

APPROVED 12/18/19

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
October 23, 2019
7:30 p.m.

Call to order

Pledge of Allegiance

Correspondence

Review the minutes of the September 25, 2019 meeting.

CONTINUING APPLICATIONS:

Board member asked to be recused from the Sano application.

**Sano, Ralph Interpretation of Use: Tax Map #(SBL) 111 . – 1 – 78 . 111 Located at 297 Route 9-H.
Special Exception for the addition of accessory apartments to an existing multi-family dwelling.**

Ralph Sano was present for the application. Mr. Sano reviewed the application for the Board. Mr. Sano informed the Board that he is seeking to build an accessory apartment to his two-family duplex which is currently under construction. Mr. Sano stated that for several years he has stayed at Hawk Orchards with a friend but that building has been sold and he needs a place to stay. Mr. Sano informed the Board that the notice of public hearing letter was wrong because he is not seeking to add an accessory apartment to a multi-family structure but to a two-family structure and he is only seeking one accessory apartment not more. Rob Fitzsimmons informed Mr. Sano that he understands his concerns because the letter might seem that he is seeking a more impactful interpretation. Chairman David Graziano informed Mr. Sano that he didn't feel the letter would make any difference and he is still concerned with the addition of an accessory apartment onto an existing two-family dwelling that is still under construction. Chairman Graziano continued that at the September ZBA meeting an informal poll of the Board members confirmed that they were against the interpretation that the Zoning Laws allowed for an accessory apartment to a two-family dwelling. Chairman Graziano continued that the Board members felt that a third apartment was not within the Town of Claverack Zoning Laws definition of an accessory apartment. Mr. Sano stated that a third apartment could be owner occupied as in Zoning Law 15.3.1 section F that an accessory apartment can be owner occupied which he plans to do. Steven Melnyk stated that the two-family duplex under construction already has the second unit in principle and Mr. Sano could live in one of the new apartments as the accessory apartment. Chairman Graziano stated that the TOC Zoning Law states that only one accessory apartment is allowed and the accessory apartment is only allowed to have two bedrooms. Mr. Sano stated that each side of the duplex has three bedrooms and the accessory apartment will be under the percentage of the main structure that is allowed by the ZBA law. Chairman Graziano informed Mr. Sano that these dwellings cannot be sold separately or be split up to sell. Chairman Graziano stated that his biggest issue is the third apartment as an accessory apartment onto a two-family dwelling is excessive in his opinion. Rob Fitzsimmons stated that Mr. Sano is seeking an accessory apartment separate living dwelling in addition to the two-family duplex. Steven Melnyk stated that he understands the TOC Zoning Law as only allowing an accessory apartment on a single-family dwelling. Steven Melnyk continued that the biggest stumbling block is the two-family dwelling and adding another structure is excessive. Chairman Graziano opened the meeting to the public hearing at 7:40 p.m. Secretary Jodi Keyser read an email from an abutting neighbor John Berth stating that he is against the proposal because it is excessive, Mr. Sano doesn't live in the area because his address is New Jersey, it is too many people for the size of the parcel

and what will this many people do to the water table in the area. No further comments were heard. Chairman Graziano closed the public hearing at 7:45 p.m.

Rob Fitzsimmons informed the Board that the application is exempt from SEQRA. John Porto stated that his opinion is that the property is already at the maximum amount of living space with the two-family duplex. Roger Case stated that he denies the interpretation to allow an accessory apartment to a two-family duplex. Steven Melnyk stated that he is in agreement with Mr. Case and Mr. Porto. Chairman Graziano stated that he also agrees that accessory apartments are not allowed on a two-family dwelling.

Motion to determine that an accessory apartment is not allowed with an existing two-family duplex because the Town of Claverack Zoning Law allows for an accessory apartment to a single-family dwelling not a two-family residence as per definition Section 2.2 and 15.3.1 of the Town of Claverack Zoning Law was made by John Porto with a second from Steven Melnyk. All members were in favor except member Chris Post who abstained. Motion carried.

Chris Post re-enters the meeting.

NEW APPLICATIONS:

Forth Wood, Jane Area Variance: Tax Map #(SBL) 121 . 3 – 1 – 62 Located at 559 State Rte. 23-B. Area Variance for Dimensions & Density Construction of a carport without a permit that does not meet the required setbacks.

