



Town of New Paltz Zoning Board of Appeals
 Regular Meeting of Wednesday, May 12, 2021
 Live-streamed/Recorded Remotely at 7:00 PM
 Available on YouTube: <https://youtu.be/7TwIlXqF3gQ>
APPROVED MINUTES

Present: Leonard Loza, Chair
 Steven Esposito
 John Gotto
 Amy Donnelly
 Katherine Fuller

Absent:

Also Present: David Brownstein, Town Board Liaison
 Joe Moriello, Zoning Board Attorney
 Stacy Delarede, Building Inspector
 Alana Sawchuk, Planning and Zoning Secretary

Welcome

7:04

Chair Loza requests a motion to open the regularly scheduled May 12, 2021 meeting. Ms. Donnelly moves. 5 ayes. Motion carries.

Administrative Business

- *Approval of April 14, 2021 Minutes*

Chair Loza moves to approve the April 14, 2021 Minutes. Mr. Gotto seconds. 5 ayes. Motion carries.

- *Quorum Check for Wednesday, June 9, 2021 at 7 PM*

All members will be able to attend the June 9, 2021 meeting.

Public Comment(s)

7:08-7:12

Ms. Fawn Tantillo speaks regarding ZB21-28, Trans-Hudson, and expresses support for the project as proposed.

No other general comments were submitted nor was any member of the public in attendance to speak on a general matter.

Public Hearing(s)

1. Area Variance

ZB21-28: 12 N. Putt Corners Road

Applicant: Trans-Hudson Management, LLC

Zoning District: B-2

SBL: 86.12-4-5.1

7:12-7:42

Chair Loza asks that Attorney Zalantis speak prior to the continuance of the Public Hearing as there have been changes made to the application. Attorney Zalantis explains that the applicant has withdrawn its request for a variance to allow the drive-thru for a food establishment, as well as submitted a revised Site Plan to reflect that withdrawal. The applicant is now only seeking a variance from the two-occupiable story requirement. Ms. Zalantis also offers a response to the comments from the UCPB.

According to Ms. Zalantis, the UCPB did not propose any real modifications but rather gives its opinion "...that the UCPB 'does not support' granting the requested variance from the two-occupiable story requirement. In summation from a letter that the applicant has submitted and read into the Public Hearing record:

- But the UCPB's reasons for withholding its support –namely, the need for affordable housing, the community's "design goals" and the "overall thrust" of this MSMU standard –are not a legal basis for this Board to deny the requested variance.

Chair Loza entertains a motion to re-open the Public Hearing for ZB21-28. Ms. Donnelly moves. 5 ayes. Motion carries.

Attorney Moriello notes that since the Board had not opened the Public Hearing when Ms. Zalantis had provided her comments, that it be noted that they were part of the Public Hearing record.

Ms. Kitty Brown (a resident of the Town of New Paltz) speaks regarding "the character of the neighborhood," as the applicant does not feel this proposal would produce an undesirable change. Ms. Brown speaks regarding this being a residential area; a worry regarding municipal maintenance related to the EST; and requests that the applicant install stakes on the property for visual assistance.

Ms. Fawn Tantillo responds to Ms. Brown and notes that while more housing is needed in the area, this specific parcel is not an ideal location for residences and that the residences Ms. Brown speaks of are located further down N. Putt Corners Road.

Ms. Zalantis notes that the taxpayers will not be incurring taxes for the construction of the public amenities on the property.

Mr. Daniel Schniedewind asks the Board if the Public Hearing will be held open due to the variance withdrawal and subsequent revisions made to the plan.

Chair Loza requests a motion to close the Public Hearing for ZB21-28 but will allow for written comments from the public up until 10 days prior to the June meeting (May 31, 2021). Anything submitted after that time will not be accepted. Ms. Donnelly seconds the motion. 5 ayes. Motion carries.

