

Zoning Board of Appeals
Public Hearing
August 14, 2019

Chairman Samuel Sherman called the hearing to order at 2:00 p.m. with the following members present: Ms. Dawn Gay, Mr. James Rule, and Mr. Keven Severance. Guest in attendance: Ms. Kay Legacy. Also in attendance: Julie Schreiber, Secretary.

The secretary read the notice as published in the Press Republican.

Matthew Legacy, Tax Map No. 56.4-1-11.100, Project Introduction – The applicant would like to place a manufactured home with a 30-foot setback from the road. The Town Land Use Law requires a setback of 100 feet from the center of the road. Mr. Rule asked if the home could be pushed back further. Ms. Legacy replied that it could be moved back a bit, though they don't want to place it too close to the rear neighbor. Mr. Severance mentioned a possible visibility concern due to the curve of the road. After visiting the property and taking measurements, Chairman Sherman suggested a front setback of 70-feet.

The board is required to consider the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. They shall also make the following five determinations (Town of Westport Land Use Law Section 6.035):

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance.

• **Resolution 2019-7 Determination #1**

Resolved: That granting the Area Variance will not change the character of the neighborhood or be a detriment to nearby properties.

Moved by: Ms. Gay

Seconded by: Mr. Rule

In Favor: Ms. Gay, Mr. Rule, Mr. Severance, Chairman Sherman

Opposed: None

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance.

Mr. Rule said the only alternative is to continue to fill the land and build further back and that that doesn't seem feasible.

• **Resolution 2019-8 Determination #2**

Resolved: That the benefit sought by the applicant can not be achieved by alternatives other than an Area Variance.

Moved by: Chairman Sherman
Seconded by: Ms. Gay
In Favor: Ms. Gay, Mr. Rule, Mr. Severance, Chairman Sherman
Opposed: None

3. Whether the requested Area Variance is substantial.

Chairman Sherman stated that a 30-foot setback would be substantial, but a 70-foot setback would not be substantial.

- **Resolution 2019-9 Determination #3**

Resolved: That an Area Variance for a 30-foot setback would be substantial, but an Area Variance for a 70-foot setback would not be substantial.

Moved by: Chairman Sherman

Seconded by: Mr. Rule

In Favor: Ms. Gay, Mr. Rule, Mr. Severance, Chairman Sherman

Opposed: None

4. Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

- **Resolution 2019-10 Determination #4**

Resolved: That the proposed Variance will have no adverse effect or impact on the physical or environmental conditions in the neighborhood.

Moved by: Mr. Rule

Seconded by: Ms. Gay

In Favor: Ms. Gay, Mr. Rule, Mr. Severance, Chairman Sherman

Opposed: None

5. Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the Area Variance.

The board agreed that the difficulty was self-created. Chairman Sherman stated that the structure would be self-contained within existing forestry and that having a 70-foot setback would not have a negative impact on the area.

- **Resolution 2019-11 Determination #5**

Resolved: That the difficulty was self-created, however granting a Variance for a 70-foot front setback would not have an adverse impact on the neighborhood.

Moved by: Chairman Sherman

Seconded by: Ms. Gay

In Favor: Ms. Gay, Mr. Rule, Mr. Severance, Chairman Sherman

Opposed: None

According to **Section 6.035 C**, the Zoning Board of Appeals, in the granting of Area Variances, shall grant the minimum Variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety, and welfare of the community.

Section 6.036 Imposition of Conditions: The Zoning Board of Appeals shall, in granting Use Variance and Area Variances, impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Local Law, and shall be imposed for the purpose of minimizing any adverse impact the Variance may have on the neighborhood or community.

Chairman Sherman suggested approving the variance with a 70-foot front yard setback, regardless of where the structure is placed on the property.

- **Resolution 2019-12 Application Determination**

Resolved: To grant an Area Variance for a front yard setback to Matthew Legacy, Tax Map No. 56-4-1-1.100, with the following condition:

- The minimum setback from the center of right-of-way is 70 feet.

Moved by: Chairman Sherman

Seconded by: Mr. Severance

In Favor: Ms. Gay, Mr. Rule, Mr. Severance, Chairman Sherman

Opposed: None

The decision and other pertinent information will be sent to the APA, who will have 30 days to make a determination.

Chairman Sherman closed the hearing at 2:24 p.m.

Respectfully submitted,

Julie Schreiber, Secretary