

ZONING BOARD OF APPEALS MEETING

April 19, 2018

6:00PM

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

Kathy Taylor, Acting Chairwoman

Phil DelloStritto

Neal VanLiew

Fritz Allen

Ernesto Rivera, Alternate

Absent: William Gabak, Jr.

Also in attendance: Philip & Amy Jakes-Johnson

Don Bowen, Zoning Officer

Chairwoman Taylor made a motion to approve the minutes of March 15, 2018 as presented by ZBA Clerk, Cindy Schiminske. Approved AYES 5-0.

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

Philip and Amy Jakes-Johnson, 4606 West Lake Road, Tax Map # 144.00-1-46.2, wish to add a half bath to the downstairs basement of a single family dwelling constructed in 2014. At the time of construction, the basement was intended to be used as a storage area and not finished for general living purposes. Refer to Article 9-2(A)2 of the Fleming Zoning Code.

Chairwoman Taylor referenced the earlier variance that was granted in 2014 for the construction of a new home together with the notarized agreement signed by the applicants stating that they would not finish off the basement. Amy Jakes-Johnson indicated that at the bottom of the agreement, it states that if they wished to finish it, it would require a variance.

Amy explained that they would like to add a 5' x 6' half bathroom with just a toilet and a sink. This bathroom would make it more convenient when they come in from the lake from the outside entrance and when they have guests, as they wouldn't have to walk through the house. She would also like to extend the wall by the stairwell as the pump from the lake is very loud and it would help insulate that noise.

Philip Jakes-Johnson brought up Fleming's zoning law definitions of a basement and a cellar. He explained that when they initially applied for the house variance in 2014, the concern of the

Board was that they were going way over the permitted size. It was assumed that the lower level was going to be a basement; but at the time the landscaping was done, the house wasn't built, so it was assumed they were going to build a 4,000 sq ft house. According to the Town of Fleming Zoning Laws, if less than half of the walls are covered by dirt, it is considered a basement and you can use that for square footage determination and also for how high you can build a house. They obtained the variance and the house was built. When they were researching the laws for this variance, they discovered that according to the Zoning Laws, they have a cellar, not a basement, as 75% of the outer walls are underground. Currently, their house is just over 2,000 sq ft. When they initially applied in 2014, they thought they would end up with 4,400 sq ft as they were under the impression that if you could walk out of the floor, it was considered a basement. A cellar can't be counted as square footage for living space, which Don Bowen confirmed.

Don Bowen reiterated that a basement, by definition, can be counted as living space. In the applicants' house, by our own definition, more than 50% is below grade. A cellar cannot be counted as living space. When they first applied for their variance back in 2014, the concern was that it appeared at that point to be a house somewhere around 4,000+ sq ft, so the way the cellar ended up, we really couldn't have counted that as square footage anyway. At that time, they didn't really know how that was going to come out. It was on paper; it wasn't in reality to see what it looks like.

Amy also stated that she had a letter from the Cayuga County Health Department regarding the septic system and that it wouldn't make a difference with the added bathroom.

Chairwoman Taylor reviewed the five criteria for an area variance with the Board.

Chairwoman Taylor made a motion to vote on the requested variance, seconded by Fritz Allen.

Roll call vote was taken by the Board. MOTION APPROVED 5 AYES 0 NAYS

Chairwoman Taylor made a motion to adjourn the meeting, seconded by Fritz Allen. All in favor. Time was 6:25 PM.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals