

PRESENT: Brenda Colberg-DiMarco Chairperson, Nancy Iankowitz and Margo Miller

EXCUSED: Terrance Wansley

CONTENT: Divey Vargas (Area Variance) and Minutes.

There were seven people in the audience.

Chairperson Colberg-DiMarco opened the meeting at 7:00 p.m. and then led the salute to the flag.

<u>DIVEY VARGAS</u>	Area Variance	2019-005
1078 NYS Route 292		
Holmes, NY 12531		
Grid Number: 134089-11-6856-14-324470		

Chairperson Brenda Colberg- DiMarco said the property, located at 1078 NYS Route 292 in the R-1 Zoning District. The applicant is before the Board for an area variance for §215-16 Bulk Regulations, §215-33 (D) Conforming uses with dimensionally non-conforming buildings, §215-33 (E) Conforming uses, conforming buildings on non-conforming lots. Chairperson Colberg-DiMarco read the response from Dutchess County Planning, which indicates this application is exempt from 239 review. This application is a Type II action, according to SEQRA; therefore, no action is necessary by the Board. A site inspection held on July 20, 2019. Chairperson Colberg-DiMarco, Nancy Iankowitz, and Terrance Wansley were in attendance.

Mrs. Hofweber said they are seeking to demolish the present home with a footprint of 24' x 38' and erect a Yankee Barn Model Walden Pond 24' x 38' with a 6' x 24' porch off the great room. Mrs. Hofweber explained that the onsite meeting with the Zoning Board of Appeals members, and herself were approached by the neighbors. The two neighbors, Pelliccio's and Sweets', brought forth survey maps and associated documents. Mr. Pelliccio's had a 1986 survey done by J. Williams Komisar, LLS, and the Sweet's provided a 2003 letter from Schissler Land surveying stating that the property line evidence recovered and located by field survey would not render a result relating to surrounding parcels that would coincide with the property line; produced by the offsets depicted in Komisar's survey. It also made note that a notation from Komisar's survey "Surveyed as in possession and as per recorded deeds", which leads Schissler to believe that there was little property evidence found at the time of this survey and that the property line was placed using the deed dimensions and the location of existing structures, and that would have been the accepted course of action to take with lack of evidence. Mrs. Hofweber produced a 1986 survey of 1078 NYS Route 292 from the same Komisar, LLS, which later had him come out and resurvey the same boundary. Mrs. Hofweber also had another new survey from Bergendorff-Collins who again came out to pin and resurvey the boundary. The board upon reviewing submitted documents this meeting and discussions at the onsite meeting agreed that the matter of the boundary lines on the conflicting surveys would have to be resolved before they could move forward with a variance. It was Mrs. Hofweber understanding that when the discussion moved forward to the existing footprint of the present 24' x 38' dwelling it could be used as long as proper water drainage was included (gutters and curtain drains) in the new dwelling and it would not exceed the present footprint.,

Mrs. Hofweber is asking the Board if that decision was made, as long as the 24' x 38' footprint is maintained, then they would be able to demolish the present dwelling, and redo the foundation and replace the dwelling with a new Yankee Barn Model Walden Pond 24' x 38' dwelling.

Mrs. Iankowitz clarified for the record that no decision was made during the site inspection held on July 20, 2019. The Board discussed with Mrs. Hofweber a possible recommendation, and this should be reviewed with the Building Department.

Chairman Colberg-DiMarco said on the application it states that the applicant plans are to demolish the present home with a footprint of 24' x 38' and erect a Yankee Barn Model Walden Pond 24' x 38' with a 6' x 24' porch off the great room. Nonetheless, the dimensions and drawings of the old house and the new house are different in dimensions. She asked Mrs. Hofweber if this is a mistake.

Mrs. Hofweber responded the dwelling sizes are the same, the 6' x 24' covered porch is included in the drawings. If the Board does not want to grant the porch, that is fine.

Chairperson Colberg-DiMarco and Mrs. Hofweber reviewed the drawings. Chairperson Colberg-DiMarco stated the drawing is incorrect, as submitted. Following plan revisions, the drawing must demonstrate a separate dimension for the dwelling and covered porch. The covered porch is additional square footage above the 24' x 38'.

Mrs. Hofweber said she would have the surveyor revise the drawings. She is requesting a covered porch be attached to the dwelling, by including an entrance off the great room.

Chairperson Colberg-DiMarco asked where is the relocation of the septic tank going to be placed. She noted that there is a concrete area that requires further investigation by the building department to clarify whether or not it can be covered.

Mrs. Hofweber said the current sanitary septic system is old and they want to install a new sanitary septic system and then relocate the sanitary septic system north on the parcel. She is proposing to install a patio at the current sanitary septic system location. Only if an area variance is not granted for the covered porch.

