

# 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 NOVEMBER 26, 2019

#### **Members**

Jeff Pangburn, Chairman  
Bob Seward III  
Scot Strevell  
John Conway Jr.  
Tom Hickey

#### **Also Present:**

William Hessney, Attorney  
Alison Lovely, Zoning Board Secretary  
Kateri Rhatigan, Stenographer

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

Chairman Pangburn called the meeting to order and determined a quorum of five (5) members were present. Matt Ostiguy & Dan Smith were both absent. Introductions were made.

#### **PUBLIC HEARINGS:**

#### **Reconvene ZBA Appeal #2018-02– Heritage Hills/Amedore/Glaz–Old Couse Road/Newkirk Road-4 Area Variances, proposes the construction of 3 apartment buildings each 47.3’ tall on one lot.**

Chairman Pangburn reopens the public hearing and stated that four of the members were present initially, there is one new member Tom Hickey who hasn't seen this project before. The public hearing was tabled awaiting a SEQR Determination by the Town Board. Brett Steenburgh stated that this is the same plan that was submitted a year ago. John Bossolini from Amedore Homes was also present. Brett Steenburgh stated that the first most major variance was for building height for each of the buildings. They wanted to not have to clear a lot of the site, so they opted to go to a three story building concept with a garage level under each building. They think one large building would like a hospital. Each building would house seniors in apartments. There are 36 parking spaces proposed for each building. The proposal is a more compact design with parking under each building. They wanted to maintain as much of a buffer and greenspace as possible. Brett Steenburgh stated that the conifer trees have been adjusted to be planted to the rear of the buildings and the buildings have been moved more northeast to leave more of a buffer on Newkirk Road. The other variance is for the three structures on one site. There were only minimal changes, technical & engineering to the plans. Chairman Pangburn asked if anyone had any questions.

•John Conway Jr. is the height is still the same as what was proposed last time. Brett Steenburgh stated that's correct. Chairman Pangburn asked if the height was what was mentioned to the Town Board and Planning Board members. Brett Steenburgh stated that is correct. Chairman Pangburn asked Brett to talk about pedestrian access and sidewalks. Brett Steenburgh stated that the connection of Newkirk Road to Luther Road has poor sight distance, so with discussions with DPW it's been determined that they will close off Newkirk Road and landscape the end of it. There will be sidewalk connectivity on Michael Road with sidewalks on the west side.

Chairman Pangburn asked about topography and that the evergreens were moved to help shield neighbors. Brett Steenburgh stated yes and that there are many mature trees on the site that will be left.

•John Conway Jr. asked for confirmation that the traffic light is at Luther & Michael Road and they are cutting off Newkirk Road and the other end of Newkirk Road is a dead end. Brett Steenburgh stated that is correct.

•Bob Seward III stated to refresh his memory, the buildings will be 47.3' tall. Brett Steenburgh stated that is correct.

•Tom Hickey stated that for his references, there are 4 Area Variances, 3 for height and 1 for having 3 principal buildings on one lot. Chairman Pangburn stated that it's more expensive to build three buildings instead of one large structure. The R-2 zone allows 6 units per acre.

•John Conway Jr. asked what the bedroom mix would be within the buildings. Brett Steenburgh stated that it will mostly be 1 & 2 bedrooms, heavy on the 2 bedroom units. John Conway Jr. asked what the definition they were using for the elderly. Brett Steenburgh stated what the Town Code defines, 62 & older.

Chairman Pangburn asked if they had the rough number of units that this would support in the R-2 zone if single family homes were built. Brett Steenburgh stated about 102 s.f. dwellings.

Chairman Pangburn stated slightly less density than an R-2 development, they could have 102 s.f. dwellings and you're proposing having 96 units. Brett Steenburgh stated that is correct.

Chairman Pangburn asked if anyone had anything else. There was nothing from the Board. Chairman Pangburn asked if there is anything from the public. There was nothing.

Motion by Bob Seward III to close the public hearing. Seconded by Scot Strevell. Motion carried by a 5-0 vote.

