

APPROVED 1/22/2020

Town of Claverack
Zoning Board of Appeals
P.O. Box V
Mellenville, NY 12544
December 18, 2019
7:30 p.m.

Chairman David Graziano called the combined November/December meeting of the Town of Claverack Zoning Board of Appeals held on December 18, 2019 to order at 7:30 p.m.

Chairman Graziano led members of the Board and audience with the Pledge of Allegiance

Members in attendance were: Chairman David Graziano, Chris Post, Roger Case, engineer; George Schmitt, attorney; Rob Fitzsimmons and secretary; Jodi Keyser.

Absent with regrets: John Porto & Steven Melnyk

Correspondence: None received

Review the minutes of the October 23, 2019 meeting.

Board members reviewed the minutes of October 23, 2019. Motion to approve the minutes with some minor grammatical corrections was made by Roger Case with a second from Chris Post. All members were in favor. Motion carried.

CONTINUING APPLICATIONS for 12/18/19

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. Wood and Mr. Gallagher were present for the application. Mr. Gallagher informed the Board that it was determined at the October meeting that the applicant would only need a rear yard setback since the side yard setback was within the allowed distance after the Zoning Board of Appeals members designated side and rear yards of the property. Mr. Gallagher continued that his client is now seeking a 28.4-foot rear yard setback only for the carport that was constructed. Mr. Gallagher stated that his client was confused about the construction of the carport and whether or not she needed a permit from the Town of Claverack. Mr. Gallagher continued that Ms. Wood had the carport built without a permit because she thought that she didn't need one because it wasn't attached to her house. Mr. Gallagher informed the Board that Ms. Wood is handicapped and needs the carport to allow for safer access to her vehicle during bad weather. Mr. Gallagher supplied Board members with answers to the 5 criteria for granting an Area Variance. Chris Post stated that the application and criteria answers were straight forward and he had no problems with the request and understood the mistake but worries that approval of the area variance would set a precedence for people in the future to just build something and ask for approval after. Chris Post asked Rob Fitzsimmons if a solution would be to have a fine for building without a permit. Rob Fitzsimmons answered no fines are not allowed to be set by the Zoning Board of Appeals but the Building Department could sue a property owner for building in violation of the laws which would mean a court appearance and possible fine. Mr. Gallagher informed the Board that the TOC Building Inspector did not file an order to remedy with his client. Chairman Graziano stated that he understands Ms. Wood's issue with safety but has spoken to Jay Trapp from the Building Department who stated that he met with Ms. Wood at least two times and spoke to her friend Claude several times on the phone and was very detailed with what they would need to do to before they started the carport. Claude ? answered that he had spoked to Jay Trapp at least three times even taking a survey of the property to him for advice but the contractor started the carport so that the concrete would cure with impending cold weather coming. Ms. Wood stated that this was a natural mistake on her part and her contractor was unaware that he

needed a building permit and wanted to just get the project completed for her before the weather turned. Chairman Graziano stated that the contractor should have know that he would need a building permit but rather wanted to just get the job done fast. Chairman Graziano continued that he is understanding of the circumstances but has the same concerns as Board member Chris Post that approval of this application might be setting a precedence for others to just build things without permits or required variances but then ask for forgiveness after the fact. Roger Case asked if there were any substantial neighbor objections. Ms. Wood answered no she spoke in person with several of her neighbors i.e. Barrett, Maresco and McCagg families and no one had any issues. Chairman Graziano stated that the structure is a very large structure for a carport. Mr. Gallagher stated that the size was designed to provide the safest access for Ms. Wood to her car and home. Chairman Graziano stated that in his opinion the carport could have been smaller and therefore would have been more in line with the allowed setbacks.

Chairman Graziano opened the meeting to public hearing at 7:41 p.m. No comments were heard. Chairman Graziano closed the public hearing at 7:42 p.m.

Rob Fitzsimmons informed the Board that this is a Type II action for purposes of SEQRA and is therefore exempt from review.

Chairman Graziano read the 5 criteria for an Area Variance for the Board members and applicant. Chairman Graziano stated that the applicant can argue all but one of the criteria because this was fully self-created by the applicant's actions to build the carport without a building permit and required area variance.

Motion to approve the Area Variance of 28.4-feet for rear setbacks for a non-permitted carport was made by Chris Post with a second from Roger Case. All members were in favor. Motion carried. Ms. Wood paid mailing fees for the abutter notices.

NEW APPLICATIONS FOR 12/18/19

Droga, Marisa & David Area Variance: Tax Map #(SBL) 122 . – 1 – 40 . 120 Located at 62 Thielman Rd. Area Variance for the construction of a 900 square foot accessory pool house exceeding the allowed maximum of 2,500 square feet for an accessory building.

Phil Hamm who is the architect for the applicant was present to represent the application. Chairman Graziano informed Mr. Hamm that the application lacks his authority to act on behalf of the owners. Chairman Graziano informed Mr. Hamm that he would need a notarized letter from the Drogas granting him the authority to represent them with the application. Mr. Hamm stated that he was unaware of this but will get for the next meeting.

Mr. Hamm stated that the application is not totally correct because the pool house is not 3,552 sf. but rather is 900 sf. Mr. Hamm continued that the 3,552 sf. is the aggregate area for all accessory structures including the proposed 900 sf. pool house. Chairman Graziano stated that the application is missing the arguments for the 5 criteria for the reasons for the request for the area variance. Physical address for the Droga family. Mr. Hamm stated that the address on the application is the accountant office that handles the Droga family finances and also what the pool house will be used for.

Mr. Hamm stated that the pool house will be used for parties at the pool, kitchen and dining areas, living room and bathroom facilities. Mr. Hamm stated that someone could stay in the pool house but the building does not contain a bedroom but someone could stay on the sofa. Mr. Hamm stated that this is not a dwelling only used for pool. Roger Case asked if this could be used as an apartment. Mr. Hamm answered no just for the pool use. George Schmitt asked where the pool is located on the map. Mr. Hamm stated that the pool has not yet been built and therefore is not shown on the map. Mr. Hamm stated that the pool house will have a separate septic and well. George Schmitt asked if the septic had been permitted from the CCDOH. Mr. Hamm stated that the application for septic has been submitted to the CCDOH and is perked and located on the maps. Rob Fitzsimmons informed the Board that this application like the previous area variance application is also a Type II for purposes of SEQRA and is exempt from review. Chairman Graziano stated that the application is incomplete because of the few missing items of authorization and answers for the criteria. Chairman Graziano informed Mr. Hamm that he will need to pick up a Zoning Board of Appeals public hearing sign from the Town Clerk's office

and place it at the end of the driveway for the project. Mr. Hamm stated that the property abuts two different roads and does he need two signs. Rob Fitzsimmons answered no just one sign and place it at the main entrance to the property. Mr. Hamm read the 5 criteria for the area variance. Chairman Graziano informed Mr. Hamm that he does not need to meet all 5 of the criteria. Set for public hearing on 1/22/20.

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

Respectfully submitted,

Jodi Keyser, secretary