

TOWN OF MONROE ZONING BOARD OF APPEALS MINUTES

— 05/25/2021

TOWN OF MONROE ZONING BOARD OF APPEALS (Tuesday, May 25, 2021)

Generated by Norinne McSweeney

Draft:

Members present Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel,

Alternate: Chip Postiglione

Consultants:

David MacCartney, Esq.

1. Welcome

Procedural: 1.01 Roll Call

Procedural: 1.02 Pledge of Allegiance

2. Public Hearings

Action, Discussion: 2.01 Anthony Piazza (Z057-2021) SBL # 21-1-30 5 High Ridge Road

Anthony Piazza

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to open the public hearing.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not Able to Vote: Chip Postiglione

small addition to the side of home dining room 12 x 24 not changing roof line variance side yard and lot coverage Mr. MacCartney reviewed what the variances are there are 3 existing conditions that are preexisting non-conforming first is lot area existing is 21,958 where a 43,560 is required lot width 100 sq ft is provided 150 sq ft is required front yard set back is 26.6 provided and 50 sq ft is required all existing conditions - pre-existing non conforming as to bulk table the addition would require would require variance for those sections, but it also brings in the side yard and lot coverage side yard 30 sq feet required and proposed is 22 sq ft variance needed 8 sq ft open discussion on side yards and needed variances review of five factors balancing test considerer a variance for approval

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby closes the public hearing on the Piazza project.

Motion by Austin Seid, second by Peter Lewis.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not able to Vote: Chip Postiglione

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve the variances sought by the applicant.

Motion by Austin Seid, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not Able to Vote: Chip Postiglione

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to authorize the attorney Mr. MacCartney to prepare a resolution memorializing tonight's vote and then authorizing the Chairman to sign said resolution upon his review and satisfaction.

Motion by Austin Seid, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not Able to Vote: Chip Postiglione

Action, Discussion: 2.02 Pietro Fini (Z056-2021) SBL # 31-1-25.42 144 Fini Road

Jay Myrow - Blustein, Shapiro, Rich & Barone, LLP

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to open the public hearing.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not Able to Vote: Chip Postiglione

application to review a determination, notice issued by the building inspector alleging that Mr. Fini was in violation of a 1983 site plan which shows one building on his land as being used as a two family home where it was designated on the plan to be a one family. we filed the application as Mr. Fini represented to me that when he purchased the property in 1973 it was purchased as 2 family and has been that way ever since back in 1982/82 there was a 5 family

unit that burnt down, when to Building department to rebuild told needed to go to ZBA that the building was legal non-conforming went to ZBA in 82 turned down, went back in 83 rehearing agreed to change decision and allow rebuild 5 family 1983 site plan was a septic design for 5 family 1983 -2019 everything was good, foiled PB, ZBA, accessors and building department It was suggested I reach out to the previous owner Robert Gertzki's his grandmother is the one who sold it to the Fini's. I grew up there spending a large portion of my time there and it has always been a 2 family home prior to 1965. open discussion in regards to the current property situation, what the applicant was truly looking for. There's zero evidence that this was a single family going back prior to 1965. So it's my contention that this map that Mr. Deutsch prepared that designated this property as a single family dwelling wasn't relevant to the review at the time so no one took issue with it, it had no bearing on the septic design for the 5 family, it was mis-noted an error and so we're asking the board to based on uncontroverted evidence to declare that the map note placed there an error and to deem it to be changed from single family to two family going forward. Mr. MacCartney read from the narrative exactly what the applicant is looking for. "The applicant seeks an interpretation confirming that the structure on the subject property is a legal non-conforming two-family dwelling unit" that's the reason for the relief. Chairman Murphy you're not looking to make changes to the building at this time. Mr. Myrow no nothing BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to close the public hearing.

Motion by Peter Lewis, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not Able to Vote: Chip Postiglione

Chairman Murphy now to review the 5 factors before we talk about a resolution Mr. MacCartney this is not a variance per say so the 5 factors are not applicable here. It is a unique thing the board has the power to grant a use variance and grant an area variance and it can interpret the code on an appeal from a building inspector's determination. The third option is what is being asked of you. There is statutory set of factors to consider it is just a matter of how you feel about what is being presented and do you think this should be a pre-existing non-conforming two-family dwelling, even though the building inspector has determined based on the same information that it was historically a single family dwelling.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to interpret this structure based upon the supplemental information that was provided in the form of an affidavit as a legal non-conforming two-family structure.