Chairperson Colberg-DiMarco opened the meeting to the public.

Mr. James Krawiec, 1076 NYS Route 292 neighbor spoke. Mr. Krawiec said the current existing dwelling is located approximately 2 feet onto his parcel. The recent survey markers, installed by Mrs. Hofweber's surveyor illustrate the present house is located on his parcel. The survey map, as shown this evening, is incorrect.

Mrs. Hofweber responded that is the reason why she wants to move the dwelling 2 feet north, to relocate the proposed dwelling onto her parcel. (The dwelling is on her neighbors)

Chairperson Colberg-DiMarco asked Mrs. Hofweber why she is requesting to demolish the dwelling and rebuild a new dwelling with associated covered porch in the same footprint when the existing dwelling is located on the neighbor parcel.

Mrs. Hofweber said she would only request to rebuild in the same footprint if no area variances are granted to allow relocation of the proposed dwelling. The area variances would allow a new dwelling to be center within the lot.

Chairperson Colberg-DiMarco said if the proposed dwelling is moved over two (2) feet then the side yard dimension are not accurate. It appears the side yard dimensions changed by 2 feet, requesting lesser of an area variance than the 8.27 feet requested. The 8.27 feet is incorrect.

Mrs. Hofweber said she thinks the surveyor was trying to comply with several of the Code of the Town of Pawling to stay within the lot boundary lines. The dwelling was moved closer to the road to maintain the same footprint, and off of Mr. Krawiec's property.

Mrs. Iankowitz said it appears that the current dwelling is on the neighbor's property. This situation is not about the dwelling. It is wonderful that you want to construct a new home and maintain the aesthetics of the neighborhood. The point that Chairperson Colberg-DiMarco is making about the area variance, is that what you are requesting are not accurate measurements to your boundary lines. Mrs. Hofweber request for a lesser area variance in one area, however, before an as-built survey is completed, this Board cannot understand what the actual requested area variance dimensions are.

Mr. Pelliccio's, 1080 NYS Route 292 neighbor spoke. He explained Mrs. Hofweber survey markers are placed six (6) inches within his dwelling. On his survey map, he has approximately 34.2 inches along the concrete wall boundary line. By Mrs. Hofweber proposal to move the dwelling north, it raises concerns to the property lines. There are many discrepancies with neighborhood surveys.

Mrs. Sweet, 1082 NYS Route 292, neighbor spoke. Mrs. Sweet explained the landowner parcels sequences in the neighborhood. She said several years ago they had field surveys completed to establish property lines. A survey was conducted based on state highway markers, field time, and office computation to develop a title survey. Mrs. Sweet provided a copy of the survey map and letters for the Boards records. Years ago, she had a property line dispute, and there are two types of surveys, a standard survey and a title survey that depicts a boundary survey. Her problem with the proposed area variance is a boundary survey was not completed. Six consecutive properties are lined using highway markers. If the Board grants the area variance, it changes all boundary lines within the neighborhood. It is thus resulting in Mrs. Sweet not to be able to access her front door. If this happens, the Sweet's would have no alternative other than bringing legal action against the Town. It is apparent, to Mrs. Sweet, that the property lines went array in the past.

Mrs. Hofweber said maybe that is an option to have NYSDOT come out to her property, to identify state highway markers assisting with figuring out property lines.

Mrs. Sweet said there are two types of surveys, boundary and title insurance.

Mrs. Hofweber said both surveys Pelliccio's and Hofweber parcels were done by Komisar.

There was discussion amongst the neighbors as too old surveys and new documents. The discussion continued amongst the neighbors pertaining to which current dwellings have been renovated and are not the same as they were in 1986.

Chairperson Colberg-DiMarco explained the applicant choose to move forward with the meeting opposed to writing a letter requesting a postponement until Mrs. Hofweber had Terry Bergendorff Collins reviewed all the documents to provide the Board updated information, based on the neighbors and Mrs. Hofweber surveys.

Several people began talking at once, Chairperson Colberg-DiMarco called the meeting to order.

Chairperson Colberg-DiMarco suggested Mrs. Hofweber get copies of the neighbor's survey and associated letters, adjoining parcels deeds to verify correct boundary lines. It was suggested that Mrs. Hofweber talk with the building department about the dwelling footprint and then possibly not appear before the Zoning Board of Appeals. The primary concern is Mrs. Hofweber dwelling is placed on an adjoining property owners land. If an

area variance is required, to move this application forward the correct dimensions for the dwelling and separate covered porch must be submitted. Mrs. Hofweber must address the covered porch as a separate dimension. This might require a new legal notice for revised area variance dimensions.

