT added that final designs would also need to be approved by the Town's Building Department. MT stated that a condition could be imposed that there be no net increase in peak runoff and the engineer is work with the Building Inspector to achieve it.

The manshift ditch was discussed and while a good portion of it was on Mr. Loveridge's property, Mr. Bossolini noted that a corner part of it encroached on Mr. Seabury's property. GB noted a concern in that a property owner on that ditch line, knowingly or unknowingly, could change the course of the water flow as it was not a publicly owned road. Mr. Loveridge explained the layout of ditch line in relation to the property owners. MT noted that it was an Area Variance Application in front of the Board and stated the condition mentioned above could be placed on the approval so as not to increase the runoff as a result of the project. Mr. Bossolini stated the water runoff previously existed and they were there for the Area Variance. He added that had his client went with a location to be within compliance of the Zoning Code, a Building Permit is all that would have been needed. MT stated that the Building Department would have looked into the water runoff issue. All agreed that no one wished to make the situation worse.

With no further questions, MT motioned to close the Public Hearing at 7:44pm; seconded by SB and all approved. MT motioned to classify the project as a Type 2 action under SEQR and identified the Town of Sand Lake ZBA as Lead Agency; seconded by SB and all approved.

MT motioned to approve the Area Variance for a 25' front yard setback versus the required 50' with the condition that there no net increase to peak runoff as a result of the project. This motion was seconded by GB and all approved.

Area Variance Application

Christine Hennessy (Applicant/Property Owner)
Burden Lake Road
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 169.2-1-89.2
Original Lot Size: 4.096
Proposed Lot 2B Size: 2.004 acres

An Area Variance application regarding a proposed subdivision to create a lot that exceeds the 3:1 lot depth to width ratio.

Contractor Dan Sanchez represented the project. He stated that the owner wished to subdivide the 4-acre parcel into 2 lots. He stated that proposed Lot 2A would meet the Zoning code however Lot 2B would be 20-22' short for the width. Monica Ryan explained that the surveyor had reflected the front setback line at 75' back however this Residential Zoning District required it be measured at 50' back; thus impacted the 3:1 lot depth to width ratio for proposed Lot 2B. MT noted that lot depth to width ratio would be 3:42 versus the required 3:1.

Board members agreed to deem the application complete, and MT scheduled the Public Hearing for January 13, 2022 at 7:00pm; seconded by SB and all approved. As the project was related to a Minor Subdivision, MT motioned to seek a Recommendation from the Planning Board; seconded by AL and all approved.

ADJOURNMENT

MT motioned to adjourn the meeting at 7:51pm; seconded by SB and all approved.