

ZONING BOARD OF APPEALS MEETING

February 16, 2017

6:00PM

The meeting was called to order by Chairman Bill Gabak at 6:00PM. Roll call by Clerk, Cindy Schiminske, found the following Board Members present:

William Gabak, Jr., Chairman
Kathy Taylor
Neal VanLiew
Fritz Allen
Phil DelloStritto

Also in attendance: Robert Eggleston
David Boyle
Don Bowen, Zoning Officer

Chairman Gabak made a motion to approve the minutes of December 15, 2016 as presented by ZBA Clerk, Cindy Schiminske. Approved AYES 5-0.

The purpose of this meeting was to hear the following request:

Joseph Bellnier, 5867 Sand Beach Drive, Tax Map #123.18-1-30, is requesting the following variances in order to alter and add to the existing single family dwelling: (1) Front yard area variance of 31.5' from required 50'; (2) Rear yard area variance of 18.5' from required 30'; (3) North side yard area variance of 11.9' from required 20'; (4) South side yard variance of 9.8' from required 20'; (5) A variance for an increase greater than the allowed 25% of volume for a non-conforming structure; (6) A variance to further exceed the current non-conforming minimum green space requirements; and (7) A variance to place an accessory structure (shed) less than the side and rear yard setbacks allowed. Reference the Town of Fleming Zoning Code, Bulk and Use Table Lakeshore District, and Section 9-2A(2).

Bob Eggleston, the architect for Joseph Bellnier, spoke on the applicant's behalf. He indicated that Mr. Bellnier actually grew up in the house next door to this property and that his sister now owns that house. He has lived in Albany for the past 20-30 yrs and is about ready to retire, so he bought this house as he wanted to return to the neighborhood. It is a very small house on a very small lot.

The application is to remove the nonconforming garage, remove a 6' x 18' portion of the house on the front, add an 8' x 26' open porch on the front, build an 8' x 28' addition on the back of the house and place an 8' x 10' shed on the property. There will be a 20' x 20' stone parking area with the garage down. Mr. Eggleston reviewed the narrative that he prepared for this Variance Application, which is attached hereto and made a part of these Minutes.

There was discussion about the placement of the shed. Chairman Gabak stated that the applicant should make sure there is no water runoff onto the adjacent properties. Mr. Eggleston indicated that they can put a gutter on the back side of the shed.

David Boyle lives directly across the street from the applicant. He stated that he completely supports this project. The only concern he had was about the drainage. Chairman Gabak assured him that it

would be a stipulation that Mr. Bellnier would have to divert the water from the house and shed away from the neighboring properties.

Mr. Eggleston also wanted to state for the record that Mr. Bellnier did talk to the adjacent property owners and they have no objection to this application, as evidenced by a signed letter submitted to the ZBA.

Chairman Gabak reviewed the five criteria for granting the area variance with the Board Members.

Don Bowen wanted clarification on the parking area being stone, all pervious surface. Mr. Eggleston concurred. Mr. Bowen stated that when they originally looked at the increase in the non-conformity of the green space, they were probably considering that as being impervious. He also wanted clarification on the roofline height – is it staying the same or increasing? Mr. Eggleston stated that it is staying exactly the same.

A motion was made by Kathy Taylor to vote on the front yard area variance of 31.5', seconded by Neal VanLiew. Roll call vote was taken by the Board.

MOTION APPROVED 5 AYES 0 NAYS

A motion was made by Chairman Gabak to vote on the rear yard area variance of 18.5', seconded by Kathy Taylor. Roll call vote was taken by the Board.

MOTION APPROVED 5 AYES 0 NAYS

A motion was made by Kathy Taylor to vote on the north side yard area variance of 11.9', seconded by Neal VanLiew. Roll call vote was taken by the Board.

MOTION APPROVED 5 AYES 0 NAYS

A motion was made by Chairman Gabak to vote on the south side yard variance of 9.8', seconded by Kathy Taylor. Roll call vote was taken by the Board.

MOTION APPROVED 45 AYES 0 NAYS

A motion was made by Kathy Taylor to vote on an increase greater than the 25% of volume for a non-conforming structure, which will be 29.4%, seconded by Fritz Allen. Roll call vote was taken by the Board.

MOTION APPROVED 5 AYES 0 NAYS

A motion was made by Neal VanLiew to vote on exceeding the current non-conforming minimum green space requirements, seconded by Chairman Gabak. Roll call vote was taken by the Board.

MOTION APPROVED 5 AYES 0 NAYS

A motion was made by Kathy Taylor to vote on placing an accessory structure (shed) less than the side and rear yard setbacks allowed. On the south side, it will be 1' and the west side will be 1.3', seconded by Chairman Gabak. Roll call vote was taken by the Board.