Motion by Austin Seid, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not Able to Vote: Chip Postiglione

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to authorize Mr. MacCartney, attorney for the ZBA, to prepare a resolution for the Fini project and the authorization for the Chairman to sign it.

Motion by Austin Seid, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not able To Vote: Chip Postiglione

3. Returning Projects

Action, Discussion: 3.01 DG Realty (Z052-2020) SBL # 1-1-96 Schunnemunk Road

David Higgins Lanc & TullyChairman Murphy this is a proposed subdivision on Schunnemunk Road. This is the 2nd time here before the ZBA this application is currently before the planning board it is for a cluster subdivision based on zoning compliant map.Mr. Higgins yes a yield map conventional subdivision was presented to the Planning Board to demonstrate for a maximum 15 dwelling units yieldChairman Murphy in the yield plan the maximum length of the cul-de-sac in the town of Monroe is 500ft questioning the cul-de-sac. My question how did the Planning Board of the Town of Monroe accept a code compliant yield plan that exceeded the length of the maximum cul-de-sac in the Town of Monroe?Mr. Higgins I somewhat worked on the application, but the main project manager is John Queenan and I know he presented other alternatives for the road entrance.Member Seid is that a variance we need to grant or just an observation?Chairman Murphy that is an observation because I am wondering how they have a lot count of 15 using a cul-de-sac longer than 500 feet. I would like to understand the Planning Boards rationale as to how they to to a 15 lot compliant zone count.Mr. Higgins I will review that with Mr. Queenan for him to come back with an answer to that.Chairman Murphy until there is a clear and concise explanation as to how the road has been approved being it is almost twice the size allowed under the Town code. A letter from the Planning Board explaining that before we can continue to entertain this application and the Zoning setbacks. Can you explain exactly what the zoning setbacks are?Mr. Higgins in the course of review with the planning board we identified 2 area variances that we need. As a cluster subdivision the town code requires a 50% gross area as protected open space. There are 2 areas of open space proposed behind lot 6 and lot 1 in the amount of 1.7 acres. The property gross area is 9.5 acres half would be 4.75 and we're providing 1.7 acres of open space which represents about 17% of the total. The back 150 feet of the property is owned by the applicant and part of the 9.5 acres but it is an easement with Orange & Rockland. It is about 3.6 acres of land in the O&R easement. I believe back in November that was a letter from the Planning Board Attorney Ms. Torre advising this board in as much as the variances are at the discretion of this board that the majority of the planning board are in favor of the cluster subdivision.Chairman Murphy again in order to move this forward I need the understanding of the justification of the

extra long cul-de-sac approval. Mr. Higgins our next step here would be a public hearing but it doesn't sound like the board is ready for that. I can fill you in on where we are with the planning board we have a few clean up items from the town engineer, we are finalizing the stormwater pollution prevention plan and we have coordinated with the town's hydrogeologists to conduct a well drilling and testing. Hopefully starting next week. Chairman Murphy will there be 15 individual wells on this site. Mr. Higgins no one per lot. Member Lewis what is our procedure for conducting fact finding with the planning board we've never had a joint meeting with them. Is that something to do? Mr. MacCartney there is no set rule to govern that except open meetings law rules. If you wanted a joint meeting as long as no board had a quorum present that is ok, but if a quorum was to be present then it needs to be noticed, public certainly could attend. Mr. MacCartney reach out to Ms. Torre and keep the communication going.

4. New Projects

Action, Discussion: 4.01 Rodit Marcovici (Z060-2021) SBL # 19-1-2 308 Lakes Road

Julian Avior representing Chairman Murphy you are here as you want to do an extension to your home and the building inspector sent you here because you're not in compliance with the zoning with reference to your lot located in a SR-15 zoning district with central sewers.

Review of the building inspectors letter to the applicant. Front yard setback variance 40 ft required proposed/existing 18.9 encroachment of 21 ft. What is the extension you are looking to construct. Mr. Avior looking to build a 2 car garage and approximately 700 sq ft or more of additional living space in the back and on the side. We are not doing anything in the front, nor making the non-conforming issue any more non-conforming. Chairman Murphy I have one question prior to moving forward that I need to have resolved with the building inspector, I thought that frontage on a County Road is 50 ft not 40 ft. Also need to do a GML to OCDP

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to hold a public hearing at the next ZBA meeting on June 22, 2021.

