

**TOWN OF SARATOGA
ZONING BOARD OF APPEALS MINUTES
February 24, 2014**

Chairman Stephen Bodnar called the meeting to order at 7:00 p.m. and led the flag salute.

Chairman Stephen Bodnar explained the *Rules of the Board*.

Zoning Clerk Linda McCabe called the roll: Chairman Stephen Bodnar – present, Clifford Hanehan – absent, Thomas Carrangi – absent (arrived at 7:04 p.m.), Clarence Fosdick – present, G. William Moreau – present, John Deyoe – present, Chris Benn – absent (arrived at 7:02 p.m.).

Also present: Town Attorney William Reynolds, Mr. & Mrs. Snyder and other interested persons. (Sign-in sheet is on file in the Clerk's office)

Approval of Minutes: **A motion was made by John Deyoe and seconded by Clarence Fosdick, to accept the minutes of the October 28, 2013 meeting.** Chairman Stephen Bodnar – aye, Clifford Hanehan -absent, Thomas Carrangi - absent, William Moreau – aye, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye. **Carried 5 - 0**
Approved

Order of Business:

Area & Use Variance

**Mr. & Mrs. Alan Snyder #14-01
6 Vandenburg Ln.
Latham, NY 12110
S/B/L 209.6-2-22.2 Rural District II
Location: Brown Rd. Rear**

Applicants seek a 200' frontage variance and a use variance in order to construct a duplex on their 1.41+/- acre parcel, located on Brown Rd. rear.

The Applicants appeared before the Board and stated they'd like to build a duplex on their property and are aware variances are needed due to the property being on a private road and located in Rural District II. They reviewed the location of the building envelope on the 1.41+/- acre parcel and added they will be able to connect to the sewer. They stated this property has been in their family since the early 1970's; prior to any zoning in the Town and that they'd like to build the duplex for their retirement. They plan to rent it out for the present time, but they will be residing in one side of the duplex once they retire and the other side will be for their children and their future families.

Zoning Officer/Building Inspector Gil Albert stated his denial of the application was due to the property being in the Rural District II area instead of Lake Residential, although this property is just over the boundary line and as the current law is written; their frontage is on a private road. The allowed density is there for a duplex, they meet the requirements for a duplex and it keeps with the surrounding area. He stated that the Joint Planning and Zoning Board is working on amending frontage but it has not gone to the Town Board yet

and they are looking at amending certain district lines, but it will be some time before they are ready to go to the Town Board with that; at least 2 months or more. He also stated the Zoning Board has been dealing with the lack of frontage for years, especially out near the lake.

Chairman Stephen Bodnar asked the Applicants when they'd like to begin; if the amendments do get passed they wouldn't need any variances. He was told they'd like to begin this spring if possible.

Clarence Fosdick questioned if they grant this tonight, could the Applicant build a single family home and then make it into a duplex.

Zoning Officer/Building Inspector Gil Albert responded that if the Board grants this tonight the Applicants will be locked in for the duplex, but if the possible amendment of the district lines eventually gets approval by the Town Board, the Applicants would not have to have ZBA approval and they could then build a four-plex, if they choose, because if the Town Board amends the district line it would put this property in the lake residential district.

There was a lengthy discussion between the Board, the Town Attorney and the Applicants concerning due process with amendments.

After providing Proof of Notice in the Saratogian on February 13, 2014, Chairman Stephen Bodnar opened the Public Hearing at 7:24 p.m. asking those wishing to speak to please stand and state their name and address.

Kurt Mausert, Attorney on behalf of Mr. Phillips, 1110 Rt. 9P, presented a letter to the Board in opposition of this application. Chairman Stephen Bodnar read the letter aloud and it is on file in the Clerk's office.

Al Parelle, 10 Brock Dr., stated he would not like to see transient people in and out and he's not sure about a duplex being built there; he doesn't want the additional vehicles that would come with that.

