

TOWN OF NORTH EAST ZONING BOARD OF APPEALS MINUTES

July 16, 2015

The regular monthly meeting of the Town of North East Zoning Board of Appeals (“ZBA”) took place on Thursday July 16, 2015 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. Also present were Elizabeth Demetriades, AIA, and Patrick Walker the owners’ architects, Tom Panitz and Elizabeth Barth owners of property at 238 Perotti Road and Sheila Schwartz.

**Elizabeth Demetriades and Patrick Walker of Demetriades & Walker representing Tom Panitz and Jennifer Barth owners of 238 Perotti in the A5A District
Application for a dimensional variance under §98-12 D (6)
Tax Parcel #: 7069-00-764887**

Chairman Schroeder opened the public hearing by reading the notice of public hearing into the record.

Tom Panitz, property owner, is before the board to request a dimensional variance under §98-12 D (6). Panitz stated that the parcel at 238 Perotti Road is just shy of 9 acres. In 2009 he and his wife constructed a 1,370 Sq. Ft., three bedroom, single family residence using a survey obtained from the property’s original owner. Panitz stated that at the time of construction they had limited funds and therefore built a modest house with the idea that they would eventually build a guest house or pool house. The Panitzs’ live in New York City and spend weekends and holidays at the property. Both the house and the swimming pool, which was constructed in 2012, were designed by architect Peter Sweeny. At the time the owners mistakenly believed that a fence bordering their property line to the west indicated their boundary line. Recently, Panitz hired the architectural firm of Demetriades & Walker to design a pool house. The new architects had a survey done and discovered that the original survey was incorrect and as a result the pool was built in the side yard setbacks.

The building plans provided to the ZBA show the proposed pool house to measure 56’ x 21’ for a total square footage of 1,192. ZBA members had difficulty discerning the details of the building plans. Arnason asked if this was intended to be a two story structure and if so, what would the upstairs contain. Panitz stated that ideally the proposed pool house will house a sitting room area, two bedrooms, and one full bathroom. The pool house will also contain a bar area with a sink, a coffee maker and a min-fridge. The Panitzs’ intention is to use the pool house to accommodate weekend visitors.

Panitz demonstrated to the ZBA the location of the septic tank and leach fields which are roughly 20 feet from the house and the location of the well. Demetriades supplied ZBA members with the parcel survey, a "Well Completion Report" and an approved "Application for Approval of a Residential Sewage Disposal System". These items were added to the exhibits in the application. Chair Schroeder commented that the approved septic system currently servicing the property is designed for a maximum of 4 bedrooms and the existing house has three.

Arnason commented that since the proposed structure is nearly the size of the Panitzs' existing single family residence this might not be considered an accessory building. The property is located in the A5A zoning district which allows for one primary structure per 5 acres. The Panitzs' lot is only 8.63 acres which would preclude them from erecting two primary structures on this parcel. Arnason stated that this was entirely separate issue from the question of the building being in the setbacks. ZBA members advised the applicants that they had the ability to add square footage to their existing residence provided the addition is connected to that existing house. Demetriades argued that since the proposed structure would not contain a stove it was not a residence.

Citing Section 98-62-C of the Town of North East zoning code Chairman Schroeder then went through the State mandated criteria needed to grant a dimensional variance. In considering standard (a) Arnason stated he felt that the intrusion of a large building on property line would create an undesirable change in the neighborhood and be detrimental to nearby properties. Schroeder highlighted standard (b) which outlines if the benefit sought by the applicant can be achieved by any other means than the requested variance. ZBA members agreed that it was their belief that as this parcel is 8.63 acres and has no physical impediments present there were alternative ways to expand the house. Standard (c) asks if the requested area variance is substantial which it is as it seeks over 50%. The fourth standard of concern (e) was whether the alleged difficulty was self-created. Arnason stated that a property owner is charged with knowledge of their property bounds. Schroeder then read Section 98-62 C (3) which states the ZBA should grant the minimum variance deemed necessary.

Schroeder requested a motion to close the public hearing. The motion was made by Greenwood, seconded by Lynch-Vandebogart and passed unanimously.

Schroeder then opened the regular meeting and noted that residential dimensional variances are not subject to SEQRA review. However, the ZBA did go through the submitted answers to the SEQRA short form.

Schroeder requested a motion from ZBA members. Arnason made a motion to deny the applicant an area variance. The motion was seconded by Lynch and passed unanimously.

The next order of business was to finalize the Nathan decision. ZBA members agreed that discussed plantings along County Route 83 should stand at least 8 feet in height and run the length of the new addition. The applicant will return within a year for approval.

Schroeder asked for a motion to accept the Decision as corrected and authorize the Chair to file the decision. The motion was made by Greenwood, seconded by Arnason and passed unanimously.

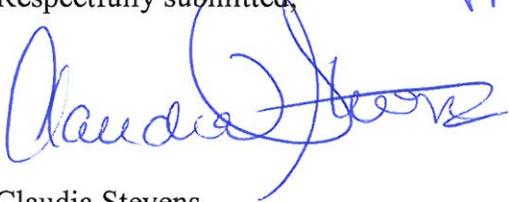
The next order of business was to review the minutes of the May 21, 2015 meeting.

A motion to approve the minutes for May 21, 2015 (with corrections) was made by Greenwood, seconded by Lynch-Vandebogart and passed unanimously.

Schroeder requested a motion to adjourn the regular meeting. A motion was made by Lynch-Vandebogart, seconded by Greenwood and passed unanimously. The meeting ended at 9:00 pm.

Respectfully submitted,

app 9/24/15



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