

Town of Wawayanda ZONING BOARD OF APPEALS
February 9, 2017 / 7:00 P.M.

Members Present: Richard Onorati, **Chairman**
Bruce Lewis
Daniel Post
Jeffrey Soons
Raymond Spiak
Russ LaSpina, alternate

Consultant Present:
David Bavoso, Attorney

Recording Secretary:
Patricia Battiato

The Town of Wawayanda Zoning Board of Appeals February 9, 2017 meeting was called to order by 7:00 P.M. by Chairman Richard Onorati.

I. PUBLIC HEARING

Contino / SBL# 25-1-35 / Gardnerville Road / AR-Agricultural Residential Zone

Applicant is applying for an area variance of 195-17A (3) and 195-14 of the Town of Wawayanda Zoning Regulations in order to locate an in-ground pool on a corner lot, placing the pool location in the front yard.

The Public Hearing Notices was read as it appeared in the Times Herald Record. The Certified Return Receipts were collected and recorded.

Mr. Jon Contino approached the board and gave his name for the record.

Mr. Contino explained that they are requesting permission to place a pool in what is really a side back yard on a curved road. Technically I think its two front yards. We don't have a back yard and the other side yard is our leach field. The only place we could possibly put a pool is in the side yard here which is already fenced in.

Chairman Richard Onorati read into the record the comments received from Orange County Planning which was left to local determination as there are no county wide impacts.

Chairman Onorati opened the Public Hearing to the public by asking for any questions comments or concerns. Let the record show that there were none. Chairman Onorati asked for a motion.

Motion by Bruce Lewis, seconded by Jeffrey Soons to grant the area variance to allow the in-ground swimming pool in the front yard.

UPON ROLL CALL:

Daniel Post	Aye
Bruce Lewis	Aye
Jeffrey Soons	Aye
Ray Spiak	Aye
Richard Onorati	Aye

Chairman Onorati declared the AREA variance **GRANTED**

2nd Public Hearing:

Rey Virgen / SBL# 12-1-11 / Co. Rt. 56 / MC-1 Mixed Commercial Zone

Applicant is applying for a USE variance of 195 Schedule of Zoning District Regulations of the MC- 1 Mixed Commercial Zone to allow for a single family residential structure.

The Public Hearing Notices was read as it appeared in the Times Herald Record. The Certified Return Receipts were collected and recorded.

Karen Emmerich from Lehman & Getz appeared before the board representing her client Mr. Virgen. Ms. Emmerich explained that the existing house on this parcel was heavily damaged by fire a number of years ago. My client is looking for a USE variance for the residential use. The parcel is 0.37 acres, on County Route 56, in an MC Mixed Commercial Zone. We will also need some area variances; for side yard setbacks, lot size, lot width and both side yards. The hardship is unique because the structure existed prior to the MC Zoning.

Chairman Onorati asked the board if they had any questions.

Board Member Daniel Post asked how large the property is and was told 0.37 acres. Board Member Jeffrey Soons asked the applicant what he would use the property for if he could not get a house on it. Mr. Virgen talked about building a cheaper house like a modular and that it would be

adjusted to the property. Mr. Soons added, no what would you use it for if you couldn't put a house there.

Chairman Onorati explained that we talked about this at the informal meeting, that he bought this at a tax sale and didn't know he could only build on it within a years' time. It really can't be used for anything commercial, and there is nothing around that parcel but houses.

Chairman Onorati asked Mr. Virgen if he knew what the foundation looked like and Mr. Virgen said that he never went into the house, the door is locked, but it looks like stone.

Chairman Onorati continued and said to Mr. Virgen; let's say the variance was granted what would you do to put a house there?

Mr. Virgen explained that he was thinking a modular house or a bi-level something like that. For now I just want to clean everything up. It will probably be like that until I have all the plans and everything.

Attorney David Bavoso explained that the intent is to utilize essentially the same footprint, and asked if they planned on expanding on what is there?

Karen Emmerich said no, if we expand it would be towards the rear so we would still be in compliance and said that they would be using the same footprint. A discussion took place with regards to wells and septic.

Chairman Onorati offered, that the board is sympathetic, but certain things we don't have control over like the separation of the septic and the wells. I want you to understand that.

