

# TOWN OF NORTH EAST ZONING BOARD OF APPEALS MINUTES

January 21, 2016

The regular monthly meeting of the Town of North East Zoning Board of Appeals (“ZBA”) took place on Thursday January 21, 2016 at 7:30 PM in the Town Hall, Millerton, NY. ZBA members present were Chair Julie Schroeder, Edith Greenwood, Patti Lynch-VandeBogart and Jon Arnason. Board member Carl Stahovec was absent. Also present were Carol Popp, Steven Palmer, Shelia Schwartz, and Roger Williams.

**Carol Popp, owner of  
169 Beilke Road in the R1A District  
Public hearing for a dimensional variance of Section 98-14 D (5)  
Tax parcel # 7271-00-440574**

Chair Schroeder opened the public hearing at 7:35 PM by reading the notice of public hearing into the record.

Carol Popp, owner of a .55 acre parcel located at 169 Beilke Road in the R1A zoning district, purchased the parcel in January 2015 and seeks to construct an 18 x 12 square foot single car garage. Currently the parcel has no garage and the applicant parks on an unpaved driveway. Due to distance between the driveway and the uneven terrain, navigating the distance from the driveway to the house has been difficult for the applicant, especially in inclement weather. Due to natural the contours of the land, Popp and Steven Palmer, contractor for Popp, have determined that the only feasible place to construct the garage is on the south west portion of parcel, closer to the street than the existing house. The existing single family residence is 81 feet from the centerline of the road therefore Popp is before the board to request a dimensional variance under §98-14 D (5) for a reduction in the required front yard setback of 75 feet from the centerline of the street to 60 feet.

ZBA members discussed building the garage elsewhere on the property so as to avoid encroachment into the front yard setbacks. Popp demonstrated with photos that the surrounding land is very hilly with a four foot drop-off on the east side of the house which rapidly progresses to eight feet slope at the rear of the house. Filling in the area would be extremely expensive, require the removal of the existing tree stand, obscure the cellar windows and block the rear entrance to the house. The west side of the house is 21 feet from the property line and would require a greater variance than placing the garage in the front.

Palmer’s plan is to use some of the existing driveway to create a small turn-around in front of the house and to grade the area to correct the drainage that currently flows towards the front door of the house creating icy conditions in the winter.

Chair Schroeder requested a motion to close the public hearing and open the regular meeting. The motion was made by Arnason, seconded by Lynch-VandeBogart and passed unanimously.

After reviewing the short form EAF, board members determined that this application is a Type II action, being the granting of an individual setback variance and therefore is exempt from further review.

Arnason commented that a side yard variance would require granting a slightly more substantial variance and board members agreed that after considering other possibilities for location of the garage, the applicant's request for a front yard variance complied best with the zoning code requirements. Board members agreed that everyone is entitled to a garage and while the garage might slightly affect the character of the neighborhood the applicant has indicated that the building will be constructed to blend with the existing house.

In order to get an exact measurement of the distance from the existing single family residence to the center of the street line Chair Schroeder arranged to meet Palmer at 10:00 AM on January 22, 2016 to verify the distance.

Citing § 98-62 (C) of the Town of North East zoning code Chair Schroeder then read through the state mandated criteria needed to grant a dimensional variance. In considering standard (a) Schroeder stated that the addition of a garage did not create an undesirable change in the neighborhood. In examining standard (b) whether the benefit sought by the applicant can be achieved by any other means than the requested variance board members agreed that it could not. Standard (c) asks if the requested area variance is substantial, which it is, but a side yard variance would be more substantial. The fourth standard of concern (e) was whether the alleged difficulty was self-created. ZBA members agreed that the difficulty was self-created because the applicant should have been aware of the limitations when she purchased the house. Schroeder then read Section 98-62 C (3) which states the ZBA should grant the minimum variance deemed necessary.

Chair Schroeder requested a motion to grant a front yard set-back variance of 62 feet (5+/- feet) from the center of the street, subject to measurement by Chair Schroeder and Palmer, since there was some question regarding the actual measurements by Palmer. The motion was made by Greenwood, seconded by Lynch-VandeBogart and passed unanimously.

Chair Schroeder requested a motion to recess the regular meeting and reopen the public hearing for the Langella Special Permit Application. The motion was made by Lynch-VandeBogart, seconded by Greenwood and passed unanimously.

**Roger Williams, contractor, representing Frank Langella owner of  
269 Perotti Rd in the A5A District  
Public Hearing for a special permit §98-12 (C)  
Tax Parcel #: 7069-00-659902**

Chair Schroeder read the public hearing notice into the record at 8:40 PM.

Williams, the contractor, is before the ZBA on behalf of the owner Langella. The parcel located at 269 Perotti Rd in the A5A zoning district is 5.06 acres and was purchased by the current owner, Langella, in 2009. The applicant seeks to convert an existing 3 bay garage into an accessory apartment. Two bays will be eliminated and the existing garage doors refaced to create a two bedroom accessory apartment. Williams explained that the existing septic and well are too far away from the garage to be used. Flood Sanitation has been hired to design and install a new septic system. Williams stated that approvals from the Dutchess Department of Health had not yet been received. Williams has also retained the company that dug the existing well to excavate a new well for the accessory apartment. Missing from the application is a letter from the applicant stating that Williams has permission to represent Langella in these proceedings.

ZBA members determined that since all renovations and alterations presented with the application are internal to the structure they will not require the applicant to furnish elevations.

Chair Schroeder requested a motion to close the public hearing and reopen the meeting. The motion was made by Arnason, seconded by Greenwood and passed unanimously.

After reviewing the short form EAF, Chair Schroeder stated that under SEQRA this was an Unlisted action and the ZBA would hold an uncoordinated review. Chair Schroeder then read through the SEQRA form and ZBA members determined that based upon the information before the board, the proposed action will not result in any significant adverse environmental impacts.

Chair Schroeder requested a motion that based on the information and analysis presented the proposed action will not result in any significant adverse effect upon the environment. The motion was made by Arnason, seconded by Lynch-VandeBogart and passed unanimously.

Arnason then read through §92-22 General Standards for Special Permit Uses and §98-48.2 Accessory Apartments. Board members agreed that all of these standards are complied with by the proposed action.

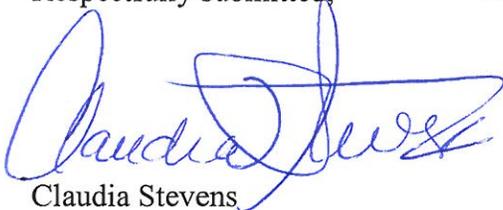
Chair Schroeder made a motion to grant approval to convert the garage into an accessory apartment either retaining part of the building as a garage or converting the entire building into living space as per the application presented to the ZBA provided there are no changes to the footprint or height. The issuance of the special permit is subject to receipt of the letter from Langella authorizing Williams to act as his representative in this matter. Approval is contingent upon receipt of Department of Health approval. The ZBA waived the necessity of the applicant

to seek Site Plan approval from the Planning Board. The motion was made by Arnason, seconded by Greenwood and passed unanimously.

A motion was made by Lynch-VandeBogart to accept the minutes of October 15, 2015 as presented. The motion was seconded by Arnason and passed unanimously.

A motion to adjourn was made by Greenwood, seconded by Arnason and passed at 9:23 PM.

Respectfully submitted,



Claudia Stevens  
Secretary of the Town of North East Zoning Board of Appeals

approved 2/18/16  
① VandeBogart  
② Greenwood