

**ZONING BOARD OF APPEALS**  
**TOWN OF LLOYD**  
**MINUTES**  
**Thursday, January 11, 2024**

**CALL TO ORDER TIME: 7:00 PM**

**PLEDGE OF ALLEGIANCE**

**ANNOUNCEMENTS: GENERAL, NO SMOKING, LOCATION OF FIRE EXITS, ROOM CAPACITY IS 49, PURSUANT TO NYS FIRE SAFETY REGULATIONS. PLEASE TURN OFF ALL CELL PHONES.**

**Attendance:** Board Members: John Litts, Paul Gargiulo, Bill Brown, Russ Gilmore, Shawn Zerafa, Mike Guerriero (Town Board); Board Staff: Paul Van Cott (Via Zoom) and Sarah Van Nostrand

**Absent:** Board Members: Jessica Van Houten, Corey Miller; Board Staff: Anthony Giangrasso

**New Business**

**DePuy, Trevor: Area Variance: 4 Eagle Court: 86.4-3-9.100**

Applicant is seeking an area variance to allow 2 flag lots, in a subdivision having less than four lots.

Patti (applicant's agent) said that this applicant appeared before the board in June 2022 for the same project. She represented him at some of the meetings, but at the meeting where the board decision was made, she was not there. She is not sure if the applicant was even clear on the fact that the decision was made, they believed that it was a straw poll. In reading through the minutes, she tried to figure out the reasons for denial, what it seemed to her was that there were some concerns raised by a neighbor and that the applicant didn't have anyone there to address the concerns. In reading through the minutes, it seems that the concerns were with spacing and character of the neighborhood and how that was going to be impacting the neighbor and how the negative impact against the neighbor could potentially outweigh the benefit that would be gained by the applicant to do the subdivision. The applicants have agreed to enlarge the lot, put in a buffer zone and a vegetative buffer so that the neighbor in question would be protected. She showed the board the distances between the neighbor's property and the new lot being created. The house on the new lot has been relocated farther away from the neighbor who had issues with the project. It is consistent with the distance from all the other dwellings and in this case, they are proposing to put a vegetative buffer in and the wooded area will remain.

John said the proposed house was moved.

Patti said yes.

John pointed out the original location of the house and the new location.

Patti said that is the existing house. She pointed out that the lot line has changed as well. She said that previously they were coming out of the middle of the hammerhead.

John asked what the distance is of the shift.

Patti said they moved the boundary line 50-feet, so they moved the house back 50-feet, the septic back 50-feet, everything was moved back. That 50-feet has been proposed to be a vegetative buffer to protect the view shed of the neighbor.

John asked are they still going to relocate the neighbor's driveway.

Patti said none of that changed the only change was moving the lot line.

Bill asked what is the distance between the well and the septic.

Patti said 100-feet.

John said that is not for this board it's for the Board of Health.

Patti said that it has to go to the Board of Health.

John said there has been a change in the proposal, so they get to come back.

Paul asked what is the distance between the corner of the house and the guy's backyard.

John said from the corner of the house to the neighbor's property is 300-feet.

Russ asked are both the existing house and proposed house on the same plain.

Patti replied that the existing house is at a 462 and the proposed new house will be at a 456, so 6-feet lower. The existing house on the neighboring property is about 460.

Russ said that they are on a pretty even plateau, his question is moving it 50-feet isn't going to do anything visually and would like to know what kind of buffer they are proposing, are any trees going to be planted.

Patti said no, it is an existing wooded buffer now. She understood the neighbor's concern was that it was going to be cleared and he wasn't going to have that anymore. The house itself is being moved 50-feet, but she thinks the key factor here in mitigating the concerns of the neighbor in showing character of the neighborhood is the fact that they are moving the system by that 50-feet, so that none of the trees in that area can be cut or cleared out. Basically the neighbor put his house back so far, cleared right up to the backyard and has a camper parked there, so there is no buffer anymore on his property which he was concerned about, but the buffer will remain on the proposed property.

John said that the applicant could build a road and then they wouldn't need a variance.

Patti said yes and then would cut every tree down, up to the boundary.

John said then he wouldn't need to be here.

Patti said the impact of allowing the area variance to allow the flag is what's going to create a problem for the neighbor, the subdivision can take place. In exchange for the applicant being able to use that shared driveway, instead of having to go through the expense of putting that road in they are looking to mitigate the potential impacts to the greatest extent possible, by moving the lot line, septic system, and leaving it as a tree buffer. The benefit to be gained actually is significant.

John asked if the applicant would be opposed to doing a creative buffer.

Paul G. said add to the buffer.

Patti said the problem that is had in existing mature forests.

John said not to remove, enhance.

Patti said you can sometimes enhance and sometimes you cannot, mother nature basically creates what the woods are. If you look at the progression of a forest it will start with softer trees and as they grow taller, choke out they die off.

John asked if there were any evergreens in the forest as it is now.

Patti said it doesn't look like it.

John said this time year, 50-feet of hardwoods, you are going to see through pretty easily.

Patti said it is not going to be cut, it is going to be kept in its natural state.

Russ said they are all mature trees.

Patti said generally when you try to plant something underneath it, its not going to grow, forests just don't work that way.

John said it will choke the sunlight out.

Paul G. asked how long is the driveway up to the hammerhead.

Patti replied that the driveway is about 600-feet long. The point that she wants to make is that granting this area variance one way or another wouldn't stop construction. Granting the flag would give the neighbor more protection, than if they were to build a road.

Paul V. asked if there has been any further contact with the neighbors and where are they on this.

Patti said that the landowners are here and they said that they have not spoken with the neighbor at all.

John asked for a motion to schedule the public hearing for next month.  
Motion made by Russ, 2<sup>nd</sup> by Bill.  
All ayes, motion passed to schedule the public hearing for next month.

John said that on the EAF form there were a couple of questions. Question 10 was answered no, question 11 was answered no.

Patti said she will take a look at it and correct it as needed.

John said everything else is right, but he thinks the box was checked wrong. Also, for the wetlands, the maps are a little messed up. Are there wetlands on the property.

Patti said that there are no wetlands mapped on this property. She thinks she put a note on the bottom.

John said 13 is saying there are wetlands. There is a note on the last page that says the maps are usually wrong.

Patti said there are no wetlands, but there is a stream in the back of the property, it is a drainage ditch.

John said that doesn't effect the proposed action.

Mark (Reporter) asked the December meeting that this was denied at was the last December meeting.

Patti said it was November of 2022.

John said it was December 9, 2022.

Mark asked when something is denied, does it have to be something substantially different from that to be brought back up. He thought there was a provision in the code that states if you are denied that's it you are done.

John said it is substantially different, what they are proposing now is substantially different.

Paul V. said that an applicant always has an opportunity to apply for relief and whatever the outcome that may occur, could be based on what has occurred before, it could also be based on new information that is provided.

**Administrative:**

Minutes to approve:  
September 14, 2023

John asked for motion to approve the minutes.  
Motion made by Paul G.  
All ayes, motion passed to approve the minutes.