

Town of Milton
Building/Zoning/Planning Department
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June 4, 2020

Board Attendance: Matt Akari, Jerry Manning, Pat Quillan, Eric Smassanow and Chairwoman Meg Soden

Zoning Alternate: JD Wood
Zoning Attorney: William Keniry, Esq
Zoning Official: Bill Lewis

1. Pledge to the Flag

Led by Mr. Smassanow

2. Chairwoman Announcements

Chairwoman Soden: Welcome to the Zoning Board of Appeals special meeting. Today is June 4, 2020. We are holding this meeting to catch up on anything that has come before us during the course of the pandemic. This is an exception of our regular one meeting a month. Thank you for joining us for tonight's meeting.

If you want to make a comment during the public comment section, please use the raise hand symbol, state your name and address and say your comment in three minutes or less. We ask that you have patience with us as we work through this.

3. Minutes approval from May 28, 2020 Zoning Board Meeting

Meeting minutes for the May 28, 2020 meeting are not yet complete. We will review them during our next meeting later in the month.

4. Public Comment:

The public comment is now open. If you have any comments, please raise your hand. I am not seeing any comments so we will close the public comment section.

5. Area Variance- James O'Brien – Country Club Drive 215.-1-27 & 215.-1-28

Chairwoman Soden: This Area Variance is to combine two parcels for single family residential use. This property is in the Towns R2 Zoning District, which is lot 27, approximately .44 acres. Lot 28 is approximately .48 acres. Lots in the R2 Zoning District are required to be 5 acres. The combination of these lots creates .92 acres of land to be developed as a single family residential lot which is significantly bigger than any of the single family residential parcels on Country Club Drive.

Amanda brought up the application/info for the Area Variance via screen sharing;

Chairwoman Soden: The narrative is helpful describing what they are requesting. The application shows tax parcel for lot 27 and lot 28. In addition to the actual application, we have the AG date statement and the Short Environmental Assessment Form. There is also a letter from Mr. Toohey to Bill Lewis, stating the intent. The actual maps are shown here as well.

Chairwoman Soden: Does the Board feel the Application is complete? Do you feel there is anything that has been missed?

Mr. Quillan: It looks like the application is complete and everything is here.

Chairwoman Soden: Mr. Toohey can speak about the application now.

Mr. Toohey: I represent the James R. O'Brien Revocable Trust that owns the two parcels. The subdivision was filed on September 2, 1966. It is smallest subdivision in the Town of Milton. It is a file Subdivision within the Town of Milton. The two parcels that we are talking about are the one on the left side as you enter the property from Route 67, to the west. They are corner parcels on Route 67 and the primary road in the subdivision and the one that is immediately to the North of it. My client owns both of these lots. If you scroll to the final sheet, it gives you all nine of the subdivided parcels. Of those, there are five that have been developed with single family residential lots and four that are vacant lots. My client owns two of the four. The average size of the lots on this roadway, as shown by this chart, is .49 acres. The average width of the lot is 139.77 feet. My client, in combining these two parcels as a single family residential lot, would have the largest single family parcel on that street and within that Subdivision. There is no way we can comply with the 5 acre law or the width requirements based on the land that is here. The lots create a negative lot. If you take the required frontage off Country Club Drive, and the rear setback, you have a negative image of which you can build upon. The space going from the frontage on Route 67 and do the same, you'd have a lot that is 12.5 feet wide as a buildable area. It wouldn't work. As a result, an Area Variance is needed. My client is requesting permission to build a lot that is very specific in its building window. As to not have to have the lots transferred, and then have someone come back to the Board based on this, he wants to have a buildable window for the property. If you look at the deed for tax parcel 28, it is unlike any of the

other deeds within that subdivision. When this parcel was originally being sold, it had a requirement that the frontage for this house would come of the primary road in the subdivision and it had to be at least 85 feet off of the street. We have used that for the front yard setback for the two parcels then we have taken, off the back, 45 feet. You would have 85 feet of frontage, 45 feet rear yard, 75 feet from Route 67 and 50 feet from the northern boundary line of the combined two lots, creating the Zoning rule that we would like to have for the purpose of this Single Family Home. The property has been subdivided since 1966. The lot that we are proposing would be the largest lot on the street so it is not inconsistent with the other properties. It would not be detrimental to the neighborhood. In fact, it would enhance the neighborhood as it would become closer to Zoning compliance. We would like permission to combine it and have the setbacks on the combined lot.

Chairwoman Soden: Does the Board have any questions for Mr. Toohey?

Mr. Smassanow: On lots 27 and 28, were the owners of those parcels in that subdivision, paying taxes or was it assessed as building lots within the subdivision by these two going together?

Mr. Toohey: They are assessed as the Town would assess vacant, buildable, lots on that street.

Mr. Smassanow: That's been that way since the beginning? Have they been paying taxes on them as buildable lots this whole time?

Mr. Toohey: Yes.

Chairwoman Soden: On the application, it shows Town of Ballston, different lot numbers names and addresses. What is this showing us?

Mr. Toohey: It takes other lots in the general area both in the Town of Milton and the Town of Ballston. I do not think, for this application, that it presents to you anything of value. The last chart shows the nine lots that exist in the Town, on this street. It's on the last page of the presentation. It is the deed for lot 28. This shows all of the lots in this subdivision. The two with the asterisk are the two we wish to combine. It also shows the average size and use and utilization of the lots. It gives you the combination of .92 acre parcel of land. It is .43 acres larger than the average lot size. At 237.74 feet of frontage, it will be the widest lot and 93.97 feet wider than the average lots. We would be combining two relatively small but consistent lots.

Chairwoman Soden: In the application, there is a chart showing the variances requested.
Amanda brings up chart via share screen

Chairwoman Soden: The chart shows all the variances requested. The recorded as requirement provided is what have and the requested is the Variance, or distance between the two, that you are seeking?

Mr. Toohey: That is correct

Chairwoman Soden: On the map, it says the minimum lot width is 230 feet. I think that is just an error, but it is on there.

Mr. Toohey: The required is 200 feet within the zone and what we provided is 237 feet.

Chairwoman Soden: If you actually look up the map, in the top right hand corner of the map, minimum lot width says required 200 feet, provided 230 feet. I think that is an error on the map.

Mr. Toohey: That's true. If you add up the numbers, with regard to the plan itself,

Chairwoman Soden: That will need to be corrected on the map.

Mr. Toohey: We will get that corrected.

Chairwoman Soden: Any further questions or documents that the Board would like to see?
Amanda stops the screen sharing

Mr. Manning: So you are looking for three variances plus combining the lots?

Mr. Toohey: The variances that are within the application are the frontage from both Route 67 and the primary road within the subdivision, the rear yard setback and the size of the lot. The width of the lot is correct. The requirement is 200 feet in that zone. We have two hundred thirty some feet of width. Those are the variances we are seeking.

Chairwoman Soden: I think what we just talked about for that was different for the minimum lot width. I just want to make sure I am clear on that because on the application, it had 135 feet, but the map had the 230.

Mr. Toohey: On Country Club Drive its 237.24 feet

Mr. Lewis: I think the confusion is the 135.73 feet is the depth of the lot. I think he put it in the road frontage, should have been 232.74 feet and the frontage is 200 feet, so he meets that requirement.

Mr. Manning: It's a front setback, a rear setback and the lot size itself?

Mr. Toohey: Two front yard setbacks, one each side.

Mr. Manning: The lot size being less than five acres?

Mr. Toohey: That is correct.

Chairwoman Soden: Any other clarifications or questions?

The Board stated they feel the application is complete, we received some clarification points, so at this time I'd like to get a Motion for the Zoning Board to be Lead Agent for SEQR, and classify this as a Type 2 Action under the SEQRA which is exempt from further Environmental review.

Motion to consider this a Type 2 Action made by Mr. Manning; 2nd by Mr. Manning; Mr. Akari-yes, Mr. Quillan-yes, Mr. Manning-yes, Mr. Smassanow-yes; Chairwoman Soden-yes.

Chairwoman Soden: Next we will need a Motion to schedule a Public Hearing, for June 25, 2020 at 7:05pm.

Motion to schedule Public Hearing for 6/25/2020 at 7:05pm made by Mr. Manning; 2nd by Mr. Smassanow; Mr. Akari-yes, Mr. Quillan-yes, Mr. Manning-yes, Mr. Smassanow-yes; Chairwoman Soden-yes.

Chairwoman Soden: Thank you Mr. Toohey. We will see you on June 25, 2020 at 7:05pm.

Mr. Keniry: I believe this application needs to be sent to the County Planning Board. It is within 500 feet of a State highway Route 67.

Ms. Blanchard: I will send that referral to the County first thing tomorrow morning.

6. Area Variance – Suzanne Barg – 8 Oakwood Ct. 189.19-1-1

Chairwoman Soden: Next on our agenda is the Area Variance for Suzanne Barg and Lisa Burns. For reference, this is an Area Variance for the construction of a detached garage. Due to the cemetery setbacks and the standard side setback requirements, it limits the use of a large portion of the property, on the west side. The required dimensions for the side setback is 150ft, the proposed dimension is 20 feet. Let's take a look at the application first.

Amanda brings up documents via screen sharing

Chairwoman Soden: General info on page one, page two shows the side setback, of 20 feet, that they are seeking. The application has some info on the cemetery and the limitations. The issue gives a description and narrative on what the applicant is trying to do. The next page gives list of adjoining properties to Suzanne and Lisa. The following page is a letter from one of the neighbors, in support of the proposed detached garage. There is also a copy of the tax information and an assessment form. There was also a schematic that was emailed to the Board today.

Chairwoman Soden: Is there anything the Board feels was left out of the application?

Mr. Manning: I didn't get the newest email *Tina resends email to Mr. Manning.*

Chairwoman Soden: Mr. Cooper, would you like to speak about the project?

Mr. Cooper: Suzanne and Lisa are both here as well. I will let them speak and will be here to discuss if needed.

Ms. Barg: Lisa Burns is also here with me. Our objective with this application is we currently own a recreational vehicle that sits in the side yard of our house as well as a pickup truck that sits in the driveway. We are at a point where we can afford to build structures to not only protect them from the weather, but also to get them out of the eyesight of our neighbors. The side of our property is wooded. All of the way over and to the cemetery is wooded. What is projected it to build this garage deep towards the back of our property, where we can build. The extreme back of our property is the wetlands, so we are restricted there. To put it in the woods so our neighbors wouldn't have to look at our vehicles and would also have a structure that would protect our vehicles from the weather. The structure would also be cleared from their line of site because it would be set back in the woods. Our properties on this street are deed restricted by the builder. Anything that we want to construct on the property needs to go the builder for approval as well as to the Municipality that has jurisdiction. We have reached out to Metro Builders and gave them a rough schematic of the structure and they have agreed that this is an acceptable structure for our property and meets their requirements.

Chairwoman Soden: Are there any questions from the Board, for the applicants?

Mr. Quillan: Regarding the cemetery, is there a required distance on how far to be away from that?

Chairwoman Soden: Yes

Ms. Burns: The cemetery is in the forest surrounded by many trees. Our objective is to build as far away as we can.

Mr. Cooper: When they bought the property, they did not know about the restrictions when they bought this property.

Chairwoman Soden: We have a comment from Morgan and Corrine Jackson from 10 Oakwood Ct that are in support of this project.

Chairwoman Soden: Were you the original of this property and what year was that?

Ms. Barg: Yes, we are the original owners. I am not sure of the exact year. The house has been here for 13 years. It was built as a model home. When we bought it, it had been there for about a year and a half. We closed on it the very end of 2007 and we moved in in 2008.

Ms. Burns: We learned about the cemetery setback when we looked at the map and Mr. Lewis was very kind to educate us as to why it is 150 feet on that side of the house and not so much on the other.

Chairwoman Soden: What is the actual distance between your house and the proposed detached garage?

Ms. Barg: I have not measured it, but given the distance, I will say its just under 100 feet.

Chairwoman Soden? Are there any other questions from the Board?

Mr. Smassanow: The applicant said there was a deed restriction and that the builder was fine with that. Can you provide us something is writing from the builders?

Ms. Barg: Absolutely. We do have it in writing and I will forward that to Tina via email.

Chairwoman Soden: If there are no other questions and the application is complete and thorough, can I get a motion to declare this also for the Zoning Board to be Lead Agency and classify this also as a Type 2 Action under SEQRA which is exempt from further environmental review?

Motion to make ZBA Lead Agency and Type 2 Action made by Mr. Manning; 2nd by Mr. Smassanow; Mr. Akari-yes, Mr. Quillan-yes, Mr. Manning-yes, Mr. Smassanow- yes; Chairwoman Soden-yes.

Mr. Cooper: I wanted to say that my wife and I bought a piece of property from this owner in 2008 and he told me there were no deed restrictions at that time. After we purchased and developed the property, he came up with 18 deed restrictions. I am just stating this because he was not forthcoming with me. I don't feel he was forthcoming with Sue and Lisa about the setbacks.

Ms. Barg: We did have a similar experience with regard to the deed restrictions.

Mr. Quillan: I am looking at a map right now that shows restrictions of setbacks. It shows the dimensions, so the person who bought the house had to look at this. It shows the restrictions in black and white.

Chairwoman Soden: If there are no other comments or questions, I'd like to get a Motion to set the Public Hearing for this Area Variance for 8 Oakwood Court for Thursday, June 25, 2020 at 7:30pm

Motion to schedule Public Hearing made by Mr. Manning; 2nd by Mr. Quillan; Mr. Akari-yes, Mr. Quillan-yes, Mr. Manning-yes, Mr. Smassanow- yes; Chairwoman Soden-yes.

7. Other announcements

There are no other items on the agenda for tonight. If there are no other announcements, I'd like to thank everyone for their attendance.

8. Adjourn

At this time I will entertain a Motion to adjourn.

Mr. Smassanow: Any idea when we will be meeting in person yet?

Mr. Lewis: At this time, we don't have a date yet. We will forward information as we get it.

Chairwoman Soden: There is a Q&A from neighbor of 8 Oakwood Court, Patrick Kelly. It says he is all for Sue's plan for the detached garage.

Motion to adjourn made by Mr. Manning; 2nd by Mr. Quillan; Mr. Akari-yes, Mr. Quillan-yes, Mr. Manning-yes, Mr. Smassanow- yes; Chairwoman Soden-yes.

APPROVED