

Mr., Karrell said it would be a type of aggregate base course under the covered patio/porch to absorb stormwater runoff. Normally, the base course of material is reviewed by the building/environmental departments when plans are submitted to the Town.

Mr. Harnes Esq. asked if the dwelling includes a proposed basement.

Mr. Karrell responded yes, the dwelling has a proposed basement built below grade. The basement is not livable space. The utilities will be located in the basement.

Chairwoman Miller opened the meeting to the Public.

There were no comments from the Public.

Chairwoman Miller closed the Public Hearing.

Chairwoman Miller said the Zoning Board of Appeals, in making its determination, shall take into consideration the five factors the Board must weigh against the detriment to the health, safety, and welfare of the neighborhood or community.

Chairwoman Miller read the first factor, whether an undesirable change will be produced to the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Chairwoman Miller said many of the surrounding parcel dimensions are small. The neighbor's driveway infringes onto this parcel. The proposed dwelling is not large, nonetheless, the proposed dwelling is too large for this parcel.

Mrs. Knox said the dwelling is too large for a 0.13± parcel, compared to the neighboring dwellings.

Mrs. Grosso said one of her concerns is the manner in which the roof line extends 10 feet over a covered patio/porch. The dwelling sits higher up in elevation on the parcel. The Board is setting precedence to allow other homeowners to build larger homes on smaller parcels. It is a future concern for the Board to address, as how a building size combined with environmental issues relate to the Whaley Lake community by managing larger houses on small parcels.

Mr. Palm said the basement allows for potential future renovations to enlarge the dwelling resulting in creeping living space. It is not currently reflected in the plans, nonetheless, the landowner could clearly add bedrooms, by reverting back to the first floor layout. In his opinion the dwelling is too large.

Chairwoman Miller read the second factor, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance?

Chairwoman Miller said no development could take place on this lot without a minimum acreage area variance. There is a possibility for the landowner to build a smaller dwelling.

Mr. Harnes Esq. said if the landowner chooses to construct a smaller dwelling, an area variance for the lot coverage would be required.

The members of the Zoning Board of Appeals concurred.

Chairwoman Miller read the third factor, is the variance substantial?

Chairwoman Miller the area variance is substantial in comparison to current zoning. In addition, to the parcels dimensions. The neighboring dwellings are smaller in size. The parcel elevation/topography is higher than the surrounding lots, therefore, a new building would be sitting higher than the neighboring parcels.

The members of the Zoning Board of Appeals concurred.

Mrs. Grosso said the covered patio, gives the dwelling an appearance of a larger home on a small parcel.

Mr. Palm said neighboring lots are small, resulting in variance being substantial in comparison to the neighborhood.

Chairwoman Miller read the fourth factor, will there be an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

Chairwoman Miller said based on all these factors, lot coverage, covered patio/porch, stormwater runoff into Whaley Lake does create a negative impact to the Whaley Lake district.

Mr. Palm said the stormwater and/or septic systems runoff coming off of Mountain View Road into the Whaley Lake is an important factor to take into environmental consideration.

The members of the Zoning Board of Appeals concurred.

Chairwoman Miller read the fifth factor, whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance?

Chairwoman Miller said the alleged difficulty was self-created. The landowners purchased a pre-existing small parcel.

Mr. Harnes Esq. said the landowner purchased the lot understanding the current Zoning. The Board is essentially being asked to ignore current zoning. The neighboring dwellings were created prior to the current zoning. In this particular case this weighs more heavily in our determinations. In his case, the difficulty was self-created.

Mr. Palm agreed with Mr. Harnes Esq. In purchasing, the lot, the landowner should have completed their due diligences as to possible development or not for this parcel.

Chairwoman Miller said the neighboring residential homes were all built in the 1950's. Mrs. Grosso and Mrs. Knox concurred with members.