2. Area Variance

ZB21-100: 33 Cragwood Road

Applicant: Edward Olebe

Zoning District: A-3

SBL: 78.1-3-4.200

7:42-7:45

Chair Loza requests a motion to open the Public Hearing for ZB21-100. Mr. Gotto seconds. 5 ayes. Motion carries.

Mr. Jesse Conklin is in attendance on behalf of the property owners.

Chair Loza asks the Building Inspector about the required fence height for pools. Per the Building Inspector, 48 in. is what is required by NYS. Chair Loza asks if the applicants intended to construct a higher fence than what is being proposed, would they need to request a variance? The Building Inspector clarifies that anything higher than 4 feet in the front yard would require a variance.

No comments were submitted regarding this application nor were any members of the public in attendance to speak on this application.

Mr. Gotto moves to close the Public Hearing for ZB21-100. 5 ayes. Motion carries.

3. Area Variance

ZB21-119: 19 Outlook Farm Drive

Applicant: Kris Schmitt

Zoning District: A-1.5

SBL: 86.3-3-2

7:46-7:49

Ms. Donnelly moves to open the Public Hearing for ZB21-119. 5 ayes. Motion carries.

Mr. Kris Schmitt is present on behalf of the property owners (Mr. O'Connor, the property owner, is also in attendance.) Mr. Schmitt explains that the applicant is seeking a variance in order to construct a pool in the side yard. The property owners cannot install the pool in the rear yard due to the location of the septic field. Mr. Schmitt remarks that neighbors had been concerned about maintaining a view of "the ridge" with the required fencing, but that the applicant intends to mitigate any possible obstruction of the views.

No members of the public were in attendance to speak on this application.

Mr. Esposito moves to close the Public Hearing for ZB21-119. 5 ayes. Motion carries.

Application Review

1. Area Variance

ZB21-28: 12 N. Putt Corners Road
 Applicant: Trans-Hudson Management, LLC
 Zoning District: B-2
 SBL: 86.12-4-5.1
 7:50-7:51

Chair Loza asks that all members read the letter submitted by Ms. Zalantis. The Board's discussion related to denying or granting the requested variance will be taken up at the June 9, 2021 meeting.

Attorney Moriello reminds members that as the Public Hearing has been closed, the Board has 62 days to make a decision regarding this application.

2. Area Variance

ZB21-100: 33 Cragwood Road
 Applicant: Edward Olebe
 Zoning District: A-3
 SBL: 78.1-3-4.200
 7:51-8:12

Chair Loza asks if the Board has any discussion items regarding this application.

Mr. Gotto visited this site and saw the staked-out location of the possible pool and got a much better sense of what the property is like. In Mr. Gotto's view, this is a site that would not require a variance, and it would be improper for the Board to grant the variance when there's feasibility for the applicant to do what they would like without a variance.

Ms. Donnelly doesn't see the distance from the pool to the wetlands on the submitted map. Ms. Donnelly is also concerned about any chemicals from the pool spreading into the possible wetlands area.

Ms. Fuller wants to hear from the applicant regarding the comments from Mr. Gotto about there being other viable space on the property for the pool.

Mr. Conklin addresses the north side of the property mentioned by Mr. Gotto as being another viable place, as well as Ms. Donnelly's comments regarding any pool chemicals. Mr. Conklin notes that the applicants have provided a letter saying they will not be using a salt pool, and that the amount of water coming out of the pool from normal use would be negligible. This pool has an automatic cover, and an automatic pump that will remove rainwater off the pool cover. According to the survey done last year, there are no wetlands on the site.

Chair Loza speaks to the high quality of the proposed pool, based on his own experience.

Attorney Moriello advises that the Board discuss this application using the balancing test as a guide.

Chair Loza asks that the applicant respond to each question.

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.

Applicant: No.

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.

Applicant: No.

3. Whether the requested area variance is substantial.

Applicant: No.

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

Applicant: No.

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

Applicant: No, because the property owner had bought the house with the septic as is.