**ZBA Appeal #2019-16–Merckx–5 Van Buren Avenue–2 Area Variances–  
Proposed Garage that doesn't meet the side & rear setback.**

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Area Variance Criteria
- Bldg. Permit Application & Authorization Form
- Planning Board Recommendation with supplemental report by Don Pantoni

Daniel Merckx showed the Board a picture of the current garage & stated that he wants to move the location of the garage over to the other side of the property for better access from his driveway. He's also lowering the height of the proposed garage. Daniel Merckx stated that the neighbors who will be closest to the proposed garage are present if there are any questions. Daniel Merckx went over the five Area Variance criteria. Daniel Merckx stated that his property is under ¼ acre, so the third bay will be 8' wide and will replace the need for a shed. Daniel Merckx stated that his current garage is starting to lean.

Chairman Pangburn asked if there were any questions from the Board.

•Bob Seward III asked what the setbacks were for the existing garage. Daniel Merckx stated that the existing 24 ½' x 24 ½' feet garage has a 5' rear and a 5' side setback. He stated that he's not changing the footprint of the existing garage or driveway at all.

•Tom Hickey asked what the width of the lot is. Daniel Merckx stated that it's 53 1/2' wide and 182' long.

Chairman Pangburn asked if the foundation will start where the pavement ends. Daniel Merckx stated that is correct.

•Scot Strevell stated that he's changing the setback from 5'.3" to 3' for better ingress and egress. Daniel Merckx stated that's what he'd like to do. He spoke with his neighbors and they don't have any issues with it.

Chairman Pangburn asked if the Masonic Lodge owns the property behind him. Daniel Merckx stated that is correct.

•Bob Seward III asked what type of properties is to the left and right of him. Daniel Merckx stated that they are both residences.

•Tom Hickey stated that a 53 1/2' lot backing out the 36' leave 17 1/2', so it's capable of putting a 36' garage in you would still have 8 3/4' on each side. It's just to line it up on the driveway. Daniel Merckx stated that is correct, he currently has to do a 3 point turn to get into the garage and his wife has to do (3) 3 point turns to get the angle right to back into the garage.

•John Conway Jr. asked if the new garage will be larger by 8'. Daniel Merckx stated that the new garage is 12' wider. John Conway wanted to confirm that it looks as if there's a split rail fence at the rear of his property and that is the rear of your property, then a small clearing to the Masonic Lodge. Daniel Merckx stated that is correct, there's a small clearing of about 16' and then a wood line and then the Masonic Lodge's property.

Chairman Pangburn asked if there was anything else.

•Tom Hickey asked if anyone knew when the garage was built originally and if the garage is on the original footprint & if a variance is even necessary. Daniel Merckx stated that the house was built between 1948 & 1950 so he's not sure. Chairman Pangburn stated that existing one probably is, but the new one would need the variance due to existing setbacks.

Chairman Pangburn asked if the side door to the garage is on the tight side & that's the shed side also. Daniel Merckx stated that no, he's got about 17' on the side with the door & yes that's the side with the shed on it.

Chairman Pangburn asked if there was anything else from the Board. There was not.

Chairman Pangburn asked if there was anything from the public. There was nothing.

Motion by John Conway Jr. to close the public hearing. Seconded by Tom Hickey.  
Motion carried by a 5-0 vote.

**SEQR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal #2018-02– Heritage Hills/Amedore/Glaz–Old Couse Road/Newkirk Road-4 Area Variances, proposes the construction of 3 apartment buildings each 47.3' tall on one lot.**

Chairman Pangburn stated that a coordinated SEQR review was done, the Town Board was the Lead Agency and they issued a SEQR Negative Declaration on 11/20/19 which is hereby entered into the record.

**ZBA Appeal #2019-16–Merckx–5 Van Buren Avenue-2 Area Variances-Proposed Garage that doesn't meet the side & rear setback.**

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

**WORKSHOP:**

**ZBA Appeal #2018-02– Heritage Hills/Amedore/Glaz–Old Couse Road/Newkirk Road-4 Area Variances, proposes the construction of 3 apartment buildings each 47.3’ tall on one lot.**

**Resolved,** That the Board of Appeals makes the following findings of fact regarding the 3 Area Variances for construct (3) apartments buildings each with a height of 47.3’:

1. There will not be an undesirable change in the character of the neighborhood as site design has minimized the footprint & preserves the majority of greenspace on the parcel.
2. There is no other method available to the applicant as the three buildings minimize the size of one overall building and is less than would be allowed by right in the R-2 residential district development and the height of the buildings minimizes the footprint of the development on the parcel again.
3. The requested variance is not substantial as many more single family units could be built on individual parcels on that project site & the height variance is due to an additional story underneath the building but has been minimized by the topography of the land.
4. The proposed variance will not have an adverse effect on the neighborhood as the buildings are built on the lower part of the lot, have landscaping preservation along the property lines, and sight distance to the buildings have been minimized.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variances.