Motion by Mr. Harnes Esq. to deny an area variance to Killian Zavalla located at NYS Route 292 in an R-1 Zoning District, Grid number 134089-6856-00-194793 for:

- §215-16 Bulk Regulation in a Residential R-1 Zoning District for a front yard setback, where 50 feet is required, 13.13 feet is available, a variance of 36.17 feet was denied.
- For road frontage, 125 feet is required, 60 feet is available, and a variance 65 feet was denied. In a Residential R-1 Zoning district, minimum acreage requirement is 1.0± acre, 0.132.15± is available, and a variance of 0.868± acres was denied.
- The maximum allowable building coverage is 10%, the lot coverage is 984 square feet or 18%, a variance of 8% was denied.
- §215-52. F., The required Code of the Town of Pawling Expiration of an Appeal, unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the applicant fails to commence and substantially complete work related to the decisions within two (2) year of the date of such decision.

^oAn as built is required to be submitted to the building department prior to receipt of the Certificate of Occupancy.

Second by Mrs. Grosso. Chairwoman Miller asked for discussion.

All were in favor and the Motion carried

MARK AND KIMBERLY BOTTINI

115 South Quaker Hill Road

Pawling, NY 12564

Grid number: 134089-7156-00-380082

134089-7156-00-385288

Area Variances

ZBA 2024-001

Adam Thyberg from Insite Engineering, Mr. David Daniels Esq. and Lillian Schmitt from Daniels Porco and Lusardi Law firm were present representing Mark and Kimberly Bottini.

Chairwoman Miller said the property is located at 115 South Quaker Hill Road in a CD-5 Zoning district. Chairwoman Miller read the Dutchess County Planning 239 GML response, which indicated this application is exempt from review. This application is a Type II action, according to SEQRA; therefore, no action is necessary by the Board. A site inspection was held on January 20, 2024 with Chairwoman Miller, Allison Knox and John Harnes Esq. Mr. Palm and Mrs. Grosso drove past the site.

Mr. Thyberg presented the proposal for an accessory apartment the current plans indicate that the property line separating parcels -385288, 380082, 259347 are to be merged. The merged lots will contain both the principal dwelling, which is under construction, and the proposed subordinate accessory apartment. As shown in the Overall Plan, the principal dwelling and accessory apartment are central to the 207-acre merged property, and will have no impact on any surrounding property. He explained pursuant to the Code of the Town of Pawling §215-17.1 for Accessory apartments on one family residential lots:

- The accessory apartment will be subordinate to the principal dwelling
- The principal dwelling will be occupied by the owner.
- A variance is required for the maximum floor area of the accessory apartment. Though the 1,728 square foot apartment will be less than 30% of the principal dwelling's floor area, it will exceed 1,200 square feet.
- The accessory apartment will comply with all underlying bulk zoning requirements.
- Though the lower floor of the building will function as a barn for agricultural use, the building will maintain a rustic residential appearance. See enclosed architectural plans and elevations for the building currently under construction enclosed herewith.
- The building will be serviced by a proposed septic system and will be connected to the principal dwelling for water service.
- The landowner is merging three parcels into one lot.

The sanitary sewer disposal system (SSDS) and water service connection will be permitted by the Dutchess County Department of Health. During the construction of the barn it was determined that the barn location worked best on lot 134089-7156-00-385288. The accessory apartment square footage is 25% of the main dwelling.

The Board discussed a confusion with a statement in Mr. Basile's Code enforcement Officer Letter that reviewed for clarification by the Board. The Board's determination was there was a typo in the letter.

Mrs. Grosso asked how farm workers housing falls under the Code of the Town of Pawling. Currently the property already contains a barn with housing units.

Mr. Daniels said pursuant to Agricultural & Market Law section 305a allows for farm workers housing.

Mrs. Grosso asked if one of the rooms within the accessory apartment is dedicated office space.

Mr. Daniels explained that the office space is not a sleeping quarter/room. It is dedicated to be used as an office for guest or Mr. Bottini use to work from home.

Chairwoman Miller said the landowner stated during the site inspection, that the office would be used by himself on days he did not commute to his company's office. Furthermore, they have adult children that often visit, and they will be staying in the accessory apartment. This accessory apartment would not be used for short or long term rentals.