Ms. Forth Wood and her attorney Matthew Gallagher was present for the application. Mr. Gallagher informed the Board that his client is seeking an Area Variance for an unpermitted car port. Chairman Graziano informed Mr. Gallagher that the application is incomplete without the survey. Mr. Gallagher supplied a new survey prepared by Dan Russell. Chairman Graziano stated that a technicality on the SEQRA #2 should be answered no because an Area Variance is needed. Mr. Gallagher stated that after the new survey his client only needs a rear variance of 28.4 feet and does not need a side variance because the side meets the required set back. Chairman Graziano stated that he understood that Ms. Forth Wood knew she would need a variance. Mr. Gallagher stated that is not necessarily true. Mr. Gallagher stated that his client spoke with TOC CEO Jay Trapp so they had some awareness but she was not hiding or done in defiance but only because of a miscommunication which is why she is here tonight. Mr. Gallagher informed the Board that his client has not received any orders to remedy, order to remove or stop work orders for the car port. Mr. Gallagher continued that his client didn't hide the construction from anyone. Mr. Gallagher supplied the Board with photos of the car port. Chairman Graziano informed the Board that the applicant is only seeking an Area Variance for a rear setback of 28,4 feet. Chris Post asked when the car port was constructed. Ms. Forth Wood stated that the car port was finished at the end of August. Chairman Graziano asked if the front of the residence faces NYS Rte. 23-B. Ms. Forth Wood answered yes. Ms. Forth Wood stated that she purchased the residence in 1999 and the driveway has always exited onto Old Lane. Steven Melnyk asked Ms. Forth Wood if she has had any complaints from the neighbors. Ms. Forth Wood stated that she has not so far had any complaints. Chris Post asked Rob Fitzsimmons if the Area Variance were denied would the car port need to be removed. Rob Fitzsimmons stated that the question for the ZBA is the fact that it is too close to the rear lot line and the applicant needs to make the argument for why it couldn't be built closer to the residence to make the setback less. Ms. Forth Wood stated that she needs the car port to keep snow, ice and rain from her entrance to her residence. Ms. Forth Wood continued that she is disabled and the car port makes it safer for her to get to and from her car to her house. Mr. Gallagher stated that Ms. Forth Wood constructed the car port over her driveway to make it safer for her and it was the shortest distance to her entrance into her home. Mr. Gallagher continued that the car port reduces the debris of pine cones, snow and ice not just a protection for her vehicle but to allow his client to ambulate to and from her home safely. Steven Melnyk asked if the car port was built over the existing driveway. Mr. Gallagher stated yes and it is only a car port no sides just poles and a roof. Steven Melnyk asked why wasn't the car port built over the existing slab that is shown on the survey map. Mr. Gallagher stated that it was not doable to build the car port over the slab because of the existing fence and gate. Rob Fitzsimmons asked Ms. Forth Wood if she had conversation with the Dooty family her rear yard neighbors prior to the construction of the car port. Ms. Forth Wood answered no she has never met these people. Roger

Case asked if the Town of Claverack was approached to determine whether the car port would be in compliance. Mr. Gallagher answered that his client asked if it was not aware it would be a building code issue. Ms. Forth Wood informed the Board that she thought that if the car port were attached to her home then she would need a building permit and she felt that it would be just like a garden arbor but after construction was in progress she realized that it was much bigger than she expected. Ms. Forth Wood stated that at this moment she then called the TOC to speak to Jay Trapp and she then met with him and spoke to him several times. Chairman Graziano asked if these meetings and conversations were prior to the construction of the car port. Chairman Graziano continued that he is under the impression that Ms. Forth Wood was aware that she would need a building permit and an Area Variance prior to the start of the project. Ms. Forth Wood stated that as soon as she realized that she hadn't done things the right way she called Jay Trapp because she didn't want to do anything against the Town of Claverack laws. John Porto stated that any builder knows that any projects need a building permit and that all towns have setbacks and regulations for building. Chairman Graziano reviewed the criteria for an Area Variance for the applicant.

Motion to deem as complete and to accept the application and set for public hearing on 12/18/19 was made by Steven Melnyk with a second from John Porto. All members were in favor. Motion carried.

Chairman Graziano informed the applicants to change the answer to the SEQRA #2 because the Variance applies to the building not the person and to bring the revised SEQRA to the December meeting.

No further business.

Motion to adjourn the meeting was made by Roger Case with a second from John Porto. All members were in favor. Motion carried. Meeting adjourned at 8:05 p.m.

Respectfully submitted,

Jodi Keyser, Secretary