

TOWN OF MONROE ZONING BOARD OF APPEALS MINUTES

— 09/28/2021

TOWN OF MONROE ZONING BOARD OF APPEALS (Tuesday, September 28, 2021)

Generated by Norinne McSweeney

Members present Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

Consultants:

David MacCartney, Esq.

1. Welcome

Procedural: 1.01 Roll Call

Procedural: 1.02 Pledge of Allegiance

2. Appoint New Acting Chairman

Action, Discussion: 2.01 Appoint New Acting Chairman

Hold off until October

3. New Projects

Action, Discussion: 3.01 Matsil 474 Round Lake Park Road (Z063-2021) SBL # 4-4-24

Harley Matsil - applicant Jacob Zocco addition to the house increase square footage variance required due to zoning code 2017 Chairman Murphy all the paperwork seems to be here except a survey of the lot, I do have a set of building plans need accurate survey of the lot as it appears now Mr. MacCartney the last page of the application packet is a survey and the second to last page is a zoning table with the information as to which variances are required Mr. Zocco - single family home stay within setbacks covered porch in back setback 40 ft from property line move back wall of house back 5 feet go up another story with a flat roof Chairman Murphy so you are adding another story with a flat roof covering this footprint plus 5 feet Mr. MacCartney so you have a pre-existing non-conforming lot area and lot wide so because you are expanding it you need a variances from those items the side yard stays the same. Member Postiglione the upper deck is new, so that does effect the side yard Chairman Murphy the new deck covered ground area will become part of the roof line and set back Mr. Zocco used as a carport to park a car underneath discussion on the proposed side deck as to whether or not it causes a side yard setback so there are 3 pre-existing non-conforming issues lot area, lot width, and side yard setback that are not being expanded. Questioning the lot coverage is what your doing adding to the lot coverage with the 5 feet in the back Lot coverage current is 31% and proposed is 34% Member Daniel how will the 2nd floor be utilized? Mr. Matsil increase square footage and living space making a bedroom and bathroom

upstairs reviewed everything showing on plans to make sure included in lot coverage, explained to applicant what that all means. Member Scully: what is the flooring of the side deck consist of - regular decking? Mr. Zocco: rear wall coming out others remain, changing windows. 2nd floor deck counts as hard surface. extent of hard surface area that is changing is extra parking in the existing conditions calculation proposes condition has to cover everything that is out there. was told deck wouldn't count towards the set back, raise deck might not count without roof top. Chairman Murphy: just need to verify all impervious area has been captured here hard surface as the way it's defined in the code and a deck gets included. Member Daniel: does that say elevator? Mr. Matsil: yes. Chairman Murphy: does the elevator go to the rooftop? Mr. Matsil: no just to second floor. Member Postiglione: regarding the deck surface is this going to allow water through or is it like deck tech? Mr. Matsil: not sure ever going to be a carport, will allow water through. Chairman Murphy: there is a distinction in our code about lot coverage it's based on hard surfaces not necessarily permeable and impermeable so long as there is a hard surface above it like the deck itself counts as part of the hard surface calculation. Mr. MacCartney: so what we're trying to figure out is if everything that we are looking at is counted for in the total 34% or inadvertently excluding some of this area like the proposed deck so that we make sure we have all the variances that you are going for at the public hearing. Do you know if the deck was included in the calculation? Mr. Zocco: no it is not included just the 5 ft in the back was included in the 3% discussion with board as to what is or isn't included in lot coverage trying to get to answer if lot coverage is a variance seeking needs to update application for area variance. decking brief discussion - clarify what materials will be used. lot coverage needs to be corrected including all hard surfaces. decision on what materials are going to be used. recalculate bulk chart make sure accurate. compare and provide side by side comparisons with the existing condition and the proposed. update application to show all variances seeking. came back to speak to the board at 10pm about submitting corrected paperwork and scheduling for a public hearing in October. revise application requesting variance on lot coverage. variances: lot area, lot width, side yard setback, total side yard, lot coverage.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to schedule Harley Matsil application with Jacob Zocco for public hearing on October 26, 2021.

Motion by Kevin Scully, second by Chip Postiglione.

Action, Discussion: 3.02 Town of Monroe Planning Board - Interpretation

Bonnie Franson Chairwoman Town Of Monroe Planning Board: Planning Board is in the process of reviewing an application located at 20 Allison Drive which is proposed for a private school as part of that review it required an interpretation from the building inspector. the heart of appeal or interpretation request is less to do with application itself, but what frontage is defined as this particular provision in the zoning code special use permit 57-13 (R)(2) describes that property which shall have frontage on major collector road. "The school shall

