

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

### EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES July 25, 2017

#### **Members**

Jeff Pangburn, Chairman  
Joyce Lapham  
Kurt Bergmann  
John Conway, Jr  
Matt Ostiguy

#### **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 six (5) members were present. Domenico Pirrotta and Bob Seward III were absent. Introductions were made.

#### **OLD BUSINESS:**

NONE

#### **PUBLIC HEARINGS:**

**ZBA Appeal # 2017-15-Tibbits-24 Linden Avenue- 2 Area Variances for the proposal to construct on an undersized lot and side setback.**

**The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendation
- Planning Board Recommendation was not provided.
- ZBA Application, Authorization Form, Short EAF, Denial, Area Variance Criteria, diagram of location of proposed house, Bldg. Permit Application

Ed Brozowski from E.W. Birch Builders represented the applicant, Trent Tibbits regarding the application. The proposal is to build a single family home which has 60' of frontage instead of the required 75'. Ed Brozowski stated that most of the properties in the area are undersized as well. The applicant is also asking for a 5' side setback as they only have 3'. There is also a Town's storm sewer on the property but the applicant couldn't find any records of an easement or right of way. Ed Brozowski addressed the Area Variance criteria. Chairman Pangburn asked the Board if anyone had any questions.

•Chairman Pangburn asked if the requested for the side setback is between the existing Tibbits house and the new proposed house? Ed Brozowski stated that is correct.

•Kurt Bergmann asked if the pipe was still active. Ed Brozowski stated that it's a storm sewer.

•John Conway Jr. asked if the applicant's representative could discuss some of the issues in regard to building a narrower house, since it's a long narrow lot. Ed Brozowski stated that the house couldn't be made any more narrower, then it would only be a two or three bedroom house and the proposal is for a four bedroom house. John Conway asked what the width of the proposed house is. Ed Brozowski stated that the width of the house is 41 feet. John asked if this was along Linden Avenue, Ed Brozowski stated that's correct, that's the frontage.

- Chairman Pangburn asked the applicant to clarify that this proposed house includes a garage & asked the applicant to point to it on the plan. Ed Brozowski stated that's correct.

- Kurt Bergmann asked for the square footage of the proposed house & how many stories the house is. Ed Brozowski stated that the living space is 1,860 square feet and two stories.

- Chairman Pangburn asked the applicant if he has built approximately three homes in the same area within the last year and if so what the approximate width is for those lots. Ed Brozowski stated that they were 90' wide and 75' deep, and those houses were 46 feet deep. Chairman Pangburn stated that he remembered a few lots were combined.

- John Conway Jr. asked if the plans for the Mould's Avenue side of the house is just a back yard. Ed Brozowski stated that is correct.

- Matt Ostiguy stated that heard the applicant stated that their not continuous lots and it's the back of the house that has the proposed three foot setback and what is the distance from the lot next door. Ed Brozowski stated that is correct and the distance is a little over four feet.

Chairman Pangburn asked if there were any other questions from the Board. There were none. Chairman Pangburn asked if there was anyone in the public who wanted to speak.

- A woman spoke and stated that she wanted to clarify that there is a 10' easement on that property as she originally sold the property and granted the easement to the Town and has paperwork if anyone wants to see it. She also stated that when the property was sold to the applicant he was told at the time that it was a lot that could not be developed.

Chairman Pangburn labeled the paperwork as Exhibit #2017-15A & asked the woman to clarify that she was the owner of the vacant lot and adjacent property with the house. The woman stated that she owned the vacant lot and was partners with a person who owned the adjacent house.

- Linda LaRocco wanted to know how far off of her property line is the applicant going to be. Chairman Pangburn stated that he has to be at least 8' off the side property line. Ed Brozowski stated that the house would be at least 11' off that side property. She also submitted Exhibit 2017-15B which was a letter of issues regarding the application & Exhibit 2017-15C which is a petition with 16 signatures. She also states that the applicant parks his vehicles in the empty lot as his house is currently a two family. He drains his water onto her property, it's going to affect the look of the neighborhood, she said she was told that all that lot could ever be used for is a garage.

- A woman spoke and stated that you can't even get down the streets now in the neighborhood and in the winter time it's even worse.

- A man spoke and stated that the houses are too close in his neighborhood.

- A man spoke and stated that the map doesn't show the topography of the neighborhood. He stated that there's quite a drop between Linden and Mould's Avenue, he doesn't know how a house of the proposed size could be built on that lot and there's already drainage issues.

- A woman spoke and stated that her house floods.

Chairman Pangburn asked the applicant's representative if he wanted to speak again. Ed Brozowski stated that the applicant stated he would no longer use the off street parking if the variances were approved & would make more parking behind the existing house on Mould's Avenue. He stated that they will tie in the sump pump to the catch basin as required by the Town for drainage & grading will be done to pitch the lot as to no cause water to flow onto other properties.

