

ZONING BOARD OF APPEALS MEETING HELD JUNE 27, 2013

PRESENT: C. Brent Elford, Chairman
Mark Marion
Michael N'Dolo
Sharon Lloyd
Sharyn Marchione

ABSENT: Village Attorney Thomas Peterson

Also Present: Terry Brown
Dave Blair
Marilyn DeLorio
Nancy Theissen
Peter Sheridan
Michael Roets
Attorney Darryl Cutler
Laura Hartnett
Sharon Walsh
John Hurley
Dominick DeLorio
Tom Bergin
Richard Theissen
Scott Rigney
Phyllis Wildberger
Linda Connors
June Barker
Carrie Woerner

Mr. Elford called the meeting to order at 7:00 P.M.

The pledge of allegiance was recited.

Appeal # 2013-04: John Hurley, 23 George Avenue, Round Lake, NY 12151

Mr. Hurley would like to connect his existing 7 foot front porch to a deck on the east side of his house. The Zoning Board Members and Mr. Hurley reviewed the plans for the connection of the porch and deck. The Zoning Board reviewed the 5 factors that must be considered for a variance.

- ***Will an undesirable change be produced in the neighborhood?***
- No, it will be attached to the existing front porch and side deck. This section will be covered and make the property fit with surrounding houses.
- ***Can the benefit be achieved by a feasible alternative?***
- *No, the porch is flush with the house.*
- ***Is the requested variance substantial?***
- No, the existing porch is 15 feet from the road.
- ***Will the proposed variance have an adverse effect on the neighborhood?***
- *No trees will be removed; no additional Stormwater will be dispersed.*
- ***Is the alleged difficulty self-created?***
- *Yes, but it is the only way to attach the front porch and the side deck.*

MOTION by Mr. Elford to approve a variance of 5 feet for the construction of an extension of the front porch to connect to the deck on the east side of the house, SECONDED by Mr. N'Dolo.

UNANIMOUSLY APPROVED

Mr. Hurley will appear before the Planning Board on July 10, 2013 for site plan review.

APPEAL # 2013- 02: Dave Blair, 26 Albany Avenue, Round Lake, NY 12151

At the last meeting the Zoning Board of Appeals granted a variance with certain conditions to Mr. Blair. If Mr. Blair was not able to meet these conditions he was to return to this meeting of the Zoning Board.

Mr. Blair is asking the Zoning Board of Appeals for the conditions to be removed. He was not able to come to an agreement with his neighbors or the Village of Round Lake.

Mr. Elford stated that the Zoning Board can hold a rehearing to review any order, decision or determination of the Board. This would require a motion of the Zoning Board of Appeals and a unanimous vote of all members of the board. The Zoning Board discussed the facts and basis on which a rehearing is allowed.

MOTION by Mr. Elford to conduct a rehearing on the Zoning Board Appeal for Dave Blair, SECONDED by Mr. Marion.

UNANIMOUSLY APPROVED

Mr. Elford asked what Mr. Blair is looking for in his rehearing?

Mr. Blair stated that he has agreed to meet with all the neighbors and to work with the neighbors on the issues that they have. Yes, he made mistakes. He asked the Code Enforcement Officer if he could add a garage and requested his opinion. Mr. Blair was not able to get an easement from the Village for the front of the house. He was not able to get an agreement from the Wildbergers. Mr. Blair met with them as recent at 5 pm tonight. The Vallenga told him to come back when he has an agreement from the Village and the Wildbergers.

Mr. Blair commented that he has found a law: NY Code-Section 881: Access to adjoining property to make improvements or repairs. This law would allow Mr. Blair to petition the court or justice for the right to go onto neighboring property to make improvement or repairs to his house. . The ZBA members were provided with copies of said law.

Mr. Elford stated that Mr. Blair needs to be very specific with his request for a variance. The request is on the rear side from 30 feet to 0 variance; on the east side from 10 feet to 2 feet; coverage from 63% to 75%. The fire rated siding needs to be installed on the rear and east side. The windows on the rear of the house need to be removed.

Mr. N'Dolo asked if at any time prior to December when the architect or engineer was involved in the project, they visited the site.

Mr. Blair replied yes.

Mr. N'Dolo commented that he is surprised that he didn't comment on the house or identify any of the issues, such as fire codes, Stormwater or encroachment.

Mr. Elford opened the meeting for public comments.

Mr. DeLorio commented that the garage has a high lip on the front. Is Mr. Blair going to use the garage for a car?

Mr. Blair replied that he is open to make the garage safe to use. There could be an encroachment issue, have to make it work.

Mr. DeLorio commented that he can't use the garage without a ramp into the space.

Scott Rigney commented that the former owner parked where the garage is now.

There is a dispute on which property some trees are located, the neighbor claims that their trees were damaged when the foundation was dug.

The Wildbergers are also claiming that there has been damage done to their foundation. Mr. Blair claims that he has photos of the foundation prior to construction of the house. Mr. Blair claims that the crack was in the Wildbergers foundation before construction of the foundation for his house.

MOTION by Ms. Lloyd that Dave Blair, the applicant and owner of the house at 26 Albany Avenue, which is too big for the lot, tear down the house, and then start over with a suitable house to be built. Does the house represent an undesirable change in the neighborhood- Yes; Can the benefit be achieved by an alternative to the variance- Yes: Is the variance substantial – Yes; Is this an adverse impact on the physical or environmental conditions in the neighborhood – Yes: Is the difficulty self-created - Yes SECONDED by Mr. Marion.

Discussion: Mr. DeLorio commented that the motion is not valid. The Zoning Board can deny a variance but they have no authority to direct the owner to tear the house down.

Chairman Brent Elford agreed with Mr. DeLorio.

Richard Theissen commented that the zoning laws require a parking space on the property for new construction. It appears that the garage is not usable. Are the set-backs for the house appropriate? The Village Attorney should put his opinion in writing for the next ZBA meeting.

Mr. DeLorio commented that the Attorney will decline stating that communications are confidential.

Sharon Walsh, 13 Lake Avenue, said there was never a problem with on the west side of her property. She is very concerned now because there is always water on her property now. She does not feel that the ZBA has been unreasonable; the neighborhood needs to have balance.

Vote: Ms. Lloyd – Yes
Mr. Marion – no
Mr. Elford – no

Mr. N'Dolo – no
Mrs. Marchione – no

MOTION NOT APPROVED

Chairman Elford commented that since the Zoning Board of Appeals is without the benefit of the Village Attorney, the hearing will be continued on July 25, 2013.

MOTION by Mr. Elford to adjourn the meeting at 8:25 P.M.

Meeting adjourned

Respectfully submitted,

Lois J. Whitbeck,
Village Clerk