

Zoning Board of Appeals  
Public Hearing  
July 25, 2019

Chairman Samuel Sherman called the hearing to order at 6:00 p.m. with the following members present: Ms. Dawn Gay and Mr. James Rule. Absent: Mr. Keven Severance. Guests in attendance: Ms. Brenda Beutel and Mr. Richard Nicholas. Also in attendance: Julie Schreiber, Secretary.

The secretary read the notice as published in the Press Republican and Sun Community News.

**Brenda Beutel, Tax Map No. 65.4-2-6.000, Project Introduction** – Ms. Beutel explained that she plans to build a small home at 490 Ledge Hill Road for permanent residence. Variances are needed for the side yards because while a 30 ft. setback is required, the building plan only allows for approximately 20 ft. on one side and 22 ft. on the other. The property has passed a perc test and striation test for the septic system.

Chairman Sherman noted that the application shows 21 ft. on both sides. He asked if the power company has been contacted for a right of way.

Mr. Nicholas replied that the power company will not visit the property until three of the following four are installed: septic, driveway, sewer, and foundation. They require a setback minimum of 15 ft. from the power lines. Mr. Nicholas measured the distance to be 26 ft.

Chairman Sherman asked if the property has been surveyed. It has not been; measurements have been made using pre-existing property markers.

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.

Ms. Gay commented that the proposed front setback won't make any change to the neighborhood. Mr. Rule was in agreement and stated that trees between the properties should remain in place. Chairman Sherman agreed that the forestry needs to remain and stated that, due to the front yard setback, the home will not be noticeable. Ms. Beutel said that her goal is to keep the forestry and build the home with an Adirondack aesthetic.

- **Resolution 2019-1 Determination #1**

Resolved: That an undesirable change will not be created in the area due to the meeting of the front yard setback requirement and the remainder of vegetation between neighbors.

Moved by: Chairman Sherman

Seconded by: Ms. Gay

In Favor: Ms. Gay, Mr. Rule, 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.

Chairman Sherman asked Ms. Beutel if she attempted any alternatives. Ms. Beutel looked at making the home narrower, but deemed that to be unrealistic.

- **Resolution 2019-2 Determination #2**

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

Moved by: Ms. Gay

Seconded by: Chairman Sherman

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

Opposed: None

3. Whether the requested Area Variance is substantial.

Chairman Sherman noted that the neighbors have structures close to their property lines, within the 30 ft. requirement. He stated that it wouldn't be substantial to the neighborhood because such buildings already exist.

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

Resolved: That the Area Variance is not substantial because the neighbors have structures with a less than 30 ft. setback.

Moved by: Chairman Sherman

Seconded by: Ms. Gay

In Favor: Ms. Gay, Mr. Rule, 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.

The building will meet the front setback and forestry will remain. Mr. Rule asked if this would relate to where the septic is placed in relation to the neighbor's well. Chairman Sherman responded that the well is on the opposite side of the neighbor's property. Ms. Beutel stated that her septic will be placed on the side furthest from that neighbor. She is working with the neighbor on placement of her well to ensure that no negative impact is created.

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

Resolved: That due to adequate front yard setback, the preservation of existing vegetation, and planned placement of septic and well systems, 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: Chairman Sherman

In Favor: Ms. Gay, Mr. Rule, 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.

Chairman Sherman stated that the lot was undersized prior to the APA and the construction of a single dwelling can be approved by Special Permit through the Planning Board.

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

Resolved: That the difficulty was not self-created due to the pre-existing lot size.

Moved by: Chairman Sherman

Seconded by: Ms. Gay

In Favor: Ms. Gay, Mr. Rule, 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 a condition requiring that the 8-10 foot area along the LaRose property line remain forested and a condition requiring the preservation of vegetation along the front of the property. He also suggested requiring a survey of the property to verify the boundaries and approval from the power company.

After a brief discussion, it was determined that the side yard distances would be changed from those listed in the application. The setback on the property's right-hand side will be 23 feet and left side will be 19 feet.

- **Resolution 2019-6 Application Determination**

Resolved: To grant an Area Variance for two-side yard setbacks (23 ft on the property's right side and 19 ft on the left) to Brenda Beutel, Tax Map No. 65.4-2-6.000 with the following conditions:

1. Vegetation/forestry within 8-10 feet of the LaRose property line is preserved.
2. Vegetation/forestry along the front of the property is preserved.
3. The property is surveyed to verify boundary lines.
4. Approval is received from the power company.

Moved by: Chairman Sherman

Seconded by: Mr. Rule

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

Opposed: None

The decision and other pertinent information will be sent to the APA. After a 30 day determination period, a Special Permit may be obtained from the Planning Board.

Ms. Beutel and Mr. Nicholas left at 6:28 p.m.

Mr. Rule noticed that the sketches show porches on all sides of the home and that this may exceed the allowed setback if the house is 24 ft wide. Chairman Sherman stated that Ms. Beutel may have to redesign to meet the setback. He will contact her via email.

Chairman Sherman recommended the board reconvene at a later date when Matthew or Olivia Legacy are able to attend. The board agreed. A hearing will be scheduled for August 14<sup>th</sup> at 2:00 p.m.

Chairman Sherman closed the hearing at 6:40 p.m.

Respectfully submitted,

Julie Schreiber, Secretary