Chairman Pangburn asked how long Mr. Tibbits has owned the house next to the vacant lot. The ball park figure was 2-4 years.

Chairman Pangburn asked the Board if anyone had any further questions.

●John Conway Jr. stated that he just wanted one thing clarified, that the proposed residence would be 1,860 square feet and if this a one family or a two family. Ed Brozowski stated that it would be a one family house.

Motion by Matt Ostiguy to close the public hearing. Seconded by Kurt Bergman. Motion carried by a 5-0 vote.

**ZBA Appeal # 2017-16-Richter-3 Werking Road- Special Use Permit for proposal of home occupation (vehicles being stored at residence).**  
**The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendation
- Planning Board Recommendation
- ZBA Application, Authorization Form, Short EAF, Denial, Special Use Permit Criteria, diagram of location of proposed vehicle parking, Bldg. Permit Application

Michael Richter presented the application to the Board. Michael Richter stated that he is a renter. He stated that he has three new vehicles, two pickup trucks and a dump truck and a shipping container which was allowed. He is basically asked that he wants to be allowed to park his trucks on the property. He employs kids from the area to keep them out of trouble. Chairman Pangburn asked if the applicant was familiar with the requirements for a home occupation. Mr. Richter stated there is no traffic, no employees, he has an office where he makes phone calls and emails statements to.

●Kurt Bergmann asked what the applicant stores in the storage container including chemicals. Mr. Richter stated that he stores seasonal products, like leave blower, snow stakes, shovels, irrigation tubes, parts, walk behind spreaders. He does use fertilizer that's not restricted.

Vice Chairman Ostiguy asked if there was any present who wanted to speak in favor of or against the application. There was no one present to speak in favor or opposition.

Motion by Domenico Pirrotta to close the public hearing. Seconded by Joyce Lapham. Motion carried by a 6-0 vote.

**SEQR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal # 2017-15-Tibbits-24 Linden Avenue- 2 Area Variances for the proposal to construct on an undersized lot and side setback– Area Variance for the proposal to construct a two car garage with ADA access to the principle dwelling and located in the side yard with a proposed side setback of 33 feet.**

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

**MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency**

In regards to **ZBA Appeal # 2017-16-Richter-3 Werking Road- Special Use Permit for proposal of home occupation (vehicles being stored at residence)**

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: 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>Absent</u>
Bob Seward III	<u>Absent</u>

Motion carried 5-0

**MOTION:** In regards to Appeal #2017-16 Richter-3 Werking Road, 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: John Conway Jr. (*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>Absent</u>
Bob Seward III	<u>Absent</u>

Motion carried 5-0

**WORKSHOPS:**

**ZBA Appeal # 2017-15-Tibbits-24 Linden Avenue- 2 Area Variances for the proposal to construct on an undersized lot and side setback.**

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

1. There will be an undesirable change in the character of the neighborhood as numerous surrounding homes exist on double and triple lots.
2. There are other methods available to the applicant as a smaller home could be proposed and the lot could be combined with the existing home next door.
3. The requested variance is substantial as the proposed home would be located closer than surrounding properties are.
4. The proposed variance will have an adverse effect on the neighborhood as evidenced by public comment and will be tighter than other surrounding

5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

Resolved, **that the application to construct on an undersized lot with a side setback of 3 feet be DENIED.**

This resolution was moved by Jeff Pangburn and seconded by Kurt Bergmann at a meeting duly held on July 25, 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>Absent</u>
Bob Seward III	<u>Absent</u>

Motion carried 5-0

**ZBA Appeal # 2017-16-Richter-3 Werking Road- Special Use Permit for proposal of home occupation (vehicles being stored at residence)**

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

1. The application has been reviewed and determined to not be compliant with the 7 criteria as defined in Section 3.11 of the Town's Comprehensive Zoning Law; nor the definition of a Home Occupation as defined in Section 3.9; therefore, be it

**Resolved**, that the application for the proposal of the operation of a home occupation (business vehicles being stored at the residence) be DENIED.

This resolution was moved by Matt Ostiguy and seconded by Joyce Lapham at a meeting duly held on July 25, 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>Absent</u>
Bob Seward III	<u>Absent</u>

**NEXT MEETING:** The next time the Board will meet is August 8, 2017.

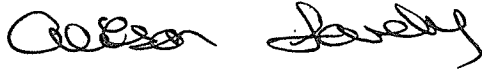
**APPROVAL OF MINUTES:**

Motion by John Conway Jr. to approve the meeting minutes from the July 11, 2017 meeting. Seconded by Kurt Bergmann. Motion carried by a 4-0-1 vote. Chairman Pangburn abstains.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Matt Ostiguy. Seconded by Joyce Lapham. Motion Carried by a 5-0 vote.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Alison Lovely", written in a cursive style.

Alison Lovely, ZBA Secretary