Chairwoman Miller asked at what point did the landowner understand an area variance was required for the accessory apartment. It appears the cart was put before the horse or the

horse before the cart. The barn was constructed without applying for a Special Use Permit for an Accessory Apartment.

Mr. Daniels Esq. responded the Building Inspector, Tom Basile agreed to break down the process by issuing the barn permits before the Special Use Permit for an accessory apartment was granted. It was clearly a risk on the landowners part that they might just have a barn. It was a calculus.

Mr. Thyberg said the landowner was finishing construction of the main residence. During the time of the barn construction, he understood the risk taken to construct a barn without an approval for an Accessory Apartment Special Use Permit

Mr. Daniels Esq. explained that the landowner took a risk that they might only have a barn with storage. Ms. Terry Bergendorff Collins surveyed Bottini's three properties (Grid numbers: 385288, 380082, 259347) to be merged into one parcel. The Planning Board held discussion on November 06, 2024 as to why the applicant should merge the lots as opposed to making the barn/accessory apartment a primary residence on its own lot. The Planning Board asked for two lots to be merged, and the landowners have chosen to merge three parcels opposed to going through a subdivision process. The proposal creates less density and preserves open space. The apartment was built to be accessory to the main dwelling with one well on a single parcel to be shared by both structures.

Mr. Daniels Esq. reviewed the five factors with the Board.

The first factor reads, whether an undesirable change will be produced to the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Mr. Daniels Esq. said the merge of three properties creates one parcel 207±, and 1,000 feet from any adjoining landowner. The new structures have been built into the landscape, not on the ridgelines or visible from the Old Quaker Hill Road or South Quaker Hill Road.

The second factor reads, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance?

Mr. Daniels Esq. said there are no other feasible methods, if they do not merge the lots, they lose the benefit of a single shared well on one parcel pursuant to DCBOH rules and regulations. The barn was built for farm use. The concept to develop on two single lots was researched. The benefit to the landowner was to merge the lots, opposed additional cost for permitting process, drilling and installation of a second well. A feasibility study was taken into consideration before deciding to merge these three parcels.

The third factor reads, is the variance substantial?

Mr. Daniels Esq. said the accessory apartment is 25% of the main dwelling taking into consideration the parcel size and main dwelling. The open space, lack of proximity and visibility to the neighbors fits into the neighborhood. Furthermore, no other area variance for the proposed accessory apartment are required. The merge parcels meets all other Code of the Town of Pawling Schedule of Bulk Requirements.

The fourth factor reads, will there be an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

Mr. Daniels Esq. said no adverse environmental impact or physical conditions would be created. The new residential dwelling and barn/accessory apartment layout fits into the farm aspect of the neighborhood.

The fifth factor reads, whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance?

Mr. Daniels Esq. said yes the proposal was self-created. Mr. Daniels Esq. read a court case into the records outlining the balancing test for the Zoning Board of Appeals review prior to the granting of an area variance.

Chairwoman Miller opened the meeting to the Public.
There were no comments from the Public.
Chairwoman Miller to close the Public Hearing.

Mrs. Grosso said the land is a lovely estate. What brings to mind is precedence, and the Boards direction is not to encourage landowners to build first with the intention to seek area variance at a later date. The possibility of a future subdivision takes away from open space preservation, that allows Pawling to maintain its character. The Dutchess County Board of Health allowing for one well to service both buildings is integral to the primary building and barn/accessory apartment. These DCBOH rules and regulations do not allow for another residential home.

Mr. Harnes Esq. said the structure has been built. In his opinion, the landowner has the right to construct a structure. If in the future a subdivision took place the barn/accessory apartment will be pre-existing. The concept of a barn/accessory apartment is an improvement to the land as opposed to another dwelling.

Mrs. Knox said she does not feel the accessory apartment is a detriment to the property. Furthermore, driving past the farm, one would not know the accessory apartment is within the property.