MOTION APPROVED 5 AYES 0 NAYS

Chairman Gabak made a motion to adjourn the meeting, seconded by Kathy Taylor. All in favor. Time was 6:25 PM.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals

ROBERT O. EGGLESTON, ARCHITECT

The Trolley Bldg
1391 East Genesee Street
Skaneateles, New York 13152

January 20, 2017

Town of Fleming
Zoning Board of Appeals
2433 Dublin Road
Auburn, NY 13021

Re: Joseph Bellnier – Variance Application
5867 Sand Beach Drive – Tax ID # 123.18-1-30

NARRATIVE

The existing Bellnier dwelling is on a 4,858 SF lot that is 50' wide on Sand Beach Drive. The dwelling is located 33.8 FT off Sand Beach Drive, 9.8 FT off the south side property line, 4.0 FT off the north property line and 26.5 FT off the rear property line. The property also has a 1 car garage that is 15.6 FT off Sand Beach Drive, 0.9 FT off the south property line and 4 FT off the house. The lot coverage is 35.4% and green space 64.4%. Both the house and garage are non-conforming structures and the allowed building envelope is 10' x 17' in the middle of the house. This property does not border on Owasco Lake but is served by public water and sewer.

This application is to remove the nonconforming garage, remove a 6' x 18' portion of the house on the front, add an 8' x 26' open porch on the front, build an 8' x 28' addition on the back of the house and place a 8' x 10' shed on the property. The north side yard setback will remain at 4.0 FT but the additions will be less nonconforming at 13.5 FT and 11.9 FT. The south side yard setback remains at 9.8 FT for the addition and the porch will increase to 10.5 FT. The front yard setback will decrease to 31.5 Ft for the open porch. The rear yard setback for the addition will decrease to 18.5 FT. To keep the shed a conforming 10 FT from the house, the rear yard setback will be 1.3 FT and the south side yard setback 1.0 FT. Without a garage a minimal size shed is necessary on the property and will have a side yard setback greater than the existing garage. While the volume of the enlarged house including porch is 29.4% increase, the volume of all the buildings on site will be only 12% greater than the existing structures.

The coverage will be 42.4% and green space 58.3 %. This includes the driveway, sidewalk and AC condenser. The coverage of just the buildings is 31.2% which is only a 3.3% (81 SF) increase over the existing building coverage .

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This dwelling will become the applicant's permanent home and will now be 1227 SF with a 208 SF porch and 80 SF shed. He grew up in the house to the north that is currently owned by his sister. The lot sizes in this neighborhood range from only 3750 SF to 10,550 SF with several larger lots directly off West Lake Road. Some lots are split by Sand Beach Drive. The Bellnier lot is 4,858 SF with 7 of the 18 lots smaller than his or made up of split lots. 9 of the 18 properties have living space larger than what is being proposed on this lot and the neighborhood average is around 2,000 SF. The existing setbacks for this property are also typical in the neighborhood. The proposed additions and alterations will enhance the value and appearance of this property and the whole neighborhood.

CRITERIA FOR GRANTING THE AREA VARIANCE

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. In making its determination, the Board shall also consider:

- 1) *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

There will be no undesirable change to the character of the neighborhood or to nearby properties as a result of granting the requested variances. The neighborhood is made up of small dwellings close to each other between West Lake Road and the lake, many of them 1 ½ or two stories tall. This dwelling will remain 1 story and the side yard setback will be equal or less nonconforming than the existing. The proposed setbacks are similar to those of the neighboring properties. The proposed alterations to the dwelling are consistent with the character of the neighborhood.

- 2) *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.*

There is no feasible way to alter this house without pursuing an area variance. The lot is only 50' wide where 20 FT side yards are required. The lot is only 97.16 ft deep where as 50 ft front yard and 30 ft rear yards are required. The permitted building envelope by current zoning is only 10 ft x 17 ft where as a dwelling is required to be a minimum 20 ft wide and 1,100 SF living area. Due to the small narrow lots in this neighborhood an area variance is required for any redevelopment of this lot.

3) *Whether the requested area variance is substantial.*

The variances requested are not substantial. While the house will be enlarged by 29.4% which includes the open porch, the altered dwelling will be only 81 SF larger than the existing buildings and only 12% larger in volume. The side yard setbacks will remain the same or be greater than the existing. The front yard setback will decrease by only 2.3 Ft and the front porch will align with the neighboring properties. While the rear yard setback decreases by 8 ft, the back of this dwelling will be over 60 Ft from the neighbor's house. The nonconforming garage in the front yard will be replaced by a much smaller shed in the rear yard that is one third the size (205% reduced volume). This dwelling will still remain smaller than most other dwellings in the neighborhood.

4) *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

The proposed variances will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. This property is served by public water and sewers. The construction will be on level land and disturb less than 1,000 SF of area for a net increase of only 81 SF of building footprint. The addition foundation is a shallow crawl space.

5) *Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.*

The alleged difficulty is not self created. The applicant is returning to the neighborhood he grew up in. The zoning has significantly changed in that time period. The lot and house were conforming at the time they were created and built. The existing dwelling is outdated and doesn't meet current building codes. The altered dwelling will be safer in that it will meet all building codes and exceed the NYS energy code. Improvements to this property will enhance the values of the neighboring properties.