

ZONING BOARD OF APPEALS
TOWN OF LLOYD
MINUTES
Thursday, February 8, 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, Russ Gilmore, Jessica Van Houten, Corey Miller, Mike Guerriero; Board Staff: Anthony Giangrosso, Paul Van Cott (Via Zoom), and Sarah Van Nostrand.

Absent: Board Members: Shawn Zerafa and Bill Brown.

Public Hearings

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 she did bring copies of the original subdivision maps if the board wants to see them.

John asked the ones that have the through road going onto Station Rd.

Patti said yes, there are two previous subdivision maps. One that was approved in 2006 and filed in 2007 that had the through roads. She doesn't know what transpired to make the applicant in 2019 to revise the plan.

Paul G. said the bank.

Patti said she guesses that the bank didn't want to build all the roads due to the costs. It has always been known as the Pleasant View Subdivision. In 2019 there was a substantial lot consolidation done. For the particular property in question, it was still shown as a shared driveway and a hammerhead turnaround easement, looking almost like a private roadway configuration.

John said at that time it was to be dedicated to the town as a town road.

Patti said no, originally in 2007 yes. In 2019 it was a private shared driveway, 50-foot wide with a

turnaround and shared between what became lot number 9 and lot number 29. The house for lot number 29 was proposed to be built in the rear. Both properties were going to use the entire shared driveway and off of the T-turnaround two houses would then be constructed. The purchaser of lot 29 built his house much closer to Falcon Drive than was originally proposed. He was not interested in sharing the driveway and wanted to put his own driveway in on Falcon Drive. She worked with Ulster County Real Properties, the local tax map department and because they didn't leave any street numbers on Falcon Drive for the "roadway", she petitioned for it to be called Eagle Court to get where Trevor DePuy (applicant) could get his own street number. She understands the reason to restrict the number of flag lots, there was one time someone circumvented putting a town road in by having 4 flag lots with 2 lots in the front, so you had 6 driveways right next to each other, that's people abusing flag lots.

John said that is why it has been written into the code.

Patti said the purpose of a flag lot is that such lots may be approved only where the Planning Board finds that they will not endanger public health and safety, will not increase the otherwise allowable density of development, will provide an alternative to the development of new Town roads. In this particular instance, they could construct a town road on that property to do a 2-lot subdivision.

John asked that definition you read where is it?

Patti said that it is section 100-14 flag lots. She understands the reason for restricting the number of flag lots. There are no other flag lots on Falcon Drive. This application before the board is a two-lot subdivision, the overall subdivision is multiple lots, so this would be one flag lot an existing shared driveway, not increasing the density and she thinks the greatest concerns were in regards to impacts on neighbors in regards to visual impacts and buffering. They withdrew the previous application and are appearing back again with an alternate plan where more buffering is proposed, the applicant is willing to work with the neighbor who is also here tonight and is willing to provide whatever buffering they can. One of the issues was in regards to the location of the septic system and trying to keep that as far away as possible, she cannot speak to that until the engineering is done that is amenable to the landowner as is fencing. She feels this is a better alternative because if they were to build a road they wouldn't be in front of this board, mitigations wouldn't be put in place at all. This is a win-win situation, it saves the landowner money as they won't have to build the road to town standards, and it will assist the neighboring landowner by providing guaranteed buffering for him.

Russ asked what kind of buffer are you talking about. He visited the site and saw a lot of mature trees. This house if constructed would be a visual impact to the house on Falcon Drive. Even if it is moved 15-feet, you still have the mature trees, there is no buffer. He is wondering what kind of buffer could be planted that would even get sunshine in this area. Do you have a proposal of the buffer.

Patti said she is a little bit confused because where they are proposing the house is substantially cleared, so you are talking about the deciduous buffer that is already existing will remain.

Russ said it's not much of a buffer as these are mature trees all you have are trunks, so you are going to have a clear view of this house.

Patti said that is one of the points she brought up at the last meeting. To be able to plant conifers or

something wouldn't work they are not going to grow. Generally speaking, the applicant tried to negotiate with the adjoining landowner for what works best. In this case she thinks fencing will work better than trying to put in trees because she doesn't think trees will work.

John said if they get to that point, he will want to do a referral to the Planning Board for comments on buffering. It will be on the applicant to provide alternatives to buffering be it fencing or vegetative, it would be on the applicant to provide that to the board, what works, what doesn't work.

Patti said that is usually done during the subdivision process and the Zoning Board usually stipulates buffering satisfactory to the Planning Board during the subdivision process, so at this point they haven't developed that because they haven't gotten to that step yet.

Paul V. said that it is relevant to the board's consideration of the environmental impacts of the proposed variance, so to that extent he thinks if that kind of information can be provided now it would be helpful for the board, it may be tweaked more by the Planning Board, but at least there would be a baseline.

John said the board could have a minimum standard that the Planning Board could expand upon.

Paul G. said with the buffer there will be no way that you will be moving the house closer to the driveway to their access.

Patti said the goal was to put the house between the two houses that are fronting on Falcon Drive, so that neither the applicant's house or the other two houses so that they are impacted as little as possible.

Paul G. said during the process of the remediation of the buffer he doesn't want to have to go back to the way the plans were the first time.

Patti said it does say that the Planning Board may require the subdivision plat show the limits on the flag lot, of the area within which the house and driveway may be constructed. In such cases, the location of the house and driveway within such area shall be assured through a legally binding restriction. If they restrict on the subdivision map not just what the typical building setbacks are, but what the building envelope will be for this dwelling unit, that will restrict it to be constructed in that area.

John asked that would be the Planning Board correct.

Paul V. said that will be correct; the board can set conditions at this point. He thinks it is totally appropriate for the board to be looking at the buffering will be in terms of potential environmental impacts on neighboring properties. He would leave it to the Planning Board the actual instruments that need to be created to effect that.

John asked for a motion to open the public hearing.

Motion made by Russ, 2nd by Paul G.

All ayes, motion passed to open the public hearing.

James (14 Falcon Dr) said that he agrees with some of the stuff that Patti was saying about this. Back in 2022, he presented an argument to the board, and they all agreed with him because this was going to change the way the back of his house was lived. The map from 2019 is the one that was presented to him when he knew about the property, but it was being built in 2019 they didn't sign because it was builder funded until 2020. When they signed in 2020, they were shown two houses, if this house was built here that would have stunk, but they were hoping it wasn't built and it wasn't he put it further back. Yes, he can see that house right now, but it is off in the distance. This is probably from his house to the one built is at least 750-feet, so it is very reasonable. When he bought the house, this was the only spot they could get approved, it was two pieces of property they combined into one and the front was dedicated wetland, so at that time they were not able to build up there and he wouldn't have wanted to build up there anyways. Out his front door they had to put rocks for the building department to approve it or a three-foot fence because there is a drop off because it is a rock ledge. Out the back is the same thing, it is all wetland, on the DEC map from his camper all the way over to the house is all protected wetlands. When he looked at the minutes from last month it said that there were no wetlands, but there are. Currently it is a marsh back there as they have had water. On top of that his well is equal to about where his house is and is roughly 30-40 off the property line. One of his issues was that their septic system is there. Another issue is that this is mature trees, it is a wasteland there is nothing, he can see this house clear as day from there, he cannot imagine having a house closer. He wouldn't have bought this piece of property, and he doesn't even want to necessarily stay in this house and lose his backyard, he didn't buy this house to have someone sitting in his backyard. He did have a conversation with the applicant, the conversation just happened, so he doesn't know if they have agreed to change anything. At this point he is opposed to this. This wasn't even an option to have a subdivision here because of this map, it is a shared driveway that was meant for two houses. They couldn't have put a road in because the 50-feet didn't occur until the neighbor decided to give them more property. This came about because his neighbor gave them more property and they now have the ability to potentially put the road in. On top of that, on the town road all the trees are cut down. If he has to agree to this or they will put the road and out of spite just clear this is ridiculous, it is already being cleared right now, they have back there for weeks clearing, there is already stuff being put in at this point. For the 5 months that they don't have thicket there is nothing there. In mid-July pre-clearing he couldn't see anything. The trees are all mature oak trees, not like the other side of the road where there are a bunch of saplings.

John said it was mentioned possibly a fence buffer and/or a vegetative buffer.

James replied that at this time he is opposed to it as this is too close there is plenty of options in the back. Knowing going into this if this was going to be 2-acres, then the house should have been built further back, so the proposed house could be built where the existing one is. He understands what the applicant said in 2022, when he mentioned why cannot the house be built in the back because there is so much room, the applicant's response was that he didn't want anyone in his backyard. He understands as he doesn't want anyone in his backyard.

John asked when the applicant said he doesn't want anyone in his backyard, was that said at a ZBA meeting.

James replied yes it was the October one when he came and spoke his piece. When he bought the property, it was two houses. The one house moved up to the front and they moved it closer, so they could be a part of the community. On a Friday night they have 15 kids in the cu-de-sac out until

8pm, that is why he moved to this street. He also moved to this street to have over 3-arces of property with nothing in his backyard. There should probably never be a house there close, and it's not, it is 750 feet away and now they are proposing to put one closer. It moved 50-feet back enough to get back in front of the board, but it is the same ordeal. He has no problem having a continued conversation with the potential buyer. He is opposed to this right now, until there is something on paper that shows a viable solution. If a road has to get put in down the road and that is what they intend to do and go before the Planning Board then he will go to those meetings. Either there is a give or take, or they will just put the road in and just clear the trees anyways. It's not a given it still has to go before the Planning Board and they are going to hear the same thing he is hearing, if there is no other solution provided. It should never have existed it is a shared driveway not a road, the road option left in 2019 which is the map he was provided when he bought the house or wanting to buy the house. He asked about the surrounding area because he saw the 25-arce parcel, what happened with it, 15-acre and 10-acre two houses.

John said your property line to the proposed site where the house is going to be, how much of a buffer did he leave between the property line and the house.

James said that they couldn't leave much otherwise they would have no backyard. They had to build the house where they did because 10 feet out the front it drops off a rock cliff that is 12 feet tall. They had to put the leach field in another spot they had to create before it went into the wetland. He left all the trees he could and only cut down 3 trees in the time he lived here. What has been cleared is there now when they bought the house. The back of the camper is about 10 feet off the property line and the camper is about 40 feet, so he would say the setback to his house is roughly 100 feet.

John asked Patti if she had provided the information from the back of his house to the proposed wasn't it 300 feet.

Patti said yes.

James said he is just going to reiterate that he was here back in 2022 and gave these same reasonings and he is here today. He did have a conversation with the potential buyer, there has been more conversation lately than in a year and a half. As it sits right now he is opposed to it.

Patti said in regards to the clearing of the roadway, what was stated was the town requirements that the clearing had to be 50 feet wide, it was not a do this or else statement. She wants to point out to the board that the setbacks in the A-zone are front yard 30 feet, side yard setback 35-100 feet for two sides, and rear yard setback of 30 feet, so the buffering that they are providing in this case is 10 times what the requirement is. No one is placing a house right in the back yard, there is more of an eye sore for this property owner as he will be seeing a camper. She believes that they keep going off on a tangent on what perspectives there are on the visual setbacks and what the board's obligation and ability is. This lot showed proposed houses in the locations that they did. Neither of those houses needed to be put in those locations, this applicant is willing to restrict it.

John said if there wasn't a restriction, they could put the house wherever they want within the setback area.

Patti said the house that was shown on the neighbor's property was not constructed in the location

shown on the map.

John said other than if you have a restriction placed, if you are within your setbacks then you put the house wherever you want.

