

TOWN OF MONROE ZONING BOARD OF APPEALS MINUTES

— 08/24/2021

TOWN OF MONROE ZONING BOARD OF APPEALS (Tuesday, August 24, 2021)

Generated by Norinne McSweeney

DRAFT

Members present Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Chip Postiglione

Members Absent:

Marci Daniel

1. Welcome

Procedural: 1.01 Roll Call

Procedural: 1.02 Pledge of Allegiance

2. Returning Projects

Action, Discussion: 2.01 DG Realty (Z052-2020) SBL # 1-1-96 Schunnemunk Road

John Queenan - Lanc & Tully 9 lot 15 unit subdivision located in Schunnemunk Rd Oreco terrace location provided small narrative in my cover letter a summary of the area variances requested latest subdivision plan that the planning board is also reviewing conventional layout used to establish yield amount Chairman Murphy one item requested and not submitted was red line area for easements, so if you want to talk us through that Mr. Queenan plan sheet you are looking at shows the extension of a cul-de-sac road down the center of the property there are 9 lots with a mix of single family and two family dwellings totaling 15 units shaded area proposed open space, main one to the left at the end of the cul-de-sac and then a smaller one to the right a triangle portion behind lot 1 north above the other lots easement area it is part of the property but it is an Orange & Rockland easement that extends the length of the property it's approximately 150 feet wide, plus a smaller O&R easement along the boundary that extends up and that is 20 feet wide The first variance under cluster subdivision provisions required to provide 50% open space of the gross area property, the property is 9.5 acres required would be 4.75 acres proposing 1.65 acres, it is substantial from the point of pure acreage, but how we got here was first provided a conventional layout with Planning Board who determined the property could yield 15 lots (that plan is included) that was a single lot layout in the SR-10 Zone, it is then required by the town zoning regulations that the Planning Board evaluate a cluster subdivision. Basically the same but on a smaller scale. access easement for lot 1 O&R approval conventional comes in off Schunnemunk Road cluster driveway eliminated all lots access from cul-de-sac the planning board decides which layout to pursue they have chosen the cluster, knowing a variance is required, more environmentally beneficial plan, more green, more open space areas, reduces overall stormwater impervious

surfaces, so they asked the applicant to pursue the cluster plan which is why we are here. There are 2 variances: open space variance 50% gross area of the property 4.75 acres, actual buildable area little over 4.1 acres of easement. If you take the easement out you are left with approximately 5.37 acres. If you take 50% of that which is buildable land including the open space we would be required to provide 2.69 acres. We are currently providing open space at 1.65 so the percentage is much less. We did review that with the planning board. 2nd variance lot setback. Second provision that is required that the open space not include a private yard closer than 75 feet to the principal building. Lot 1 the rear yard would have to be 75 feet away from the open space based on the way it was written, we are providing standard setback in the SR-10 zone of 25 feet which is side yard setback. The same would apply to lots 6 & 7 which are on the end of the cul-de-sac so their rear yards would have to be 75 feet to the open space boundary, we're proposing 35 which is the rear yard setback in the SR-10 zone. Last meeting a comment in regards to lot 8 I checked into it, spoke with the planning board attorney and have added it to the correspondence, again it would have to be 75 feet to which 15 feet which is the side yard setback for SR-10. Open discussion regarding SR-10 zoning code, cluster plan and the open space requirements. Mr. Queenan at the planning board level lot 1 is to own all the open space to prevent other lots from intruding into the open space. They would have solid boundary markers in hopes of not intruding into the open space. That was a protection to the 75 foot buffer and the boundary will be demarcated with markers indicating that it's protected open space and will also be referenced as the deed restricted covenant within the map filing. I looked at the tree plan and landscaping plan explained applicant is working with a landscape architect and the planning board's architect on replanting within the open space area with significant trees throughout plus some evergreens and shrubbery. I believe an additional 39 regular deciduous trees. Discussion about this project connecting to the project in the village of Monroe and the road whether it be private or public, not yet dedicated to the Village. Spoke of sewer connection to the village property. Village Planning Board minutes 12/12/2018 BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to set the Public Hearing at the next ZBA meeting on September 28, 2021.