Motion by Kevin Scully, second by Peter Lewis.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not able to Vote: Chip Postiglione

Action, Discussion: 4.02 Kingsville Synagogue - Third Floor (Z061-2021) SBL# 1-1-4.32 10 Kingsville Dr

David Niemotko project back before you for an addition of the 3rd - conversion of attic into 5 bedrooms 1400 square feet of finished or habitable living area makes conversion of attic a 3rd story the reason before this board is the slope of the property along the sides of the house and the back of the house it makes the conversion of the attic a third story by definition and needs variance in Monroe only 2 1/2 story allowed per the zoning code footprint will not change - no

change in the appearance of the house being used as immediate family. Discussion among board members and applicant: Chairman Murphy the space is already built out as an apartment similar to a 2 family - adding 5 bedrooms, 3 bathrooms, a kitchenette, and a great room basically a whole new dwelling unit upstairs. Member Seid is the septic designed for all these bedrooms? No that will be the one of the next few hurdles that need to be done. Member Lewis did they receive building permits prior to getting the work done? No they did not. Chairman Murphy this is another step further from the last variance we issued a year ago and all of this was done without benefit of a permit, meanwhile the applicant is fully aware of the rules and regulations in the town of Monroe. He does all this construction without benefit of a permit and then comes to this board for a blessing and allowing him to keep moving forward. This is like rewarding bad behavior. Member Lewis does your client not know he is supposed to get building permit before he constructs a third floor? Mr. Niemotko I don't know what he was thinking, I just know when I started with the project it then went to court and there are many things involved I started documenting to get things codified. Chairman Murphy is this third floor even designed for this type of live loading? The use has been changed now there is furniture, people living up there. Does the structure support this? Has there been a structural analysis done on this third floor? Mr. Niemotko to answer that question yes I did and it does support the floor loading for habitable space. Member Scully what about egress windows and third floor are we talking about fire escapes? Member Daniel intrigued to see what's underneath? what is existing on the first and second floor? Mr. Niemotko the second floor has a master bedroom suite and I think 2 or 4 bedrooms and the first floor has kitchen, living room, dining room, study. Member Daniel what is the square footage below? Mr. Niemotko I am not sure would guess approximately 3000 square feet. Member Daniel do you know when the work was completed? Mr. Niemotko my plans reflect the first evolution is March 20, 2019 open discussion regarding an additional currently has a regular kitchen then a Passover kitchen and now a kitchenette on the 3rd floor. The Town Code does not differentiate between a kitchen and a kitchenette, but I believe the building code does. Your saying not a full kitchen but has 220 outlet for an overjust a boilerplate note for now. This project is already built out. None of the previously reported approved work has been completed at this time. Does this addition now call for additional parking on top of what was approved last year? Chairman Murphy last year there was an application to utilize the basement of the house as a synagogue which called for parking around the perimeter, some grating, some retaining walls, trash enclosure. None of the work has been done. Open discussion regarding what has been done what has not been done and the obligation to build or not build what variances and approvals have been granted thus far. Time limit on approvals if not done would have to return for a new variance. If they don't build they would have to cease operation of the synagogue. The board needs a lot more information as to what is actually going on at the present time at this location. We need a complete set of plans for every floor of the house to know what is going on inside this house. Site plan approved by planning board, what point the process is at the location, information on septic. Could be existing and proposed plans is a way to approach this. Safety what is needed for egress, fire suppression the the third floor. Third floor fire escape and sprinkler system. List

looking for:complete accounting of all interior floor plans, basement up to atticany
garages,rooms matching the C/Odesign of additional septicsite plan of existing conditions and
proposed conditionsparking additional spacesseparation distances for surround wells and
septicapplicant is here applying for a third story instead of a 2 1/2 story and it's not minimal it
is 1500 sq feet making this residence 9 bedroomsMember Scully we were asked to give a
variance on something and not knowing all the information was not given to us.Member Seid
is this something that we can rescind the variance.Mr. MacCartney I couldn't answer that right
now in regards to case law that talks about that can it be voided and under what authority,
does the building inspector void it how does that get done.Member Lewis the variance was
granted under false pretenses.Mr. MacCartney you are certainly right and conceptually it's just
not something we see very often in municipal practice.

5. Adjournment of Meeting

Action: 5.01 Adjournment of Meeting

BE IR RESOLVED, the Zoning Board of Appeals of the Town of Monroe hereby adjourns the
meeting at 9:35 pm.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Austin Seid, Marci Daniel

Alternate Not able to: Chip Postiglione