

MINUTES OF THE TOWN OF WAYNE
 ZONING BOARD OF APPEALS
 October 5, 2020

The meeting opened at 6:36 PM with a roll call of the members. The meeting was held via Zoom Web conferencing and in person at the Town Hall.

	PRESENT	ABSENT	LATE
MEMBERS: Wayne Hand, Chair	<u>X</u>	___	___
Bill Feinstein	<u>X</u>	___	___
Candy Dietrich	<u>X</u>	___	___
David Westcott, alt.	<u>X</u>	___	___
Jon Serdula alt.	<u>X</u>	___	___
Gill Harrop, CEO	___	<u>X</u>	___

ALSO PRESENT: John Saltsman, Brian Gaske, Ryan Gaske, Noreen Gaske, David Bauer, Thomas Meyers, Joni Greene, Jerry Kernahan, Jackie Gammara, Arty Greene, Kerry Simmons.

MINUTES:

Ms. Dietrich made a motion to approve the minutes of the September 14, 2020 meeting minutes as presented, Mr. Feinstein seconded, minutes approved.

NEW BUSINESS:

Appeal No. 20V20: Allen Childs. Property located at 11437 E Lake Road, Town of Wayne. Seeking setback relief of a non-conforming structure Section 3.A.4.b.5 LR2

Tom Meyers, the contractor for the Childs project was representing their interests at the meeting. He explained a need to control erosion and water flow coming from East Lake Road and the embankment behind the cottage. The project would involve 3 walls, one near the lake of 16 inches, one midway across the property (needs no relief) and one in the right-of-way for East Lake Road.

Public Comments were opened. No public comments were offered or received in writing prior to the meeting. Public Comments closed.

A discussion ensued about who has authority to approve building a retaining wall in the Town right-of-way. Ultimately, the zoning board decided they do not have jurisdiction to approve building in road-right-of-way and directed Mr. Meyers to seek approval and a road use agreement with the town. Therefore the Zoning Board can only grant relief on the mean high water line setback.

The 5 test questions were then reviewed and answered as required by NYS.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No
3. Whether the requested variance is substantial: yes
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes

Ms. Dietrich made a motion to grant 10 feet of relief from the mean high water line for the 16' stepping wall. The motion was unanimously approved.

Appeal No. 21V20: Crooked Lake Court LLC. Property located at 9240 Pike Place, Town of Wayne. Seeking replacement of a non-conforming structure Section 3.A.4.b.5 LR1.

John Saltzman presented the plan to replace a 1970's singlewide with a new home on the same plot of land within Crooked Lake Court. He explained that the Gaske's had spent extra time and money to have standard plans re-engineered so that the new trailer would fit on the plot and was only 15 square feet larger than the footprint of the existing trailer.

Public Comments were opened. No public comments were offered a letter was received about the neighborhood in general, but not about this project. Public Comments closed.

A conversation ensued about shed placement and proximity to homes. The Board noted the good faith effort Gaske's put in to build a small home and try to stay in existing footprint. Discussion was closed.

The 5 test questions were then reviewed and answered as required by NYS.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No
3. Whether the requested variance is substantial: No
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes.

Ms. Dietrich made a motion, seconded by Mr. Feinstein, to approve the replacement of a non-conforming structure on a non-conforming lot with the new trailer with the conditions that the new trailer be no more than 15.7 square feet

larger than the previous structure and that it be built to plans submitted with Building Plans on 9/17/2020. The motion was unanimously approved.

Appeal No. 22 V20: David and Anna Bauer. Property located at 9620 Day Road, Town of Wayne. Seeking setback relief of a non-conforming structure. Sec. 1, HC-1

David Bauer presented his plans to build a new retaining wall along Silsbee road to replace a wall currently in place and made of railroad ties. This new wall will be behind the existing wall, however, it would still be in the Town of Wayne road right-of-way.

The Board decided that like the Child's appeal, the Zoning board does not have jurisdiction to allow building in the right-of-way. Therefore, they directed Mr. Bauer to work out a road use agreement with the Town Highway Superintendent and permission with the Town code enforcement officer.

No action was taken.

Appeal No. 23 V20: Joni and Arthur Greene. Property located at 14755 Keuka Village Road, Town of Wayne. Seeking roadway setback relief for a non-conforming structure. Sec. 1, LR-1

Jerry Kernahan presented his plans to build a new retaining wall along Keuka Village Road to manage erosion and water flow and re-route the water to an existing drainage ditch. However, the new wall and drainage would be in the Town of Wayne road right-of-way and would dig up part of the road surface.

Ms. Gush conveyed the conversation she had with Mr. Howard that day prior to meeting and Mr. Howard's concern that the project also be reviewed by the town engineer and it be very clear that the homeowners were responsible for repaving and restoring the road.

The Board decided that like the Child's appeal, the Zoning board does not have jurisdiction to allow building in the right-of-way. Therefore they directed Mr. Bauer to work out a road use agreement with the Town Highway Superintendent and permission with the Town code enforcement officer.

Unfinished Business

No open business at this time.

Discussion

The committee talked about the need for clarification from the town attorney on building in the right of way and who has responsibility to grant permission.

Mr. Hand requested that Ms.Gush seek out training materials for the new members.

Mr. Serdula has been sworn in as a Zoning board member.

Mr. Hand indicated that he would be reaching out to the Town Board and Supervisor and suggest that the town invest in equipment and software to continue the Zoom meetings into the future.

Adjournment

The meeting adjourned at 7:58 PM

Submitted by: Amy Gush, Board Secretary.