

TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518) 694-4011 FAX (518)477-2386

MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES SEPTEMBER 12, 2017

Members

Jeff Pangburn, Chairman
Joyce Lapham
Kurt Bergmann
John Conway, Jr
Matt Ostiguy
Bob Seward III
Domenico Pirrotta

Also Present:

George Hoffman, Attorney
Kateri Rhatigan, Stenographer

CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Pangburn called the meeting to order and determined a quorum of seven (7) members were present. Introductions were made.

OLD BUSINESS:

Reconvene ZBA Appeal #2017-11– O’Reilly’s Auto Parts Store –Iroquois Place – 5 Area Variances for the proposal to construct a single story 7,500 square foot auto parts store.

Rob Osterhout from Bohler Engineering was present on behalf of the applicant regarding the proposal to construct a 7,500 square foot auto parts store. Rob stated that they were last in front of the Board in June. The site is located in the B-1 zone and they are requesting 5 Area Variances. The building would front on both Troy Road & Iroquois Place and access would be off of Iroquois Place with two access points, one would line up with one of the True Value access drives. The loading zone would be in the rear of the building and parking would be in the front of the building on Iroquois Place, there would be a sidewalk connection to Troy Road. An enclosed dumpster would be in the rear of the building. They will be landscaping on Iroquois Place and around the building. The application is proposing an unoccupied space (false 2nd story/parapet). The applicant is still seeking relief from habitable space requirements. Rob submitted a building elevation and a photo which Chairman Pangburn marked as exhibit #'s 2017-11A & 2-17-11B. Chairman Pangburn asked the Board if anyone had any questions.

- Kurt Bergmann asked if someone is going south on Route 4, he is concerned on how the back will look. Rob stated they will see what's labeled as rear exterior elevation.
- Chairman Pangburn asked for clarification if there is glass or windows up top, can you see through them & what is immediately north of the site. Rob stated that no, you can't see through them, their false windows and that the transmission lines are north. Chairman Pangburn stated that the trail is proposed between the school and this site. Rob stated that the front yard setback is a maximum of 15'. The building setback is further due to the grade change from Troy Road.
- Matt Ostiguy asked if the building is at 15' wouldn't the parking be visible. Rob stated from Iroquois Place yes, but not from Troy Road. Chairman Pangburn asked if there was anyone in the public who wanted to speak in favor of or opposition to the application. There was no one present to speak in favor or opposition.

Motion by Bob Seward III to close the public hearing. Seconded by John Conway.
Motion carried by a 7-0 vote.

PUBLIC HEARINGS:

ZBA Appeal # 2017-19-Garcia-40 Robin Lane- 3 Area Variances for the construction of a 30' x 30' detached accessory structure in the side yard.
The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- Planning Board Recommendation and supplemental report by Jim Moore
- ZBA Application, Authorization Form, Short EAF, Denial, Area Variance Criteria, Bldg. Permit Application

Jenny Garcia of 40 Robin Lane presented the proposal to the Board. Chairman Pangburn asked the applicant to address the Area Variance Criteria. Jenny Garcia addressed the area variance criteria and stated that she had a 10' x 16' and a 10' x 12' shed that she took down and wanted to replace with a bigger structure. Chairman Pangburn asked the Board is anyone had any questions.

- He started by confirming that she originally had two separate sheds. Jenny stated that was correct.
 - Bob Seward asked if the two sheds existed now. Jenny stated that no, she has removed them.
 - Domenico Pirrotta asked when the two sheds were removed & if the new shed was pre-fab. Jenny stated that she removed them last year & that the new shed would be built on site.
 - John Conway asked if her current configuration of the new shed was to complete a rectangle. Jenny stated that is correct as the other two made an "L" shape, she just included an additional two feet.
 - Bob Seward asked how tall the previous two structures were. Jenny stated she didn't know.
 - Matt Ostiguy asked if she was aware of any similar sheds. Jenny stated that she has a corner property so she can't see into any other yards.
 - John Conway asked if the previous sheds square footages were between approximately 280 square feet and 600 square feet. Jenny stated that she basically needs the same square footage as she has pool and yard equipment and needs the space.
- Chairman Pangburn stated that in the sense of scale it looks like a garage. The Planning Board and neighbors feel the same way. This Board can grant a lesser variance than what's being requested and asked Ms. Garcia if there was a smaller size that she could work with. Jenny stated that she is willing to go smaller but not too much smaller. Jenny stated that there will just be one window on each side and the doors would be facing her back yard, she stated she will completely fence in the side yard when the shed is completed. Chairman Pangburn stated that a 16'x22' (325 sq.ft) would be more reasonable.