Mrs. Hofweber said she did not speak with the building department to identify if a newly constructed dwelling could be placed within the existing dwelling footprint. She wanted to know if the Zoning Board of Appeals could make that decision and stop the area variance now.

Chairperson Colberg-DiMarco explained that Mrs. Hofweber's dwelling is located on Mr. Krawiec parcel. Mrs. Hofweber must schedule a meeting with a building inspector, not the Building Clerk, to review this application. A new building inspector starts on Tuesday, July 23, 2019, and Chairperson Colberg-DiMarco suggested, she schedule an appointment with him. The dwelling encroaches on the neighbor's property, and the circumstances warrant a resolution that Mrs. Hofweber dwelling be removed from Mr. Krawiec parcel, as Mr. Krawiec suggested.

Mrs. Hofweber suggested a third party land surveyor review the boundary lines as a non-partial entity.

Chairperson Colberg-DiMarco said Terry Bergendorff Collins is a reputable firm.

Mrs. Hofweber said going forward she shall speak with Terry Bergendorff Collins to identify what type of survey was completed.

Mrs. Sweet asked if a structure can be built on another person's property.

Chairperson Colberg-DiMarco said the Board would check with the Town attorney to acquire legal advice before answering any legal questions.

Mr. Sweet, 1082 NYS Route 292 neighbor, spoke explaining a similar situation to the Board about land encroachment in the neighborhood. They own property next to Mr. Morda property. Mr. Morda constructed a roof that encroached onto their parcel. As a result, they went to Mr. Tom Llanes, a former Town of Pawling Building Inspector, to address the problem. It took four months for Mr. Llanes to perform a site inspection to verify the encroachment problem. After months of frustration, he wanted an answer as to why the Town allowed the neighbor to construct a structure larger than Morda's property dimensions, encroaching onto his parcel. Mr. Llanes kept stating it was not a big deal; the structure is only 25 feet. Mr. Sweet did not agree that this was "not a problem" and continued trying to come to a resolution with Mr. Llanes taking appropriate action. Finally, Mr. Sweet told Mr. Llanes that he was going to sue the Town and Mr. Llanes. It was a mess, and the Town did not deal with the problem. Finally, the landowners cut the façade boards back onto their property, which did not completely resolve the problem; nonetheless, it was an improvement. Mr. Sweet stated that he was bringing this story to the Boards attention, is this situation is similar, and before it goes any further, the encroachment issue must be addressed.

Mr. Pelliccio's said illustrated on the site plan, the difference in measurements from Mrs. Hofweber and his property lines. He felt the dimension is roughly 35 feet.

Mrs. Sweet said no one had addressed adequate parking spaces for the proposed Hofweber dwelling. The neighborhood has limited parking, and if a person is proposing renovation, they should address appropriate parking spaces.

Mrs. Hofweber said the dwelling was moved closer to NYS Route 292. Therefore, allowing for one parking spot.

Mr. Pelliccio's explained parking is tight within the neighborhood.

Mrs. Hofweber said she has pictures of the former neighborhood, which shows the Pelliccio's dwelling does not look the same as it did in 1986.

Mrs. Hofweber and Mr. and Mrs. Pelliccio's were speaking amongst themselves. It was determined the Komisar 1986 surveys do not coincide.

Chairperson Colberg-DiMarco requested Mrs. Hofweber take receipt of the neighbor survey and submitted documents back to Terry Bergendorff Collins to verify the boundary lines. A formal letter from Terry Bergendorff Collins surveyor on their findings is requested by the Board.

Chairperson Colberg DiMarco said the "Public Hearing" is held opened until the August 22, 2019, Zoning Board of Appeals meeting. Written comments will be accepted for the record during the open "Public Hearing" period. The legal notice might have to be re-noticed.

Motion by Mrs. Iankowitz to postpone the decision of the Zoning Board of Appeals until the August 22, 2019 meeting.

Second by Mrs. Miller. Chairperson Colberg-DiMarco asked for discussion.

All were in favor and the Motion carried.

MINUTES

A motion by Mrs. Iankowitz was made to approve the Minutes of June 24, 2019, as read.

Second, by Mrs. Miller. Chairperson Colberg DiMarco asked for discussion.

All were in favor, and the Motion carried.

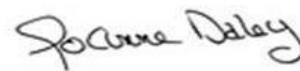
NEW BUSINESS

There was no new business this evening.

ADJOURNMENT

On a Motion by Mrs. Miller and seconded by Mrs. Iankowitz to adjourn the meeting at 8:00 p.m. All were in favor, and the meeting was adjourned.

Respectfully submitted



JoAnne Daley
Recording Secretary

non - approved minutes