

# 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 DECEMBER 14, 2021

#### **Members**

Jeff Pangburn, Chairman  
Bob Seward III  
Scot Strevell  
Tom Hickey

#### **Also Present:**

William Hessney, Attorney  
Alison Lovely, Zoning Board Secretary  
Kateri Rhatigan, Stenographer  
Adam Yagelski, Director of Planning & Zoning

#### **CALL TO ORDER / DETERMINATION OF QUORUM**

Chairman Pangburn called the meeting to order and determined a quorum of four (4) members were present. Matt Ostiguy was absent.

#### **PUBLIC HEARINGS:**

**ZBA Appeal #2021-13-Benoit – 416/418 Hays Road- Area Variances-Proposed two lot major subdivision to separate a parcel with two single family dwellings on it.**

Chairman Pangburn referenced the following as being in the record:

- Legal Notice-was read above

Chairman Pangburn stated that before going through the rest of the materials in the packet, he just wanted to clarify that this is a coordinated SEQR review where the Planning Board has been determined to be the Lead Agent, so this Board will not be able to act on the application until SEQR is closed out by the Planning Board and referred back to the Zoning Board.

- Rensselaer County Recommendation
- Planning Board Recommendation & member report & recommendation by Matt Mastin
- ZBA Application, Authorization Form, Short EAF, Denial, Area Variance Criteria
- Bldg. Permit Application

John Benoit stated that he purchased 416 & 418 Hays Road and the property is in a bit of disrepair & he is hoping that they can separate the properties. He said it's difficult for someone to get a mortgage for two houses on one piece of property. John Benoit stated he's hoping to get the variances in order to separate the two lots. John Benoit stated that so far no one wants to look at the property with two houses on one deed. John Benoit stated he did look at other ways to get road frontage but it wasn't feasible so that's why he's asking for the variances for the frontage. John Benoit stated that the two homes are very close together, it is zoned A-R but he wouldn't put livestock there as it's too close to the train tracks.

Chairman Pangburn asked the applicant if he stated that he purchased the property with the two homes on it & the intent to subdivide it. John Benoit stated that is correct.

Chairman Pangburn asked if both houses had been upgraded as single family homes.

John Benoit stated that originally both houses were on one well, but there are two wells on the property so they have been separated, now each house has its own well & septic. Chairman Pangburn asked if both the wells & septic's have been approved by Rensselaer County. John Benoit stated they are working on another septic in the future if the one in the front fails, but things are backed up and are still waiting back, as they have drawing under review. John Benoit introduced his surveyor Drew Schauffert from Santos.

Chairman Pangburn asked the Board if anyone had any questions.

- Bob Seward III asked if the application had any intention of living there himself. John Benoit stated that no he just works flipping houses.

- Bob Seward III asked if the person he bought it from the houses were both on a single lot and on one deed since like the 1940's. John Benoit stated that is correct.

- Tom Hickey asked about the one setback on parcel one, when subdivided creates a 46' setback on the right side. It appears the well is 4' further, why didn't you make it 50'. Tom Hickey asked when he bought it did he realize that he would need that many variances. John Benoit stated that he wanted to give the person enough room to work on the well & he knew he would need a couple but didn't realize that many.

Chairman Pangburn asked how he was addressing not having frontage on a Town Road. John Benoit stated that he looked at both sides of the property and on the right side if he gave a flag lot to the back owner then it would give both wells to one owner and the left side goes off a cliff. John Benoit stated that they could do a flag lot but would it be usable as a driveway as the property drops right off.

Chairman Pangburn asked how the applicant was preserving access to the second lot.

John Benoit stated that they will have an easement to share the driveway. Drew Schauffert from Santos stated that there is a note on the drawing.

Chairman Pangburn asked how he is codifying the requirement to share maintenance & snow clearing. Drew Schauffert from Santos that there is a note on the map in regards to the above.

- Tom Hickey asked though that the above will also be in the deed. John Benoit stated that was correct.

Chairman Pangburn asked if for the rear setback that the distance was just split between the two houses. John Benoit stated yes.

Chairman Pangburn asked if the applicant was proposing anymore construction outside of the two footprints of the two homes. John Benoit stated no, the construction was finished on the rear lot which is 418 Hays Road four months ago and the front parcel which is 416 Hays Road was just finished yesterday.

- Tom Hickey stated that if you go to google map on this it references a 420 Hays Road and is all the way back to the property and asked if there is anything the applicant has referenced in regards to if that was also referenced in the frontage. Drew Schauffert stated that there is a water fall all the way to the rear and a culvert that goes under the railroad tracks, he said there is no way to drive back further.

Chairman Pangburn stated that the lot size plays out just by splitting the difference between the two homes and the two wells. John Benoit stated that is correct, the wells are very close, there is also a pole barn, chicken coop and a workshop on the rear lot.

- Tom Hickey stated that on the map it references "Deed Parcel #2" and asked if it was currently two parcels. Drew Schauffert stated that it's the large one which is like 3.8 acres and a small one in the back by the creek, so when he did the survey he shows how the two deed parcels fit together. Deed Parcel #2 will be part of subdivision parcel #2.

- Tom Hickey asked then if there are 3 deeds or 3 parcels. John Benoit stated that the no, that will be put on the back deed as only one parcel not two.

- Scot Strevell asked as part of 418 Hays. Drew Schauffert & John Benoit stated yes.

- Tom Hickey stated that's most likely the 420 Hays Road that was mentioned prior.

Chairman Pangburn asked the Board if there was anything else from the Board. There were no more questions by the Board.

Chairman Pangburn asked what the condition/material of the older driveway going. John Benoit stated that it's an older macadam driveway & when it gets past the second house it becomes a dirt road that goes back to the pole barns & workshop. Chairman Pangburn asked for clarity that the macadam carries all the way back to the second house (418 Hays). John Benoit stated that it does.

Chairman Pangburn asked if anyone in the public wished to speak.

-Dave Terpening commended that the first time the Planning Board report was made public was when it was an attachment to this meeting. Chairman Pangburn asked for clarification that tonight was the first time that the Planning Board report was made available. Dave Terpening stated that is correct. Dave Terpening stated that it was discussed at the Planning Board meeting but wasn't made available to the public. Dave Terpening wanted to compliment Matt Mastin on the very comprehensive, very detailed report he did. Dave Terpening stated that one question he has is that with all these variances, will that set a precedent for other applicants with the same situations. Dave Terpening stated that his second question is that is this going to affect any emergency services and them needing to access the property and also that the Board asked some very good questions.

Chairman Pangburn stated that every decision the Board makes has the potential to set some sort of precedence, every application is treated individually & focused on the details of each application individually. The applicant did attend a Project Review Team meeting where emergency services was brought up. The houses are close together so it shouldn't effect he way emergency services responds.

Motion by Chairman Pangburn to table the public hearing until SEQR is available.  
Seconded by Bob Seward III. Motion carried by a 3-0 vote.

**SEOR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal #2021-13-Benoit – 416/418 Hays Road- Area Variances-Proposed two lot major subdivision to separate a parcel with two single family dwellings on it.**  
Awaiting Planning Board (Lead Agent) Determination

**WORKSHOPS:**

NONE

**NEXT MEETING:** The next scheduled meeting is December 28, 2021.

**APPROVAL OF MINUTES:**

Motion by Tom Hickey to approve the October 26, 2021 meeting minutes. Seconded by Scot Strevell. Motion carried by a 4-0 vote.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Bob Seward III. Seconded by Chairman Pangburn. Motion Carried by a 4-0 vote.

Respectfully Submitted

*Alison Lovely*  
Alison Lovely, ZBA Secretary