• Domenico Pirrotta stated that she has a beautiful property and asked if there is any vegetation left. Jenny stated that there is just grass.

Chairman Pangburn asked the Board if anyone had any more comments or questions. There were none. He entered five letters into the record.

- A letter dated 9/7/17 from the Faas's at 42 Robin Lane.
- A letter dated 9/7/17 from the McBride's at 30 Robin Lane.
- A letter dated 9/10/17 from the Roche's at 36 Robin Lane.
- A letter dated 9/11/17 from the Heckman's at 55 Robin Lane.
- A letter dated 9/12/17 from the Donovan's at 49 Robin Lane.

Chairman Pangburn asked if there was anyone in the public who wanted to speak in favor of or opposition to the application. There was no one present to speak in favor or opposition. Chairman Pangburn asked if there was anything further from the applicant or Board. There was none.

Motion by Matt Ostiguy to close the public hearing. Seconded by Domenico Pirrotta.
Motion carried by a 7-0 vote.

SEOR DETERMINATIONS & RECOMMENDATIONS:

In regards to **ZBA Appeal #2017-11– O’Reilly’s Auto Parts Store –Iroquois Place – 5 Area Variances for the proposal to construct a single story 7,500 square foot auto parts store.**

The Zoning Board of Appeals has determined that this is an Unlisted Action is progressing an uncoordinated review under SEQRA, and declares itself the Lead Agency.

Motion by: Chairman Pangburn;
Second by: Kurt Bergmann (*Discussion*)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

MOTION: In regards to **ZBA Appeal #2017-11– O’Reilly’s Auto Parts Store – Iroquois Place – 5 Area Variances for the proposal to construct a single story 7,500 square foot auto parts store.** The Town of East Greenbush Zoning Board of Appeals hereby determines, based on the information and analysis submitted for Part 1 of the Short Environmental Assessment Form and other materials submitted by the project sponsor, or otherwise available to the reviewers, and after careful review of Part 2 – Impact Assessment, that the proposed action will not result in any significant adverse environmental impacts.

Motion by: Chairman Pangburn;
Second by: Matt Ostiguy (*Discussion*)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway Jr.	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

ZBA Appeal # 2017-19-Garcia-40 Robin Lane- 3 Area Variances for the construction of a 30' x 30' detached accessory structure in the side yard.

This is a type II Action-there is no further action necessary.

WORKSHOPS:

ZBA Appeal #2017-11- O'Reilly's Auto Parts Store -Iroquois Place - 5 Area Variances for the proposal to construct a single story 7,500 square foot auto parts store.

Resolved, That the Board of Appeals makes the following findings of fact with regards to the proposed construction of a proposed 7,500 square foot retail building; with a false second story:

1. There will not be an undesirable change in the character of the existing neighborhood as surrounding buildings are mostly one story; however it is inconsistent with the B-1 code.
2. There are other methods available to the applicant as a multi-story building could be constructed on the site.
3. The requested variance is substantial as the code requires a habitable second story.
4. The proposed variance will have an adverse effect on the proposed neighborhood standards.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variances.

Resolved, that the application for the construction of a proposed 7,500 square foot retail building with a false second story be DENIED.

This resolution was moved by Jeff Pangburn and seconded by Matt Ostiguy at a meeting duly held on September 12, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

Resolved, That the Board of Appeals makes the following findings of fact with respect to the proposed building with an abutting yard of 19.7':

1. There will not be an undesirable change in the character of the neighborhood as the subject yard is a utility corridor and is proposed to maximize the front yard.
2. There are other methods available to the applicant; however this proposal seeks to maximize the front yard landscaping.
3. The requested variance is not substantial as neighboring property is a utility corridor and this is a reduction of approximately six feet.
4. The proposed variance will not have an adverse effect on the neighborhood as subject yard again is a utility corridor.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, **that the application for the proposed building with an abutting yard of 19.7' be GRANTED without conditions.**

This resolution was moved by Jeff Pangburn and seconded by John Conway at a meeting duly held on September 12, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

Resolved, That the Board of Appeals makes the following findings of fact with respect to the proposed building with a front setback on Troy Road of 91.6' and 69' on Iroquois Place:

1. There will not be an undesirable change in the character of the neighborhood as several adjacent parcels have significant setbacks. The Troy Road setback is due to the topography of the site. While the Iroquois Place setback is due to the single row of parking and maximizing landscaping along the frontage.
2. There are other methods available to the applicant however the site plan as proposed needs to strike a balance due to topography and access.