The Applicant asked the Board if he could respond to that and was told yes. He asked Mr. Parella if it is true that he plans to build two or three houses across the road from this property and Mr. Parella responded yes. The Applicant stated that in itself will bring additional vehicles. He also added that they have never had a problem finding good tenants with past rental properties of theirs. They've always had good, respectful tenants.

Phil Poitier, 1108 Rt. 9P, stated he would not want to prevent anyone doing something allowed with their property. He sees no problem with a duplex on the size of the Applicant's parcel however it is a roll of the dice to find good tenants who care for the property as much as if they owned it. He said the Applicants seem to be very nice people and they care about their community, he just wants the Applicants to be cognizant of their future tenant's behavior.

Chairman Stephen Bodnar asked if there were any other questions; finding none
Chairman Stephen Bodnar closed the Public Hearing at 7:38 p.m.

Chris Benn stated it's hard to maneuver emergency vehicles on private roads and he questioned if Brock Dr. is maintained by the homeowners. Mr. Parella answered yes.

Town Attorney William Reynolds asked if there is a formal agreement with the homeowners for the road maintenance and Mr. Parella responded no. He said they divide the cost of repairs and maintenance among the homeowners equally. Mr. Parella then stated he doesn't oppose the duplex he just wants to be sure it is maintained properly.

Attorney William Reynolds explained that a Use Variance is always more difficult to obtain; it's a legislative determination and as the Board goes through Use Variance Criteria, they must find that the Applicant meets every one of those criteria in order to grant it. A lengthy discussion ensued between the Board, Town Attorney and the Applicant.

Clarence Fosdick asked where the hardship is. He said the Board cannot ignore the hardship criteria and without it, the Board has no basis to act. He added that the Joint Board has things under consideration, but not yet done, so it's probably better to wait, though he thinks this duplex is a good thing to do there.

John Deyoe stated he has no problem with the area variance and there's more than enough room to build the duplex but until the district lines are amended – if they are amended- he'd wait on the use variance.

Tom Carringi has no problem with granting both variances.

Chris Benn has no problem with granting both; he sees no harm being created and feels the Board can approve the variances as they have with other neighbors. He'd approve it.

Chairman Stephen Bodnar reviewed the Summary of Area Criteria Balancing Test line by line with the Board; the Board found in favor of the Applicant.

Chairman Stephen Bodnar reviewed the Summary of Use Variance Criteria line by line with the Board; the Board found the Applicant did not meet all criteria set forth.

The Applicants discussed the possible outcomes of going forward with a vote for this use at this time. Chairman Stephen Bodnar stated that most likely it would be denied, but if he can wait, once the Joint Board completes their amendments and presents them to the Town Board and the Town Board has a chance to review them and make their decision, it's possible they wouldn't need this Board's approval in the future.

Clarence Fosdick made a motion, seconded by John Deyoe, to approve the Area Variance since it is consistent with past practice and consistent with the neighborhood. Chairman Stephen Bodnar – aye, Clifford Hanehan -absent, Thomas Carringi - aye, William Moreau – aye, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye. **Carried 6– 0**
Approved

The Applicants stated they would like to postpone action on the Use Variance until a later date. Chairman Stephen Bodnar stated that was a good idea.

Old Business: Clarence Fosdick showed a map with the possible proposed zoning district line amendment.

New Business: Chairman Stephen Bodnar announced that James Burke has resigned from the Board. He thanks him for all his years of dedicated service to our Town and he will be

greatly missed.

Chairman Stephen Bodnar then stated that the Joint Workshop will meet again on March 12, 2014 at 7 p.m.

A motion was made by Chris Benn, seconded by Bill Moreau, to adjourn the meeting at 8:44 p.m. Chairman Stephen Bodnar – aye, Clifford Hanehan -absent, Thomas Carrington - aye, William Moreau – aye, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye.

Carried 6– 0

Adjourned

The next Zoning Board of Appeals meeting will be held March 24, 2014

Respectfully submitted,

Linda McCabe
ZBA Clerk