Mr., Palm said he agrees with Mrs. Grosso that it is a slippery slope when a landowner builds without seeking approvals first. In this case the landowner could have built a house on a single lot. The landowner did seek approvals for water system (well) from the Dutchess County Board of Health. He thanked the landowners for their honesty in acknowledging they took a risk and faced the possibility of denial.

Chairwoman Miller said the Zoning Board of Appeals, in making its determination, shall take into consideration the five factors the Board must weigh against the detriment to the health, safety, and welfare of the neighborhood or community.

Chairwoman Miller read the first factor, whether an undesirable change will be produced to the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Chairwoman Miller said there will be no undesirable change to the neighborhood.

Mrs. Grosso said the landowners are maintaining preservation of open space by merging three lots, into one parcel, therefore improving the neighborhood.

The members of the Zoning Board of Appeals concurred.

Chairwoman Miller read the second factor, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance?

Chairwoman Miller said there is no other method other than seeking an area variance.

Mr. Harnes Esq. said technically a second well could be approved by the DCBOH and then installed. The installation of a second well is not a favorable solution.

The members of the Zoning Board of Appeals concurred.

Chairwoman Miller read the third factor, is the variance substantial?

Chairwoman Miller the area variance is substantial numerically. As far as the property size the variance is not substantial.

Mr. Harnes Esq. said the variance is not substantial. Nonetheless, a landowner could construct a 20,000 square foot dwelling on this lot and without the maximum square footage limit in the Code of Town of Pawling , accessory apartment of 1200 sq. ft. they could then justify a 5,000 sq. ft., accessory apartment at 25 percent of the total primary house sq. ft.

The members of the Zoning Board of Appeals concurred.

Chairwoman Miller read the fourth factor, will there be an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

Chairwoman Miller said no adverse effect will occur.

The members of the Zoning Board of Appeals concurred.

Chairwoman Miller read the fifth factor, whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance?

Chairwoman Miller said the difficulty was self-created, nonetheless, it does not preclude granting of an area variance.

Mr. Harnes Esq. said the Board should differentiate for precedence purposes, the difficulty was created by the merging of the lots creating a need for an area variance. These were positive reasons that led to the self-creation.

The members of the Zoning Board of Appeals concurred.

Motion by Mrs. Knox to grant an area variance to Mark and Kimberly Bottini located at 115 South Quaker Hill Road in a CD-5 Zoning district for:

- §215-17.1 The accessory apartment shall occupy not more than 30% of the floor area of the principal dwelling if located in a portion of a single family structure. If located in a detached structure, the accessory apartment shall be limited to a maximum floor area equivalent to 30% of the floor area of the principal dwelling. In no case shall the accessory dwelling have more than two bedrooms or exceed 1,200 square feet of floor area.

*If located in a detached structure, the accessory apartment shall be limited to a maximum floor area equivalent to 30% of the floor area of the principal dwelling. In no case shall the accessory dwelling have more than two bedrooms or exceed 1,200 square feet of floor area. The total square footage for the accessory apartment requested is 1,728 square feet, where the code maximum is 1200 square feet, a variance of 528 feet square feet was granted.

- §215-52. F., The required Code of the Town of Pawling Expiration of an Appeal, unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the applicant fails to commence and substantially complete work related to the decisions within two (2) year of the date of such decision.
 - An as built is required to be submitted to the building department prior to receipt of the Certificate of Occupancy.

Second by Mr. Palm. Chairwoman Miller asked for discussion.

All were in favor and the Motion carried.

MINUTES

Motion by Mrs. Knox to approve the minutes of November 27, 2023 and December 20, 2023 as read.

Second by Mr. Harnes Esq. Chairwoman Miller asked for discussion.

All were in favor and the Motion carried.

NEW BUSINESS

i. Circulation of the 2024 Zoning Board of Appeals Meeting Schedule

The 2024 meeting schedule will be circulated to the members of the Board.

ADJOURNMENT

On a Motion by Mrs. Knox and seconded by Mr. Harnes Esq., to adjourn the meeting at 8:10 p.m. All were in favor and the Motion carried.

Respectfully submitted,



JoAnne Daley
Recording Secretary

non-approved minutes