

APPROVED

A public hearing before the Zoning Board of Appeals of the Town of Williamson was held on December 18, 2014, in the Town Complex meeting room at 7:00 PM.

The following members were present:

Present: Ernie Norton, Chairman
Chuck Monsees
Tim Gulick
Bruce Akins
Noah Knataitis

Also present were: Lisa & John Sawyer, Dan DeCracker, Eugene Clifford, Lauren Marshall, Bob & Janet Nelson, Kurt & Christine Catalano, and Joseph Maliga, Code Enforcement Officer.

The minutes of the November 20, 2014, meeting were reviewed for approval. A motion to approve the minutes as submitted was made by Tim Gulick, and seconded by Ernie Norton. All voted in favor of the motion.

Notice of Action for Appeal No. 829: Home Powers Systems of 1127 Corporate Drive East, Farmington, NY. For setback relief. Property is owned by Douglas E and Mary Ann Robinson and is located at 4337 Lake Rd, Williamson. Zoned L-R (Lakefront-Residential).

Motion made by Tim Gulick to accept Notice of Action for Appeal No. 829, and seconded by Chuck Monsees. All voted in favor.

Notice of Action for Appeal No. 830: Joshua VanEenwyk of 140 Rotterdam Rd, Sodus, NY. For a use variance. Property is owned by applicant and is located on East Townline Rd, Williamson. Zoned I-1 (Industrial).

Motion made by Chuck Monsees to accept Notice of Action for Appeal No. 830, and seconded by Bruce Akins. All voted in favor.

Agenda items:

Further Review of Appeal No. 828: Christine Catalano of 2847 White Birch Cove, Williamson, NY. Applicant is requesting front setback relief in order to construct a post-frame building. Property is owned by applicant and is located at 2847 White Birch Cove, Williamson. Zoned L-R (Lakefront-Residential).

The Catalanos wish to erect a post-frame garage in the front yard of their property, which is a double lot on White Birch Cove.

It was noted by the Board that the septic map which the Catalanos provided for this meeting does not indicate any distances, such as from the house to the lot lines or to the leach field. It also does not include the proposed building.

Chuck Monsees asked about the deed restriction and legal responsibility. Ernie Norton had spoken with Mr. Arthur Williams, town attorney, after the November ZBA meeting. Mr. Williams explained to him the any deed restrictions are trumped by zoning, and indicated that it is the responsibility of other homeowners (and not the Town's) to take action if deed restrictions are broken. Bruce Akins explained that, in other words, for the Town to issue a building permit, the Town must verify that the plan meets Town Code (or a granted variance), but the Town is not responsible for making sure any plan meets any existing deed restrictions.

The Catalanos explained that their attorney advised them to see if their variance would be granted before spending time and money on researching and reviewing the deed restrictions and how those would apply to their proposed project.

Janet Nelson of 2865 White Birch Cove asked where the front setback is determined. Is it from the lot line or to the street or right-of-way? She stated that the *de facto* right-of-way is where the road [White Birch Cove] is. The road is not in the location set by the deed due to the lay of the land.

Christine Catalano explained that the building would be placed not on the deeded right-of-way (as determined by the survey), but at the end of their driveway.

Both Lauren Marshall of 2857 White Birch Cove and Janet Nelson explained that while the property lines go to the middle of the creek, the creek flooded the properties in the area four years ago. A garage in the proposed location would be affected by any similar flooding in the future, and perhaps that location is in a flood zone. Janet Nelson went on to say that such a building could block emergency access from the west if future flooding were to severely damage or destroy the bridge for White Birch Cove. Ernie Norton explained that he spoke with the Lake Rd neighbor whose property borders the Catalanos on the west. In the flooding of four years ago, his bridge was destroyed.

Bruce Akins noted that areas of flood plain are under FEMA administration while a floodway is a different entity and under Army Corps of Engineers administration (or perhaps US Geological Survey?).

Chuck Monsees sought to confirm and clarify the issues before this board: front setback and front yard location.

Eugene Clifford of 2889 White Birch Cove raised a question regarding the septic map. Through the location of the proposed garage is not indicated on the map, it appears that it may go over a section of the leach field. Christine Catalano answered that they had discussed a potential building with the engineer when the septic system was designed.

Noah Knataitis asked the approximate distance from the last leach line to the proposed building; the Catalanos answered that it would be about twelve feet. Noah asked if there was room in the septic system for expansion if there was ever a problem; Kurt Catalano explained that the system can be expanded to the west, but would require pumping out. As a builder, Noah knows that NYS Department of Health regulations require twenty feet of separation from a leach line to the foundation of a house, but is it that same to a post-frame garage?

