

AMENDED FINAL MINUTES OF A REGULAR MEETING

OF

THE ZONING BOARD OF APPEALS OF THE TOWN OF POMPEY

A regular meeting of the Zoning Board of the Town of Pompey, New York was held via zoom due to Governor Cuomo's Executive Order #202.1 at 7 p.m. Sept 14, 2020

Board members present: David Tessier, Chairperson
Patrick Frazee
David Hale
Donald Neugebauer
Kevin Sharpe

All members of the Zoning Board of Appeals were present. Also present were Jamie Sutphen Attorney, Bob Rodriguez, Codes Enforcement Officer, and MaryAnn Pfohl, Town of Pompey Clerk's Office.

Spruce Hill Farm, 2964 Pompey Hollow Road, Cazenovia, NY 130356 Lot#54 Tax Map ID:024.-04-05.2.

Present for the applicant were Richard Cote (Applicant) For property variances. Part of the area is located in Cazenovia, Madison County. They are requesting a subdivision of the area and need variances before the Planning Board can approve the subdivision.

All application fees have been paid. Neighbors within 1000 feet of property and the Town of Cazenovia have been notified.

Issue that the County planning review has not been received because it was not sent to the County and therefore the ZBA can not make a final decision tonight, but we will go through the meeting and hearing as everything is set up already. Chairman Tessier will take a straw poll at the end of the meeting to see where we are for moving forward.

Attachment to ZBA application which states the various variances we will be dealing with tonight.

This property is zoned as a farm zone. Kevin Sharpe noted that the date on the application is from 2017. Is that correct or an issue? There are two applications. Original application done then and a new application submitted to Bob Rodriguez on June 1, 2020. Attorney Sutphen stated all paperwork has been revised and updated and is now complete.

Applicant owns approximately 6.5 acres covering both towns. Wants to divide east and west a horizontal line across the property to divide lot one 4.5 and lot 2 less than 2 acres. Attorney Sutphen reminded us to be only concerned with what is in the Town of Pompey. Variance requests read by Chairman Tessier.

1. Relief from Section 165 of the Code per "Schedule Limiting the Use of Land and Buildings" is required being a density variance for each of lots 1 and 2, where 2 acres is required for each lot,

but each lot is less than 2 acres; (Lot 1 is 1.4 acres and Lot 2 is 1.3 acres).

2. Relief from Section 165 of the Code per “Schedule Limiting the Use of Land and Buildings” regarding Lot 1, where actual lot depth is 199.55 feet which is 50.45 feet less than the 250 feet required,

3. Relief from Section 165 of the Code per “Schedule Limiting the Use of Land and Buildings” required regarding Lot 1 where the front yard setback required is 50 feet , from the highway boundary, but the actual set-back is, at its furthest point 48 feet; requiring a 2 foot variance.

4. Relief from Section 165 of the Code per “Schedule Limiting the Use of Land and Buildings” is required as to Lot 2 where the front yard setback required is 50 feet from highway boundary, but the actual set-back is 33.1 feet, requiring a 16.9 foot variance..

5. Relief from Section 165 of the Code per “Schedule Limiting the Use of Land and Buildings” is required for Lot 2 where for a front yard variance (which is also the side yard) where the structure is 39 feet from the highway boundary, but 50 feet is required from the Highway Boundary, being an 11 foot variance.

Purpose of variances is so that the applicant can go to any financial institution or future owners and say they meet and comply with all building codes and standards.

No other additional information at this time.

David Hale made a motion to open the public hearing at 7:20, seconded by Don Neugebauer. All in favor, motion carried

Board will analyze the benefit to the applicant versus the detriment to the community.

Richard Cote thanked the board from him and his wife Lisa. Very complicated situation. Purchased three years ago to run the farmhouse as a bed and breakfast and eventually take the barn, which was built in 1835 and reclaim it as their primary residence. He has run into complications because the lot exists in both Onondaga and Madison Counties. In order to divide the lot, the ZBA looks at just what is going on in the Town of Pompey. Barn will be rebuilt back 10 to 20 feet or so due to the current foundation being so bad. By dividing properties both lots become non conforming due to a portion of each lot being in another county. Went to the Planning Board and was referred to ZBA for variances. Will go back to the Planning Board next week.

All members have seen the property and Chairman Tessier had the opportunity to sit in on the Planning Board Meeting where this was discussed previously. In general they seem to be in favor of the property.

Dave Hale had no additional questions. Don Neugebauer commented that the buildings that are currently there and would now need variances have been there for a very long time. Was the Blye Farm. Don does not see these variances as a problem. Dave Hale agrees.

Attorney Sutphen talked about Cazenovia property and that it's existence could be taken into

account. We have not heard anything back from Cazenovia. Applicant indicated Cazenovia is waiting to see what the Town of Pompey decides before they weigh in.

Pat Frazee asked what minimum lot size was in Cazenovia? No one currently knows.

The Cazenovia piece is one piece currently. So he will have to divide the Cazenovia piece too. Pat Frazee said they could just leave the Cazenovia piece as one lot.

Balance the benefit to the applicant versus the detriment to the community.

Consider whether the benefit can be achieved by other means feasible to the applicant? Not able to buy more land and buildings are already there. Can not be two residences on one parcel. If he wants a second house he has to have a subdivision. No other feasible means. The barn will be moved so it complies. What is code that says there can not be two resides on 6.5 acres? Attorney Supthen indicated that it is a single residence use and you can not have two primary houses. Can not recall specific code. Even though one is a business? This board needs to look at and consider both as single family residences.

Is this an undesirable change in neighborhood character or detriment to nearby properties? Patrick Frazee says it is. We are zoned to have a two acre requirement in the Town of Pompey. That's what Pompey Town Codes require, therefore it is undesirable.