maintain frontage on a major collector as identified in the Town of Monroe Comprehensive Plan Update." The major collector road is not in question as the comprehensive plan update has a map which shows the major collector road. Chairman Murphy that is where I have a discrepancy. The comprehensive plan there are 2 things to discuss here the major collector roads and major arterial roads. Ms. Franson many of the pre-19 buildings front to these road which are typically major collector and arterial road serving the town. There is also a map that shows functional classifications. The Planning Board was less focused on the road itself but with the frontage itself. When there is a provision that says the project shall maintain frontage on XYZ Road, the expectation frontage means where the property is getting access from and the definition of lot actually alludes to that when it talks about lot frontage on a road so our appeal has to do with the implications for other provisions of the code. We are looking for how the ZBA is looking at the totality of the zoning regulations would define or interpret frontage. It's the planning boards position when somethings says there shall be frontage on a major collector a lot shall have frontage they're talking about where the property fronts to gain access. In that specific provision it said frontage on a major collector road because the expectation was the access would be to a major collector road as opposed to both fronting and getting access because we didn't necessarily want something that could be a high traffic generator on local roads/minor roads. Again, the question and it's not limited to this application it just happened to be the impetus to ask for the determination and why we are appealing it. It is for you to look again at the definitions at the context and determine whether frontage means where you get access from. discussion on major collector roads and secondary roads and how New York State DOT classifies the roads based on how they operate reference to the requirement in the special use permit criteria and the citing requirement that you shall have frontage on a major collector and frontage is the key more so than major collector. It is the Planning Boards belief that the intent is that the access is to go out through the major collector. Ms. Franson again our request to the ZBA is what is frontage? Is frontage just simple can have frontage and get access somewhere else or is it intended that frontage is where you get access regardless of how a road is classified. Chairman Murphy this is a fairly large piece of property it's 8.3 acres and it had dual road frontage. It's got 70 feet along Allison Drive where it gains its primary entrance, and this is the way the lot was constructed, it also has remaining lands that have frontage on Cromwell Hill Road. Ms. Franson so the Planning Board in looking at this application, to put a school on this property there's an expectation of frontage and once the ZBA defines what frontage equals where you get access then we look at this lot and if it's not getting access and can't get access from Cromwell Hill Road we either allow them a waiver if the special use permit requirement allows it or they have to go before the ZBA for a variance. Again, the fundamental question to the ZBA in terms of the building inspectors interpretation isn't necessarily specific to this application the major collector aspect, it's does "frontage" equal where you get access from. The Planning Board will ultimately review the specifics of this particular application and whether a waiver or variance would be required depending on how you interpret frontage. Member Postiglione more of a precedent that you'll be setting. More open discussion regarding the term frontage and what it means,

reviewing the building inspectors interpretation. Public hearing was set for October 26, 2021

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to schedule hearing for October 26, 2021 via Zoom

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione

Action, Discussion: 3.03 Verizon - Professional Square (Z065-2021) SBL # 1-1-89 491 Route 208

Scott Olson Young & Sommer Review Project: install a new antenna on the Professional Square building 491 Route 208. 6 antenna groups of 2 on the penthouse 4/5 story building roof mounted north western part of the Town roof top pole location 6-8 ft tall. Mr. MacCartney clarified with Mr. Olson that the application is before the board for a use variance, narrative shows area variance needs to be corrected. An application for a use variance in this context is different than the typical use variance standards. This is a public utility and so there's an entirely different set of standards that apply. Basically, it's a public necessity test, not any of the 5 criteria or NY state town law. The applicant has to provide proof that there's a gap in coverage or capacity, there's a need they have to demonstrate, a need for service and proof the tower being proposed satisfies that need, and that the manner in which this proposal is the least intrusive means of satisfying that need, need to show viable alternatives. Mr. MacCartney under telecommunications there is a shot clock from the time the complete application is accepted and the decision should be granted which includes the building permits and it is 90 days. Mr. Olson agrees with Mr. MacCartney in regards to the shot clock and is willing to work with the boards in need of an extension. There is another issue called the Spectrum Act enacted in 2012 as part of the middle class tax relief and job creation act. The Spectrum act basically says if you're going to co-locate on a building with an existing antenna the application has to be approved in 60 days. Mr. MacCartney explained typically what a board would do would be to hire an RF engineer to help understand the application, identify any holes in the proof and address anything else you might need to consider. The last application you used City Scapes so we need time to get that set in place. Mr. MacCartney reviewed options to keep the application moving forward in terms of the review of City Scapes and the ZBA acting on the project. Also review options for the scheduling of the public hearing. open discussion regarding placement of equipment and antennas, visibility of said equipment from local area,

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to authorize counsel Mr. MacCartney to reach out to City Scapes telecommunication engineer to provide a proposal for services in reviewing this application and then authorizing Chairman Murphy to sign that agreement to engage City Scape.

Motion by Kevin Scully, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to consider scheduling the applicant for opening the public hearing at our October 26, 2021 meeting via Zoom.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

4. October 26, 2021 Meeting

Action, Discussion: 4.01 Discuss changing location or date of above mentioned meeting

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to revise the meeting for October 26, 2021 to a zoom call.

Motion by Kevin Scully, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

5. Re-Scheduling of Public Hearings

Action, Discussion: 5.01 Reschedule Michael Adams Public Hearing until October 26, 2021 meeting with Town engineer has not been completed presented a map by Lanc & Tully new buildings come into question with new map too many open variables to review this application without all the details of what variances are actually needed 2 or 4 this application has not been rescheduled for public hearing at this time

Action, Discussion: 5.02 Reschedule DG Management Public Hearing Until October 26, 2021.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to reschedule the public hearing for DG Management until October 26, 2021.

Motion by Kevin Scully, second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

Action, Discussion: 5.03 Reschedule Kingsville Synagogue Public Hearing until October 26, 2021

6. Minutes

Action, Discussion: 6.01 April 27, 2021 Minutes

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve April 27, 2021 minutes.

Motion by Marci Daniel, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel

Abstain: Chip Postiglione

Not Present at Vote: Steven Thau

Action, Discussion: 6.02 August 24, 2021 Minutes

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve the August 24, 2021 minutes.

Motion by Chairperson - Michael Murphy, second by Kevin Scully.

Final Resolution: Motion Carries

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

Abstain: Marci Daniel, Steven Thau

7. Adjournment of Meeting

Action: 7.01 Adjournment of Meeting

BE IT RESOLVED, the Zoning Board of Appeals of the Town of Monroe hereby adjourns the meeting at 10:45 pm.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau