

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, January 5, 2009 at the LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Tracy Johnson called the meeting to order. Board members Marc Komorsky, Paul Bisceglia, Joe Zeidan and Nancy Swanson were present. Aaron McPeck was absent.

Mr. Johnson announced that the board was meeting in the lower meeting room because the upper room was under construction.

Mr. Johnson made a motion to accept the minutes of December 1, 2008, seconded by Mr. Zeidan and the motion carried unanimously. MINUTES ACCEPTED.

OLD BUSINESS:

09-08-01 AREA VARIANCE: GLEN AND MARY ANN BRANDOW, 252
OVERLOOK ROAD, POUGHKEEPSIE, NY GRID NO.
6361-01-368685

Seeking relief of 15' from the rear property line in order to legalize an above ground pool with a setback of 5' from the property line.

Mr. Johnson said they had an inground pool and the original application indicated that they wanted a variance for 10' from the 15' setback from the rear property line. He said there was some discussion as to actually where the property line was so the board asked the applicant to come in with a survey showing where the pool actually was.

There was no one present to represent this application. Mr. Johnson said this application has been going on for a number of months and the board has deferred it while trying to negotiate some sort of an arrangement with the next door neighbor.

Mr. Johnson said the last time they met the board indicated they would give him one more shot so he said since there was no resolution and following the findings, this is an area variance and as such it is exempt as a Type II application under SEQR. The applicant has not been able to demonstrate that the structure is actually on their property. Since the applicant cannot establish this, he recommended the board deny the request because they cannot meet the requirement showing that they own the land that they are requesting a variance for. There are a number of other considerations that the board could add, but basically there is a lack of legal standing for this application which seems to be enough for the board to deny it.

Mr. Johnson made a motion to that affect, seconded by Mr. Zeidan and passed unanimously. VARIANCE DENIED.

11-08-01 AREA VARIANCE: KEVIN COLLINS, 6 DEPOT LANE,
LAGRANGEVILLE, NY GRID NO 6560-04-525134

Seeking relief from the code that states that a nonconforming use cannot be expanded in Order to construct a 30' x 40' addition to an existing structure.

Mr. & Mrs. Collins appeared before the Zoning Board. Mr. Johnson said at the last meeting there was some discussion as to whether this should be an area variance or a use variance. He said he talked with the town attorney and her opinion, based on previous work is that this is an area variance. Mr. Johnson said the public hearing was closed at the previous meeting.

Mr. Johnson said the issues he had is that the area itself is fairly wet and questionable if it will flood or not. The applicant suggested it doesn't. Mr. Johnson said there is standing water occasionally there. Mr. Johnson said it is going to be an expansion of a building which houses a nonconforming business in a hamlet area and the applicant says the building will not be used as an expansion of the business but it certainly would be convenient if somebody buys the business, so there might be that sort of expansion.

Mr. Johnson said the hamlet is not a business district and the business that is there is commercial to him, including tow trucks and plastic manufacturing that is going on in the building so he didn't see that usage as particularly compatible with the rest of the hamlet area. Mr. Johnson asked the board for comment.

Mr. Zeidan said they cannot assume what is going to happen in the future. He said the board has to go by what the applicant is asking for. Mr. Zeidan said it is close to the little stream in the back, but it didn't look like it would even come close to it. Mr. Collins said that stream is about ¼ mile away. Mr. Zeidan said there is a little one behind it. Mr. Collins said that was just a puddle. Mr. Johnson said the other issue is the size, 30' x 40', which is a fairly substantial addition.

Mr. Zeidan said the applicant was not going to put a passage through the garage. Mr. Collins agreed and that access would be from the outside. Mr. Zeidan said the good thing that can come out of this is the applicant takes all that equipment and puts it in the garage so it won't be an eyesore.

Ms. Swanson said she was concerned about it being attached to the business building, which means that in the future that business could expand very easily and now they have expanded an already non-conforming use. She said if it were a separate building and smaller, and as an accessory structure she would have less of a problem with it.

Mr. Komorsky asked about the drainage. He said when he was out there the water was right up on to the blacktop. Mr. Collins replied he was going to bring it up to the level where the garage is. Mr. Komorsky asked how many feet. Mr. Collins replied about 1 ½ feet.

Mr. Johnson referred to the character of the neighborhood and if this was a detriment to neighboring properties. Mr. Johnson said his observation of the neighborhood is that it is generally wood-frame houses and the current building is somewhat out of character with

the rest of the buildings in the area. Mr. Johnson asked if there were alternate methods. He said they discussed maybe a smaller garage that wasn't attached. He said the applicant does own the neighboring property which could be a potential way of spreading it out, but they may not want to combine the 2 properties.

Mr. Johnson said in terms of the character of the neighborhood, it would be beneficial to have vehicles in some kind of structure. Mr. Komorsky asked how they could enforce that and added the structure could be built and everything could still sit outside.

Mrs. Collins said they needed a place to put all their stuff. Ms. Swanson said all of those vehicles shouldn't even be there. Mr. Bisceglia asked if this structure would be the same width as the existing structure. Mr. Bisceglia said this would be a long rectangle. Mr. Bisceglia asked the length of the total structure. Mr. Collins replied 80 feet. Mr. Collins then corrected it to 60 feet. He said 60' x 80'. Mr. Bisceglia said he felt the structure could look better. He said he was more in favor of it being separated rather than attached. Mr. Bisceglia said he didn't think the applicant was doing themselves justice for their own property and the neighboring properties. He said they could have a better design that would enhance the property. Mr. Collins said there was no other place to put it. Mr. Bisceglia said if they made it a different configuration, he said it didn't have to be this long thing. Mr. Collins said they would do landscaping. Mr. Komorsky and the board discussed possible other locations for the structure. Leech fields and the septic was the reason it couldn't be placed elsewhere.

Mr. Bisceglia asked how they would enter the building. Mr. Collins replied through the side. Mrs. Collins said there is a driveway that goes all the way down to the back. Mr. Bisceglia said they weren't going to drive around the back, so how would they enter. Mr. Collins said the entrance would be on the side. Mr. Komorsky asked if there was any way to consider putting it on the other lot where the big backyard is.

Mr. Collins said he didn't want to cut into that property. Ms. Swanson asked if the vehicles were for their business or personal use. Mrs. Collins replied both. Ms. Swanson said then some of the business vehicles being stored there is an expansion of a non-conforming use. She said a business should not be there under current zoning, so it is non-conforming and by building to store the business vehicles is an expansion and the code says it shouldn't be expanded. Mr. Collins said then he wouldn't put the business vehicles in it. Mrs. Collins said they have 2 trucks and they use them for business plus personal and she wants to store her Cadillac. Mrs. Collins said they have lawn tractors and stuff to store. Ms. Swanson told Mr. Collins they may have to store the business vehicles some other place. Ms. Collins said it was not a van or a commercial vehicle, it was just a vehicle that she drove everyday and it was used for business also.

Mr. Bisceglia asked if they would put in something for drainage. Mr. Collins replied he could. Mr. Bisceglia said he knew he could, but where would he put it. Ms. Collins said they don't have a water issue in that building. Mr. Bisceglia said it wasn't because of the water issue, but when they wash things in the garage. Where is that water going to go. Ms. Collins said they don't plan on washing anything. Mr. Bisceglia asked about

electricity, heat and water. Mr. Collins said there would be no water and no heat. Mr. Bisceglia asked the height. Mr. Collins replied 12 feet. Mr. Bisceglia said he had his reservations.

Ms. Collins said they had their public hearing and none of the neighbors complained and the other side of the house were the ball fields.

Mr. Johnson said the structure is going to be long and not really in the character of the neighborhood. He said it would have the advantage of getting the equipment that is currently outside, under cover and hopefully less visible. On the other hand there are some questions as to whether that equipment should be there in the first place.

Mr. Johnson referred to alternate methods and added that seems to be up in the air. He said there certainly is the possibility of a stand alone garage in the area. He said the applicant doesn't believe that there are any other methods. The variance being requested is for a substantial building which makes this a fairly substantial variance request. Mr. Johnson said there is some question on the impact of the physical environment and conditions in the neighborhood depending on how the building is used. He said there certainly is a potential for an expansion of a non conforming business, although the applicant says that will not happen. He said there is also the potential for some environmental hazards due to washing of vehicles and maintenance, although the applicant says that will not happen. Basically, the application is self-created to the extent that the applicants have owned the building for quite a while and have been aware of the zoning.

Mr. Johnson asked for questions and/or comments from the board.

Ms. Swanson asked Mr. Collins if they said they owned the property next door. Mr. Collins replied yes. Ms. Swanson asked if there was a garage on that property. Mr. Collins replied no. Ms. Swanson asked the size of the lot. Mr. Collins replied 2 ½ acres. Ms. Swanson asked if they rented out the house. Mr. Collins replied yes. Mr. Zeidan asked if that was all one property. Mr. Collins replied 2 separate parcels.

Ms. Swanson made a motion to deny the application based upon the factors that Mr. Johnson went through. Mr. Komorsky seconded it.

Mr. Komorsky suggested they build garage in the front to mask the building, which is really what they are looking for and then they will have a garage to go with the house.

Ms. Collins asked if he was suggesting that they put it closer to the road. She said she would be looking at the garage. She said they were trying to put these things away and this would be right on top of the road.

Mrs. Collins said the reason why they want to put it in the back is because they went by the new Hamlet laws where you only need 10 feet and 5 feet, which is why they chose the back and it is already level.

Mr. Johnson reminded the board there was a motion on the table that has been seconded to deny the application. The variance was denied by a vote of 4-1. Joseph Zeidan voted nay. **VARIANCE DENIED**

Mr. Collins asked what was the next step. Mr. Johnson said they could take the town to court or talk to the Building Inspector and see if they can arrange something more suitable for a hamlet type development.

12-08-01 AREA VARIANCE: JEFF WOODWARD, OSWEGO ROAD,
PLEASANT VALLEY, NY Grid No. 6662-03-034158.

Seeking relief from the code in order to construct an accessory building on a lot without a principal structure.

Mr. Johnson said he spoke with the town attorney and indicated she hadn't done any specific legal work in this area but her guess was that there could well be an issue that might need to be a use variance, however, it was his understanding from talking with the Building Department was that Mr. Woodward had possibly found a way to put the shed on his existing property which has a primary structure, which would get rid of the major issue. Mr. Johnson asked if Mr. Woodward or a representative was present. There was no response.

Mr. Johnson said the public hearing was previously adjourned and opened the public hearing for public comment. There was no response.

Mr. Johnson made a motion to adjourn the public hearing until the February meeting in order to confirm that the applicant has found a way to proceed without requiring either a variance or as much of a variance. Mr. Zeidan seconded it and the motion carried unanimously. **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS:

1-09-02 AREA VARIANCE: RYAN FIGA, 233 SMITH ROAD, POUGHKEEPSIE,
N Y GRID No. 6360-04-703236

Seeking relief of 10' from the property line in order to construct an accessory garage with a proposed setback of 20' from the property line.

Mr. Figa said he just purchased the house and went from a house that had a 3 car garage to a house with no garage. He showed the board the plans of the house and the location of the garage which was proposed to be 24x'32'. He said the only reason he was not putting close to the house was because there is a tree there and a garden and he said if he were to take the tree down, the roots that go under the brand new blacktop would cost him more than the garage. He said the garden goes up about 4 feet and added he didn't mind taking the garden down, but the tree and ripping up the blacktop would be costly so that's why he moved the garage down 20 more feet.

Mr. Zeidan asked about the garden. Mr. Figa said it would be 50' off the house versus 20' off the house. Mr. Figa showed the board the corner of the house and the garden and the tree and showed the board where he was moving the garage. Mr. Figa said it was a flat area, and no excavation would need to be done except frost line for the foundation.

Mr. Figa showed the board pictures. Ms. Swanson asked the location of the doors. Mr. Figa said it was a garage door that went right onto the blacktop. Mr. Johnson asked about the house directly behind his. Mr. Figa said the neighbor couldn't attend the meeting and added that she didn't have a problem with it. He said it was a vacant house.

Mr. Figa showed the board the garage door and a side entry door. He said it would have electricity. He said the garage would also have some above storage, decorations and such.

Mr. Zeidan asked how high this was going to be. Mr. Figa replied 3 feet of concrete with 10 foot walls.

Mr. Johnson advised the board to look at the application, second to last page, the overhead aerial photo. He said the main house on the lot to the right tends to flood. He said there was another house they could see above it which is very close to the property line which is the one that is shown in the picture that Mr. Figa showed them. He said there are 2 structures on one lot.

Mr. Johnson said he was out to the property and noticed there was a very steep slope in the front so that it's really not buildable there.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application. There was no response.

Mr. Johnson made a motion to close the public hearing, seconded by Mr. Zeidan and the motion carried unanimously. PUBLIC HEARING CLOSED.

Mr. Johnson said the garage itself will not affect the character of the neighborhood. The building is somewhat close to the property line, however it is considerably towards the rear of the main residence on the neighboring building. He said there is a secondary structure which would be fairly close, but that structure is also quite close to the house so there is not a significant change in the impact in his opinion.

Mr. Figa said when you go to the corner of the house, the survey says it is 80 feet off the property line, and he was looking to go 32 feet back but as you go down.....(Mr. Figa's next sentence was not audible). He continued by saying that was why he was looking for a 10 foot variance.

Mr. Johnson said the applicant doesn't have a garage at all. He said the variance request is moderately substantial but there would still be a 20 foot setback as opposed to a 30 foot

setback so that it is not significantly larger than other variances the board has granted in the past. He said it is not obvious that there would be any impacts on the general neighborhood aside from the existence of the structure itself. He said there are 2 larger buildings in the area. Mr. Johnson said the lack of a garage is self created in the sense that it wasn't built in the first place, which is something that the board can consider and waive in terms of the benefit to the applicant.

Mr. Johnson asked for comments from the board. Mr. Bisceglia said he didn't have an issue with it.

Mr. Johnson made a motion to grant Mr. Figa relief of 10 feet from the property line in order to construct an accessory garage with a proposed setback of 20' from the property line noting that the building itself would be approximately 1 story with a crawl space above it so it wouldn't be a large intrusion into the area. Mr. Zeidan seconded it and the motion carried unanimously. AREA VARIANCE GRANTED.

Mr. Johnson told Mr. Figa he would get a letter so he could proceed to the Building Department.

1-09-02 AREA VARIANCE: PRADIP PATEL, 10 NORTH DRIVE,
POUGHKEEPSIE, NY Grid No. 6260-04-886056

Seeking relief of 5' from the right of way of North Drive in order to construct an addition to a single family residence with a proposed setback of 51.6' from the right of way.

Mr. Patel appeared before the board. Mr. Johnson asked him to explain to the board why he wanted to build the building and what it would look like.

Mr. Patel described the addition to the board, and added the roofline would match the existing house. Mr. Johnson asked him to describe the addition. Mr. Patel said the front will match and the roof will match.

Mr. Zeidan asked about the inside. Mr. Patel said 1 bedroom, master bedroom. Mr. Bisceglia asked about a basement. Mr. Patel said there will be a basement, just a slab.

Mr. Bisceglia asked if there were any issues with the well and septic. Mr. Patel replied no, he said it was a brand new septic system done this past summer.

Mr. Johnson said the addition to the house would be in keeping with the existing house and it is not a major increment in terms of extending the length of the house or its width so that the affect on the neighborhood and properties seems to be minimal, relative to the benefit the applicant will have.

He said because of the septic system in the rear, the addition cannot be put back there very conveniently, so there is no apparent easy way of achieving the benefit of expanding the house.

Mr. Johnson said the variances requested are not particularly substantial given that the current house is already located at a distance of about 44 feet from the drive. Although the building is nonconforming, the addition will not be any more nonconforming than the building is. Mr. Johnson said making the house somewhat larger doesn't seem to have any particular impact on the physical environmental conditions in the neighborhood. He said the reason for the application is obviously a self created difficulty in the sense that it is an addition to a house that was existing, however, the applicant will receive some benefit from the addition which might outweigh in the board's mind the granting of a variance.

Mr. Zeidan asked if this was going to be 1 story. Mr. Patel replied it would be 2 floors, master bedroom on top and the lower floor would be a game room. Mr. Johnson added the roofline on the existing house would just come straight across. Mr. Zeidan said he noticed they were going out 16 feet past the house, behind it.

Mr. Johnson asked if there was anyone in the audience who wished to speak for or against the application. There was no response.

Mr. Johnson made a motion to close the public hearing, seconded by Mr. Zeidan and the motion carried unanimously. PUBLIC HEARING CLOSED.

Mr. Bisceglia made a motion to grant Mr. Patel relief of 5' from the right of way of North D rive in order to construct an addition to a single family residence with a proposed setback of 51.6 feet from the right of way. Mr. Johnson added that they indicate a setback of the sideline is a little over 15' and the code requires 20' so he suggested the board grant a 5' variance on the sideline also. He said there is some question in the Building Department as to whether that is necessary or not, but he thought it wouldn't hurt to do it. With that addition, Mr. Johnson seconded the motion and carried unanimously. VARIANCES GRANTED.

Mr. Johnson asked for a motion to adjourn the meeting at 8:22 p.m., seconded by Mr. Zeidan and the motion carried unanimously. MEETING ADJOURNED

Respectfully submitted

Eileen Mang, Planning Board Secretary
for Susan Quigley, ZBA Secretary