Chairman Onorati said that there are two choices; say no and let it be and let it rot and stay there or whatever like it is or try to make it useful and let someone try to make it useful. Daniel Post felt that he would also like to see something, doesn't want it to continue to be an eyesore.

Chairman Onorati opened the Public Hearing to the public by asking for any questions, comments or concerns. Let the record show that there were none. Public Hearing was closed. Chairman Onorati asked for a motion.

Motion by Raymond Spiak, seconded by Bruce Lewis to grant the Use Variance, both side yard setback requirement, lot area, lot width and one side yard setback variance.

VOTE UPON ROLL CALL:

Daniel Post	Aye
Bruce Lewis	Aye
Jeffrey Soons	Aye
Raymond Spiak	Aye
Richard Onorati	Aye

Chairman Onorati declared the variance's **GRANTED**

II. INFORMAL

Sheeley / SBL# 4-1-50.31 / Dolsontown Road / TC/MC Town and Mixed Commercial Zones

Applicant is applying for an Area variance of 195-36F (5) (b) to allow for a larger freestanding sign than what the zoning regulations permits.

Mr. John Fuller approached the board and explained that he was representing the applicant. They are requesting a freestanding sign to be located at the carwash property on Dolsontown Road. The proposed freestanding sign is 31 feet tall and 11 feet wide for a total of 314 sf on either side, including the 5x8 display area and the 7'2" circular company sign name. The zoning allows the freestanding sign to be 64sf max so a variance of 277 sf is being requested. The sign is to be located in the western corner of the property at the intersection of NYS Route 17 M and Dolsontown Road.

Chairman Onorati asked if this was going to be offensive for the neighbors as we always have people who may complain about them. Mr. Fuller believes it to be consistent with all the other signs in the area. He explained to the board exactly where they are located, and that other signs of the same nature are there. Mr. Fuller explained to the board the color and type of sign and that is for a message board to support the business. There are no residences in that area; it is totally a commercial area.

Motion by Bruce Lewis, seconded by Jeffrey Soons to set a Public Hearing for March 9, 2017.

All in Favor

MOTION CARRIED

Kean / SBL# 22-1-57 / AR-Agricultural Residential Zone / Millsburgh Road

Applicant is applying for Area variances of 195 Schedule Zoning District in order to allow less than the required rear yard setback.

Attorney David Bavoso stated for the record that he would be stepping down on this application as he was their closing attorney. Attorney Bavoso sat in the audience.

Ashley Kean and Gillian Menza approached the board and stated their names for the record. They said that when they purchased the home they discovered that the deck and one of the shed was actually over the property line. It was there when we purchased the home. When we purchased the home the former owner wasn't aware that it had gone over the property line. It happened when they expanded County Route 22. We are asking for a variance so that we can keep the structures. There are no neighbors behind us, just a road. The County took part of the property when they built the new bridge in right in front of the house on County Route 22. Somehow it cut the property in half (the rest of the property is on the other side of the road) so the former landowners deck and shed were initially within the limits.

Chairman Richard Onorati asked if this would be similar to when in the old days when they built a road and the town wanted 25 feet from centerline and they would take the front yard of your property.

Ms. Kean said that it wasn't always a violation, it became a violation.

Chairman Onorati said can we grant this.

ZBA Secretary said that we can grant on our rear yard setback.

David Bavoso said that the encroachment on to the neighboring property isn't something that you are actually looking at; it's the lack of setback within the property here.

Chairman Onorati said Ok, so the other property does not come into play, all we are talking about is the setback then.

David Bavoso, said the County property, no.

Motion by Bruce Lewis, seconded by Daniel Post to set a Public Hearing for March 9, 2017

All in Favor

Motion Carried

I. OTHER BUSINESS

Approval of Minutes for December 15, 2016 and January 11, 2017

Motion by Raymond Spiak, seconded by Bruce Lewis to approve the minutes from December 15, 2016 as submitted

All in Favor

Motion Carried

Motion by Bruce Lewis, seconded by Jeffrey Soons to approve the minutes from January 11, 2017 as submitted

All in Favor

Motion Carried

The February 9, 2017 Town of Wawayanda Zoning Board of Appeals was adjourned by Chairman Richard Onorati at 7:34 P.M.

Respectfully Submitted,

Patricia Battiato
Secretary to Planning