Motion by Kevin Scully, second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Chip Postiglione

Absent: Marci Daniel

Action, Discussion: 2.02 Kingsville Synagogue (Z061-2021) SBL # 1-1-4.32 10 Kingsville Dr

David Niemotko - Niemotko Architect 1/2 story house area variance. Building department has determined this house is currently a 2.5 half story house which complies with the zoning code, the conversion of the attic to habitable space requires that a 3rd story or the attic space classified as a third story so we need a 1/2 story variance. Last meeting requested floor plans of 1st and 2nd established floors, number of existing bedrooms which is 4, area of first floor

approximately 2430 square feet area of the second floor is approximately 2160 square feet conversion of third floor would be approximately 1467 square feet 8/2 cover letter the owner is requesting this for extended family to care for parents, it is not a rental, will be used for immediate family no change in footprint of the building or exterior appearance yet if approved there would have to be changes to the windows in each bedroom of the attic so that would result in minor changes of the exterior the overall aesthetics of the house would not change and would remain within the character of the neighborhood Member Lewis has been built out already? Is anybody living in it? Mr. Niemotko yes it is built and nobody is living in it yet letter from building inspector issues February 24, 2020 he outlined everything that was needed in way of variances, and everything else that would make it up to code Member Postiglione this was built out without permits? Mr. Niemotko correct would have to redo windows residential building code needs an egress window and the minimum size is 5 or 5.7 square feet third story triggers other building codes example fire rated sprinkler system if variance granted other items would need to be completed to codify the property Member Postiglione has there been other variances granted to this property up until this point and if so has in good faith the owner held up their end of the bargain on those Mr. Niemotko we were before the planning board to modify the basement into a place of worship or place of assembly, in so doing that modified the parking in front of the building, and it qualified the septic system Chairman Murphy I believe we did issue a variance for parking in the front yard, although you took measures to modify the plan and pull as much out of the front yard there was still a portion of the parking lot in the front. Problem with this property is that it is coming to us in bits and pieces causing multiple files. I asked for the 1st & 2nd floor plans and the 3rd floor plan, I am looking for the basement floor plan. Would also be nice to have the site plan that we granted a variance on. Member Postiglione asked if the applicant had followed through with anything that the ZBA and or Planning Board asked for under the previous application and in my estimation he has not. I did a site visit recently and they haven't done anything. Nothing has changed, are they using the basement as a synagogue? The variance was granted over a year ago and if you don't implement the changes that are granted I believe that they expire. Nothing has been done at this project it is a mess. Chairman Murphy expressed his concern in regards to setting a precedence in allowing 3rd floor living. 3rd floor 5 bedrooms and kitchenette basement synagogue 1st floor 2nd floor 4 bedrooms 3rd floor Member Scully is septic tank able to handle the additional 5 bedrooms capacity Mr. Niemotko no the septic will have to be modified. The septic design will have to be reengineering. The owner will have to redo septic Member Lewis Mr. Niemotko you have been before us several times, you know our frustration with people doing things without getting permits, now this situation we are being asked to allow a home to be 3 stories and that story has already built out and I believe it was already built out when you came to us for the front yard parking, we are talking about further modification to windows and to the septic. The Chairman is frustrated about the previous variance was granted and nothing has been done about it. Mr. Niemotko let me address these items one at a time. First New York State realizes homes are converting their attics to a third story that's why they made those provisions. It is not an anomaly and if you

want to do it you have to get the proper permission follow the procedure. Member Postiglione there is a procedure to do it the right way, what I see here in my short time is a pattern of asking for forgiveness instead of permission. When do fines start being levied? Mr. Niemotko he has received fines. I need to go back to the applicant and tell them the process needs to be started the Zoning board has made themselves clear. Member Lewis my biggest concern is about setting a precedence. Our job is to interpret the zoning code not to create a precedence sent not needed. Open discussion regarding disregard of code, setting precedence. Changing house from a 4 bedroom to a 9 bedroom house. Inaudible over a minute Mr. MacCartney just as a reminder where we are procedurally we have not yet set this for a public hearing. Member Lewis do variances expire? Mr. MacCartney yes variances do expire I would have to look at the code provisions to refresh my memory as to the expiration period. requested one complete set in one PDF file requested letter from owner include with next submission sworn affidavit from resident issue with the applicants mike lost audio multiple times

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to schedule a public hearing for September 28, 2021.

Motion by Peter Lewis, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Chip Postiglione

Absent: Marci Daniel

3. New Projects

Action, Discussion: 3.01 Michael Adams (Z062-2021) SBL # 1-1-55.111 485 Rt. 208

Joseph McKay Catania, Mahoon & rider Michael Adams 3 variances for this project proposal is to construct a pavilion and a shed (prefabricated) that will sit on a pad made application to the building inspector denied the application for the shed and pavilion for certain setbacks the property is located on Route 208 it adjoins the ski water area, no adjoining property owners, the lake is owned by a corporation, it's bordered by Route 208 and O&R Road by 17. It is unique that there are now homeowners anywhere near the property. property is very secluded you don't see any other properties no other homes. three variances that we are looking for in regards to the shed that a 50 foot setback is required from the lake so we would be seeking a 20 foot variance for the shed, with respect to the pavilion it is designed to sit near the lake its an open pavilion it has a roof but it is open because it adjoins the lake there is a 50 foot required setback and we are proposing to put the pavilion within 10 feet of the lake, the pavilion also needs a rear yard line variance there is a 5 foot setback required and we are proposing a zero foot setback Member Lewis looking at the plans is this accurate as to where the buildings are going to be. there is a pad there for the shed, is there an older shed? Mr. Adams there was a shed previously that I didn't have a permit for didn't know I needed it, that shed is now pushed back Chairman Murphy what is going on by the pavilion where it says proposed five to seven foot boundary change to allow for five foot offset of shed. How do you

do a boundary change?Mr. McKay that is not an issue we are going to address right now, that's a note on this map, the reason we produced the map is because it is the clearest representation that we have, that is not an issue for the board.Chairman Murphy that is an issue as we're talking about setbacks from property lines and lakes and that is the piece that you seem to be missing. It is not isolated from the view shed of the lake that adjoins it on the back side and there is allowance for creating lake frontage for your property, you already have a dock out there and that is allowed within the code, but the 50 foot setback from streams, lakes or watercourses is for the preservation of the environmental aspects of the character of the neighborhood although nobody lives back there it is still part of the view shed when you start taking down trees and opening up the back to expose area to put up the shed and gazebo that's an impact and that's one of the lines that missing.You will have to go back to the surveyor get an updated map, add the 50 foot setback, make legitimate sign subdivision planonce altered not legal map anymorebulk zoning tables existing setbacks and proposed setbacksChairman Murphy read the section of code 57-43 lots abutting a stream or lakemap must show shore lineNeed verification of mapping of the shorelinehard copy of survey - unable to read clearly once scaled down many timeslegend calling out line types50 foot setback line from the shore lineclean drawing from the surveyorexisting setbacks, proposed setbackscreate building envelope showing all setbacksGML review OCDPSchedule site visit with Town Engineer, will need full survey map

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to set a public hearing for September 28, 2021.

Motion by Kevin Scully, second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Chip Postiglione

Absent: Marci Daniel

4. Minutes

Action, Discussion: 4.01 February 23, 2021

BE IT RESOLVED, that the Zoning Board of Appeals hereby makes a motion to approve the February 23, 2021 minutes.

Motion by Peter Lewis, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully

Abstain: Chip Postiglione

Absent: Marci Daniel

Action, Discussion: 4.02 March 23, 2021

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve the March 23, 2021 minutes.

Motion by Kevin Scully, second by Peter Lewis.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully

Abstain: Chip Postiglione

Absent: Marci Daniel

Action, Discussion: 4.03 April 27, 2021

no quorum

5. Adjournment of Meeting

Action: 5.01 Adjournment of Meeting

BE IT RESOLVED, the Zoning Board of Appeals of the Town of Monroe hereby adjourns the meeting.

Motion by Peter Lewis, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Peter Lewis, Kevin Scully, Chip Postiglione

Absent: Marci Daniel