**Resolved,** that the application for 3 Area Variances to construct (3) apartment buildings each with a height of 47.3’ be GRANTED with no conditions.

This resolution was moved by Jeff Pangburn and seconded by John Conway Jr. at a meeting duly held on November 26, 2019.

A vote was taken as follows:

John Conway	<u>Yes</u>
Matt Ostiguy	<u>Absent</u>
Tom Hickey	<u>Abstain</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Yes</u>
Dan Smith	<u>Absent</u>
Scot Strevell	<u>Yes</u>

Motion carried 5-0

**Resolved**, That the Board of Appeals makes the following findings of fact regarding the area variance to construct three apartment buildings on one lot:

1. There will not be an undesirable change in the character of the neighborhood as site design has minimized the footprint & preserves the major of greenspace on the parcel.
2. There is no other method available to the applicant as the three buildings minimize the size of one overall building and is less than would be allowed by right in the R-2 residential district development and the height of the buildings minimizes the footprint of the development on the parcel again.
3. The requested variance is not substantial as many more single family units could be built on individual parcels on that project site & the height variance is due to an additional story underneath the building but has been minimized by the topography of the land.
4. The proposed variance will not have an adverse effect on the neighborhood as the buildings are built on the lower part of the lot, have landscaping preservation along the property lines, and sight distance to the buildings have been minimized.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variances.

**Resolved**, that the application for an Area Variance to construct (3) apartment buildings on one lot be GRANTED with no conditions.

This resolution was moved by Jeff Pangburn and seconded by Scot Strevell at a meeting duly held on November 26, 2019.

A vote was taken as follows:

John Conway	<u>Yes</u>
Matt Ostiguy	<u>Absent</u>
Tom Hickey	<u>Abstain</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Yes</u>
Dan Smith	<u>Absent</u>
Scot Strevell	<u>Yes</u>

Motion carried 5-0

**ZBA Appeal #2019-16–Merckx–5 Van Buren Avenue-2 Area Variances-Proposed Garage that doesn’t meet the side & rear setback.**

**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 the garage replaces an existing garage, although be it slightly larger and on the opposite side of the lot.

2. There is no other method available to the applicant as the shape of the existing rear yard and driveway requires the garage to be slid over to near the right side property line and the property owner is maintaining the same rear setback, in order to be able to access the center bay of the garage.
3. The requested variance is not substantial on the side yard, if maintained as five feet, however it will be substantial in the rear yard being five foot out of twenty five foot as required, however we have not heard any objections from the rear property which is a commercial property fronting on Routes 9 & 20, and a large undeveloped parcel & the existing structure is at five feet.
4. The proposed variance will not have an adverse effect on the neighborhood as it is mostly a replacement of an existing garage and the existing size will actually replace the need to add a shed to the property.
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 26' x 36' garage with a rear setback of 5' and a side setback of 5' be GRANTED with no conditions.**

This resolution was moved by Jeff Pangburn and seconded by Scot Strevell at a meeting duly held on November 26, 2019.

*(Discussion)*

A vote was taken as follows:

John Conway	<u>Yes</u>
Matt Ostiguy	<u>Absent</u>
Tom Hickey	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Yes</u>
Dan Smith	<u>Absent</u>
Scot Strevell	<u>Yes</u>

Motion carried 5-0

**NEXT MEETING:** The next meeting is on December 10, 2019

**APPROVAL OF MINUTES:**

Motion by John Conway Jr. to approve the meeting minutes from the November 12, 2019 meeting. Seconded by Bob Seward III. Motion carried by a 4-0-1 vote. Tom Hickey abstained.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Scot Strevell. Seconded by John Conway Jr. Motion Carried by a 5-0 vote.

Respectfully Submitted



Alison Lovely ZRA Secretary