Patti said oftentimes people will try to sell you a lot by saying look how far away that house is going to be, but that doesn't mean that's where it ends up being built. Sometimes situations occur where people expect one thing and get another because it's legally what is permitted. The intent is to continue to work with the applicant, she thinks that James pointed out that this neighborhood is a community.

John said the board is seeking an amendable resolution.

Patti said one of the issues is in regards to the septic system, she cannot speak to until Board of Health looks at it.

Russ asked if there are wetlands on the property or not.

Patti said that she checks the map on a regular basis, she will find out what the neighbor has and will check the site again. She did submit the EAF.

John said that at the last meeting the board mentioned that there were inaccuracies. He asked for this project to be referred to the Planning Board to get their input. If the applicant can come up with some plans for buffering. The board will set a minimum standard and the Planning Board might up it. If you can get a couple of different plans for the board to look at.

Patti said she will get a landscaper out there as that is beyond her scope of work.

John said from past experiences have a couple of different ones, with different options. He asked Paul V. if there was anything else the board needed.

Paul V. said that's the issue of the day, he thinks getting something that will help the board with the evaluation of the environmental impact of granting the variance would be helpful. There is already something in the record as they increase the distance, but what he is hearing from the board is they would like to see a little bit more and at least provide a baseline. Where they can evaluate the environmental impact of granting the variance.

John said he looked back at the minutes and most of what was said was the visual impact, the character of the neighborhood, along the lines of what they are discussing now.

Paul V. said one thing that is important for everyone to be mindful of is that the zoning district allows development of this lot and the only question this board is how to gain access to this lot. Some of the concerns of the neighbors, if there was a different access the applicant was seeking, they would be faced with the same situation without the need for a variance. He thinks everyone working together is the best way to go with this one, that would include the existing property owners who are in front of this property because this property is developable under the zoning district. There is only so far, the ZBA can go in terms of making sure that environmentally, the only issue he really sees is visual. If the buffer is provided, that's part of the standards that the board is

looking at. The ZBA may find that that is sufficient subject to further review by the Planning Board.

John said if this was granted the entire lot now is 10.5 acres.

Patti said 10.05 acres.

John said could it be restricted that further development would be restricted.

Patti said that is part of the flag lot regulations, that you need to put a restriction on the map. Any approved plat containing flag lots shall contain a note stating that no further subdivision of the flag lot(s) shall be permitted.

John said you would need a variance to put in two flag lots. If you converted those flag lots and built a road, you would take away those flag lots, you would make it more compliant, so in the future you could put 3 more houses in. Can the board put a stipulation; he understands that there would be two flag lots. You would be more complaint if you get rid of two flag lots and build the road and then build two more houses. He wants to know if the board can restrict that.

Paul V. said that he thinks that is beyond the scope of the ZBA's review. If the applicant was to propose something like that, it would be different. It is something the applicant could think about in terms of the character of the neighborhood.

John asked if the extra property for the driveway was owned by the applicant or if it is contingent on this application.

Patti said it is all contingent as that would be part of the subdivision process. At this point in time, Klemm (12 Falcon Drive) owns that. If this process goes through that would be contingent.

Paul G. asked if the proposed house was pushed back to the side yard setback of 35 feet, how much would that gain in distance from the neighbor's property.

Patti said it would gain about 15 feet which won't make a difference visually. What she is trying to do is come up with an acceptable building envelope, she cannot say that the house is going to go exactly in that spot, until the engineering design is done. One of the things that they have to talk to the neighbor about is if they don't want the septic where it is then the septic will need to go in the rear, but you cannot put the septic in the 100-foot buffer in the back, that would mean the house would need to be pushed a little further north.

John said he thinks visual is the major hang-up right now, if they can come up with a buffer, he thinks that they can make everyone happy.

Paul V. said this has been referred to the county and are still waiting for county comments on the variance.

Administrative:

Minutes to approve:

January 11, 2024

John asked for a motion to approve the minutes.
Motion made by Paul G., 2nd by Russ.
All ayes motion passed to approve the minutes.