3. The requested variance is substantial however it is required due to topography and the aforementioned site design.
4. The proposed variance will not have an adverse effect on the neighborhood as the Troy Road frontage will be landscaped and Iroquois Place has been minimized to account for only one row of parking and landscaping.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, **that the application for the construction of a proposed 7,500 square foot retail building with a front setback on Troy Road of 91.6' and 69' on Iroquois Place be GRANTED.**

This resolution was moved by Jeff Pangburn and seconded by Matt Ostiguy at a meeting duly held on September 12, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>No</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-1

Resolved, That the Board of Appeals makes the following findings of fact with respect to the proposal for parking in the front yard:

1. There will not be an undesirable change in the character of the neighborhood as surrounding parcels have front yard parking and the Troy Road front yard will not have parking.
2. There are other methods available to the applicant however this proposal is consistent with retail tenant request.
3. The requested variance is not substantial due to the unique nature of the site having two front yards.
4. The proposed variance will have an adverse effect on the proposed neighborhood conditions; however this one front yard is a balancing to Troy Road.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for the proposal for parking in the front yard be GRANTED with the following conditions:

1. It be limited to one row of parking only in front of the retail use.
2. The minimum yard variance be maintained.

This resolution was moved by Jeff Pangburn and seconded by Matt Ostiguy at a meeting duly held on September 12, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>No</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-1

Resolved, That the Board of Appeals makes the following findings of fact regarding the rear yard setback:

1. There will not be an undesirable change in the character of the neighborhood as the proposed shed would be no closer to the rear property line than the previously existing structures.
2. There are other methods available to the applicant, however in order to replicate the existing storage capacity and align with the backyard pool it needs this variance.
3. The requested variance is substantial due to the size of the accessory structure; however it replicates prior conditions and essentially matches the setback requirement for a smaller accessory structure.
4. The proposed variance will not have an adverse effect on the neighborhood as it is consistent with the former shed setbacks.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for the proposal to construct a detached accessory structure no closer than 5.7 feet from the rear property line be GRANTED.

This resolution was moved by Jeff Pangburn and seconded by Domenico Pirrotta at a meeting duly held on September 12, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>No</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>No</u>

Motion carried 5-2

ZBA Appeal # 2017-14-Heizman-516 Third Avenue Ext.- Area Variance for sign for Home Occupation

Resolved, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as this property is surrounded by much larger commercial uses with larger commercial signs.
2. There are other methods available to the applicant however this sign will be used for way finding of customers on the adjacent 45 mph state highway.
3. The requested variance is not substantial as the sign will be much smaller than surrounding signs.
4. The proposed variance will not have an adverse effect on the neighborhood as again the parcel is located in a more commercial setting.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, that the application for the proposal to install a 8 square foot free standing sign in the front yard be **GRANTED with NO conditions.**

This resolution was moved by Jeff Pangburn and seconded by Matt Ostiguy at a meeting duly held on September 12, 2017.

(Discussion)

A vote was taken as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Abstain</u>
Bob Seward III	<u>Yes</u>

Motion carried 6-0-1

Chairman Pangburn stated that he received a letter today, which he read into the record from Tim Nugent who is the attorney for William Cleary in regards to ZBA Appeal #2017-08 – Cleary –Start Avenue - Area Variance for the proposal to construct on an undersized lot without the required frontage. The letter stated that the applicant is repealing the decision of the Zoning Board of Appeals. After reading the letter Chairman Pangburn asked Tim Nugent to speak in regards to the letter submitted. Chairman Pangburn stated that the vote would have to be unanimous to rehear the appeal.

Motion by John Conway to rehear the appeal. Seconded by Domenico Pirrotta. Motion as follows:

Kurt Bergmann	<u>Yes</u>
John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>No</u>
Jeff Pangburn	<u>No</u>
Domenico Pirrotta	<u>Yes</u>
Bob Seward III	<u>No</u>

Motion failed 4-3 vote.

NEXT MEETING: The September 26, 2017 meeting is cancelled.

APPROVAL OF MINUTES:

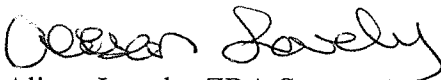
Motion by Kurt Bergmann to approve the meeting minutes from the July 25, 2017 meeting. Seconded by John Conway. Motion carried by a 5-0-2 vote. Bob Seward III and Domenico Pirrotta abstain.

Motion by John Conway Jr. to approve the meeting minutes from the August 8, 2017 meeting. Seconded by Joyce Lapham. Motion carried by a 6-0-1 vote. Domenico Pirrotta abstains.

MOTION TO ADJOURN

There being no further business before the Board, the meeting was adjourned upon a motion by Bob Seward III. Seconded by John Conway. Motion Carried by a 7-0 vote.

Respectfully Submitted


Alison Lovely, ZBA Secretary