Chuck Monsees asked the Catalanos about reducing the size of the building. Kurt Catalano replied that their minimum is 24' x 36'; they originally proposed a 30 x 48 structure.

Janet Nelson reiterated the issue of egress to the west, and stated that she feels the proposed garage would change the character of the neighborhood. She added the other properties in the area with pole barns are agricultural in nature, not lakefront residences. She also said she had spoken with a realtor to ask if this garage would affect the values of the other properties. The realtor said that yes, this would affect the values because it would detract from the curb appeal and the view. Christine Catalano stated that she has counted six area lakefront homes with a garage in the front yard; Kurt Catalano added that the distance from the center of the creek to the proposed structure is 36 feet.

Janet Nelson stated that the hardship that is created for the Catalanos is not unique. Lauren Marshall said her garage is the same location (beneath a portion of the house) as the Catalanos' next door; she bought the house knowing that is how it's set up.

Eugene Clifford asked if any of the Board members have seen White Birch Cove in person. Three answered yes. Mr. Clifford agrees that the hardship here is self-created. All five of the other White Birch Cove residents are opposed to this project. Lauren Marshall added that the Dobsons, who live on Lake Rd in front of 2847 White Birch Cove are also opposed.

Kurt Catalano said they plan to place the building 36 feet from the center line of the creek (which is also the front property line). Janet Nelson read definitions for lot line, setback, and street. Christine Catalano explained that the right-of-way does continue all the way to the west lot line, but the street [White Birch Cove] does end at their driveway. The street does not match the location of the right-of-way through the first five lots because of the contours of the land and because of the creek; the subdivision map was never revised and filed with the County to reflect the actual location of the roadway. At their lot and the lot to the east [Marshall's], the land opens up and the deeded right-of-way is accessible. Janet Nelson said that the street doesn't have to be on the right-of-way. Chuck Monsees stated that the subdivision's western edge is the Catalano's property. Since the subdivision doesn't extend further west, an egress to the west is a moot point; no one to the east has need for such access. Bruce Akins explained that the right-of-way is a legal design, and cannot be dismissed by one party. The Board had requested at the November 2014 meeting to see a drawing of the legal easements on an engineer-prepared map, to include all existing structures plus the proposed building with distances from each item to another and to lot lines as well, as the septic system and distance from it to both existing and proposed structures.

The consensus among the Board members that they do not presently have enough information on which to vote. Joseph Maliga, Building Inspector, requests the survey be done using GPS (for accuracy, since this is a waterfront property). Eugene Clifford requests a rendering also of the completed building. The Catalanos agreed to both of these requests.

A motion was made by Bruce Akins to extend the hearing for Appeal No. 828 until no later than the March 26, 2015 meeting, with documents to be submitted to the clerk to the Zoning Board of Appeal no later than March 12, 2015. The motion was seconded by Tim Gulick. All voted in favor of the motion.

Appeal No. 831: John & Lisa Sawyer of 3055 Seeley Rd, Williamson, NY. Applicants are requesting front setback relief for a shed. Property is owned by John and Lisa Sawyer and is located at 3055 Seeley Rd, Williamson. Zoned A-1 (Agricultural).

The Sawyers wish to have installed a 14' x 22' (308 sq ft) utility building (dropped unit from Fisher in Avon, NY) on an already prepared site for storage. The building would sit 5.5 feet from the west edge of the trunks of the arbor vitae, and would be 14 to 15 feet in front of the house. In reviewing the submitted site plan, the Board observed that while the proposed building would be 14-15 feet in front of the east corner of the house, the very front of the house is actually 13.7 feet closer to the road which requires less setback relief.

Bruce Akins asked if they could move the utility building three feet back, making it even with the front of the house (as its closest point to the road). The Sawyers answered that this would be difficult because the ground is significantly rocky there.

A motion was made by Tim Gulick to approve Appeal No. 831 as submitted, granting a variance allowing the accessory structure to be placed no more than three feet closer to the road than the primary structure. The motion was seconded by Bruce Akins. All voted in favor of the motion.

After nineteen years of service to the Zoning Board of Appeals, this was the last meeting for board member Bruce Akins. Bruce had submitted his resignation effective December 31, 2014. Daniel DeCracker has been appointed by the Town Board to fill the remainder of this term effective January 1, 2015.

There being no further business, a motion to adjourn was made by Ernie Norton, and seconded by Bruce Akins. All voted in favor.

Respectfully submitted,

Christine Nagel
Secretary