Will request have adverse physical or environmental effects? Patrick Frazee again says yes. Only physical change will be moving the barn. Two acre lots are required so we are going to have another well and another septic system on a smaller than desired lot. It will definitely have an impact. Still remaining 200 foot road frontage for both lots.

Richard Cote asked that the board consider as we go through the list of criteria that the property behind us can be used.

Is alleged difficulty self created? Yes because the applicant wants to create two lots. Mitigating situation because there is sufficient land it's just in two different towns. Patrick Frazee asked if we are to assume it's going to be approved by the town of Cazenovia? Has it been perked and location well determined?. No it has not. Well will be on the Southern Southeastern part of Lot by the corner of the barn on lot 1. Leach field on northeastern side of barn. Will not interfere with lot 2? Lot 2 the well is 45 feet north on the other side of the driveway. Septic runs off the southeastern corner of the house toward the chicken coup. After subdivision County will want to see the septic design.

Attorney Sutphen said we can make a formal request to Cazenovia to request the subdivision be approved. Also we could have a permanent easement that could not be discontinued without prior approval from the town. Would ZBA or Planning Board request that from Cazenovia?. It can be a joint letter from both boards to Cazenovia. The applicant would not have a problem with an easement. Patrick Frazee is still concerned with creating two very little non conforming lots in the Town of Pompey. Technically it could be four building lots between two Towns. Curb cut could be a challenge on Route 20.

Is hearing still open and are there any comments? No current comments. Should we close or

adjourn the hearing? One question from Neal Moore on zoom. Can both properties be an Air B & B? That's a code question. As far as we are considered they are single family houses. Applicant said no intention of new structure being Air B & B.

Don Neugebauer asked if we have the right to approve the project contingent on the County's response? Attorney Sutphen said no we can not. It is considered jurisdictional and it would be considered not approved. Lot 2 nothing to be done we are just downsizing the lot? With existing structures on them. If there were no existing structures then several of the variances would be non existing. So all we know is he plans on moving the barn on Lot 1. Anything he does if it encroaches on the property lines he would have to come back for a variance. For the Town of Pompey he owns one parcel currently. If we grant variances he will own two parcels in the Town of Pompey. Cazenovia may let him keep the Town of Cazenovia parcel as one and not require sub division. Once this is split he can build within 5 feet of the lot for out structure buildings.

What is the difference between closing the meeting and adjourning the hearing?. If we adjourn the hearing it allows the public to comment at the next meeting. Oct 12 is Columbus Day. Is that good for the next meeting.? All members are good on that date.

Motion to adjourn the public hearing until 7 pm on October 12th made by Kevin Sharpe seconded by Don Neugebauer. All in favor, motion carried.

Attorney Sutphen asked that it would be helpful that issues of concern can be addressed between now and the next meeting? Are there any conditions that can be pursued?

Vote on SEQRA - it is a residential property request for area variance, which is a type two action and no further environmental review is needed. We need a motion that the Zoning Board of Appeals is the leading agency and it is a type two action and no further review is needed. Motion made by Patrick Frazee, Kevin Sharpe seconded. All in favor, motion carried.

Decision for straw pull for benefit of applicant and board. Do we want to consider any conditions? Easements to encumber property with the Town of Cazenovia?

Any conditions we want to consider? Patrick Frazee thought we could not go across our sections. How do you tie the two properties for eternity? Attorney Sutphen said it can be done by the owner creating a grant of easement and it gets filed and says that lot 1 perpetually has access to Cazenovia property and same with lot 2. It;s a legal document a lawyer draws up. Easement would give the owner of lot 1 in the Town of Pompey perpetual right to enter and do anything in Cazenovia lot. It would discourage anyone from developing Cazenovia property. It would encumber that piece. Lock in the two properties. Attorney Sutphen will prepare a draft of language for a perpetual grant of easement. This runs to benefit of lot 1 forever and can not be modified without the permission of the Town of Pompey. Dave Hale gave an example of an easement he has on his neighboring property. If easement is part of Zoning Board of Appeals, they would have a say in whether the easement could be lifted. Easement stays with the property.

Chairman Tessier asked the board if they wanted to add the condition. Don Neugebauer likes the

property the way it is. Doesn't seem necessary. What if a future owner wants to sell off a Cazenovia piece. If there's an encumbrance on it it may make it undesirable and it may help the value of the property. Attorney Sutphen will prepare a draft. Patrick Frazee asked if this was a stand alone project in the Town of Pompey would the board members approve this project? Patrick says no, but because it has the Cazenovia property it makes us all feel ok so it has to be tied with Cazenovia property. With condition Patrick would be in favor of variance, Dave Hale agrees. Kevin Sharpe agrees.. Don Neugebauer likes the project and the buildings have been there forever. Don is ok with tying the two properties together. Kevin Sharpe does not believe Cazenovia land is intended to be split. It's not substantial if the condition was added. Chairman Tessier agrees with adding condition. Applicant is willing to make it a condition. Everyone is generally in acceptance.

Attorney will work on easement draft language and get to board well in advance to discuss and review and make suggestions and revisions.

Patrick would like more detail in the minutes. Chairman Tessier indicated that minutes record the actions taken. Attorney Sutphen agrees. Attorney Sutphen wants to know if we want to send a letter to Cazenovia telling them what we would like them to do? If we send a letter to their Planning Board and Zoning Board to approve the subdivision and our condition of the easement. Board and applicant would like to see that.

Motion to adjourn at 8:21 pm by Dave Hale, seconded by Don Neugebauer. All in favor, motion carried.

Respectfully submitted by

Donna Alnutt
Secretary