



ZONING BOARD OF APPEALS
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January 8, 2024

PRESENT: Bill Schirmer (Chair), Tim Scott Jr & Randy Ricks
ALSO PRESENT: Becky Bertorelli (Zoning Board Secretary), Sean Weaver (Building Inspector) & Alvah Weeks (Code Enforcement Officer)
ABSENT: Henry Rua (Vice-Chair), Joe Mayone & Holly Strutt (Alternate)

PLEDGE

Schirmer noted that there were three Zoning Board of Appeals members present so there was a quorum and the meeting could proceed.

PUBLIC HEARING

ELLEN KOLBER: APPLICATION FOR A 19' SIDE YARD AREA VARIANCE

434 Band Camp Road
Saugerties, NY 12477
File#: 23-008
SBL#: 17.1-5-48.2

The property is located in the Moderate Density Residential (MDR) zoning district. The applicant is requesting a 19' side yard area variance to build a detached garage and meet the zoning requirements for the district.

A motion was made by Scott, seconded by Ricks, to open the public hearing at 7:01pm. No one from the public was present for this hearing.

Kolber-questions regarding placement of garage and the front yard setback. If the garage will be in line with the front door does it meet the setback requirements? Weeks-the front yard setback is pre-existing non-conforming so the garage can go as far as the house goes. It can not be placed any closer to the road than the house so if you keep it in line with the house you are all set.

Kolber-is there a time limit as to when I can apply for a building permit after approval, if granted? I may not be able to do that right away. Schirmer-the area variance, if approved, will go with the land forever. You can apply for the building permit when you are ready. Is it correct that the proposed area for the placement of the garage is on the side of the property where the adjacent property is wooded? Kolber-yes.

Since, there were no other questions/concerns a motion was made by Ricks, seconded by Scott, to close the public hearing. Board vote: Ricks-Aye, Scott-Aye, Schirmer-Aye. Motion carried. The public hearing was closed at 7:04 pm.

The Board had no further comments/concerns regarding this application.

A motion was made by Ricks, seconded by Scott, to approve the 19' side yard setback area variance based on the following 5 criteria:

1. It was determined that an undesirable change will not be produced in the character of the neighborhood nor would a detriment to nearby properties be created.
2. There is no other feasible method for the applicant to pursue, there is no other location on the property to place the detached garage that would allow the applicant to use the garage for the intended purpose.
3. The requested variance is substantial but the structure can not be moved closer to the house to lessen the requested variance.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood, the adjoining property where the garage will be located is wooded, providing a buffer.
5. The alleged difficulty is self-created but there is no other location for the detached garage on the property that would be financially feasible and beneficial to the applicant.

Board vote: Ricks-Aye, Scott-Aye, Schirmer-Aye. Motion carried.

NEW APPEAL

SAUGERTIES SELF STORAGE, INC: APPLICATION FOR USE VARIANCE TO ALLOW THE APPLICANT TO OPERATE A SELF STORAGE FACILITY IN THE GB ZONING DISTRICT

3058 Route 9W

Saugerties, NY 12477

File#: 23-009

SBL#: 29.9-3-2

The property is located in the General Business (GB) zoning district with Gateway Overlay (GO). Presented by the owner, Derek Winnie. Winnie-does this use get grandfathered in because I have been operating a self storage facility, by renting out the existing garage, for many years? Would like to know if a variance is even required if the property is grandfathered in to operate a self storage facility. Have operated both a self storage facility (garage) and car dealership on this 0.31 acre parcel over the 25 years of owning it. Schirmer-that is a different review altogether. That would require the applicant to provide the ZBA evidence that the use is pre-existing to the zoning change that removed the use from the allowable uses in the General Business District. We are not prepared to review that at this time. We have prepared for the use variance review.

Weeks-the adjoining parcel was grandfathered in for self storage and years ago when the owner wanted to expand he was able to do so for that parcel because of the section of the zoning law that allowed the applicant to do so up to a certain square footage. They did expand that self storage facility to the extent allowed under that provision of the zoning law. The original zoning law was implemented in 1989 and amended in 2008 in which a moratorium was issued for self storage facilities until the amendment was approved. That amendment removed self storage facilities as an allowable use in the General Business district. Winnie-the business was not present on that parcel in 1989.

Winnie-why are there so many other businesses in the area that are not allowable uses in the General Business district? Schirmer-anyone that has questions about those businesses is allowed to submit a complaint and/or FOIL the files for those specific parcels to see if they have the proper permits. This is not relevant to review of this application.

Schirmer-the applicant will have to decide which avenue they would like to proceed with. They can move forward with the use variance and the ZBA can set a public hearing for the February meeting. The applicant will have to provide the ZBA with evidence to satisfy the four criteria required to prove a hardship. The four criteria are listed in the application that was submitted and signed by the applicant. The applicant essentially has to prove that no reasonable return on investment can be realized from a use permitted in the district, as well as satisfying all other criteria. This application will be considered an Unlisted Action under SEQR and the ZBA will submit the SEAF Part 1, submitted and completed by the applicant, to the Town Planner for review. The ZBA, with assistance from the Town Planner, will complete Part II and Part III of the SEAF to be voted on at the February meeting, prior to the opening of the public hearing. The second option would be for the applicant to move forward with requesting that the parcel be grandfathered in for self storage use and providing the information needed to the ZBA to review as such. The applicant can also see what uses are permitted in the district and move forward with a permitted use. Winnie-the parcel is so small it would be hard to build anything new on it. Schirmer-you may have to come before the ZBA for area variances if you choose this option. If the use variance is granted the proposed project may need area variances as well.

Winnie-would like to take some time to decide which path to take. Schirmer-with the applicant's permission we will hold off on scheduling the public hearing until next month to allow the applicant time to review his options. Winnie-yes. Schirmer-we will wait to schedule the public hearing and wait to forward to the Ulster County Planning Board, as required, until we know for sure how to proceed. The applicant should attend the February monthly meeting of the ZBA and inform us how he wishes to proceed. He should present any evidence to support either the use variance or the claim of pre-existing use.

A motion was made by Ricks, seconded by Scott, to declare this an Unlisted Action under SEQR. Board vote: Ricks-Aye, Scott-Aye, Schirmer-Aye. Motion carried.

No further action can be taken at this time until the ZBA knows which option the applicant wishes to pursue.

OLD BUSINESS

NONE

BOARD DISCUSSION

- A motion was made by Scott, seconded by Ricks, to approve the December 4, 2023 draft minutes. Board vote: Ricks-Aye, Scott-Aye, Schirmer-Aye. Motion carried.
- Planning Board meeting minutes were received.

ADJOURNMENT

A motion was made by Scott, seconded by Ricks, to adjourn the meeting as there are no further items to discuss. Board vote: Ricks-Aye, Scott-Aye, Schirmer-Aye. Motion carried. Meeting adjourned 7:36 pm.

Respectfully submitted,

Becky Bertorelli

Secretary

Zoning Board of Appeals