Chair Loza asks if Board members agree or disagree with the applicant's comments. Mr. Gotto believes there would be an adverse effect to the character of the neighborhood because a pool in the front yard is contrary to the surrounding properties. Mr. Gotto understands that this proposal is the easiest for the applicant but thinks that there are other feasible areas.

Ms. Fuller finds that the applicant is correct in their feeling that there is no other feasible option.

Ms. Donnelly finds this request to be substantial and thinks the pool could be located in an area that doesn't require a variance.

Mr. Esposito asks if the Board had granted a variance for a front-yard pool previously. The Building Inspector confirms that yes, there was in at least one instance. Chair Loza requests a motion to grant the variance for ZB21-100. Mr. Esposito seconds.

Ms. Donnelly: NAY;

Chair Loza: AYE;

Mr. Esposito: AYE;

Mr. Gotto: NAY;

Ms. Fuller: AYE.

3 ayes, 2 nays. Motion carries.

Ms. Delarede tells the applicant that she'll be absent for the next week, so she will not be able to provide the applicant with his permit until she returns.

3. Area Variance

ZB21-119: 19 Outlook Farm Drive

Applicant: Kris Schmitt

Zoning District: A-1.5

SBL: 86.3-3-2

8:12-8:40

Chair Loza requests that the applicant respond with answers to the balancing test for an area variance.

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.

Applicant: No.

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.

Applicant: No.

3. Whether the requested area variance is substantial.

Applicant: No.

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

Applicant: No.

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

Applicant: No.

Chair Loza asks for Board comments to these responses.

Ms. Donnelly asks the Building Inspector about the large number of side yard pools shown on the last page of the submission from the applicant and asks about the accessory apartment. Chair Loza remarks that the question regarding the accessory apartment does not have relevance to this application.

The Building Inspector explains that all the other pools noted on the applicant's submission are in the rear yard as defined by the Town Code. The applicant's maps noting that they are in the side yards are incorrect.

Mr. Gotto is looking for more clarification regarding the delineation of the wetlands and the extent of the septic areas.

The Board discusses the application further using the balancing test.

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.

The applicant had responded "no" to this question. Mr. Gotto disagrees because the proposed location of the pool is very visible from the street and there is no other such pool in 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.

The applicant had responded “no” to this question. Mr. Gotto does not agree with the applicant due to his concerns regarding the exact locations of the septic and wetlands. Ms. Donnelly is similarly concerned. Ms. Delarede confirms that these are federal wetlands.

3. Whether the requested area variance is substantial.

Ms. Donnelly finds it to be substantial because there’s a proposed pool there that would not have been there otherwise. Chair Loza asks Ms. Fuller if she has any comments. None at this time.

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

Chair Loza speaks regarding the unusual straightness of the wetlands boundary on the map. Ms. Delarede speaks regarding the age of the submitted subdivision map, which is about 20 years old, so the wetlands boundary could have shifted since then. The Building Inspector recommends that if the Board is concerned about the wetlands, the applicant can fill out a short form application and have the Wetlands Inspector visit the property at the expense of the Town and confirm the boundary.

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

Chair Loza doesn’t find it to be self-created, but the Board’s biggest concern has to do with its proximity to the wetlands.

Mr. Gotto still has questions about areas of the property that could fit the proposed pool without a requirement of the variance.

Mr. Schmitt notes that the neighbors have largely been concerned with not blocking the view, and the homeowner has addressed that.

Chair Loza rescinds the motion to close the Public Hearing and schedules a continuance of the Public Hearing to the next meeting. Mr. Esposito seconds. 5 ayes. Motion carries.

No further comments from Board members.

Adjournment

Ms. Donnelly moves to adjourn the May 12, 2021 meeting. Mr. Gotto seconds. 5 ayes. The meeting adjourns at 8:41 PM.

Respectfully submitted by,

Alana Sawchuk
Planning and Zoning Secretary

