

Town of Washington
Zoning Board of Appeals

12/16/2008

A meeting and public hearing of the Zoning Board of Appeals was held on December 16, 2008 at 7:30 P.M., the Town Hall, 10 Reservoir Drive, Millbrook, New York to consider the application of 1) Angela Senkbeil, for area variances from the Town of Washington Zoning Code, Appendix B, Area and Bulk Regulations to allow completion of a residence at 116 Killlearn Road, the nonconforming lot is located on the north side of Killlearn Road .6 mile west of intersection with Chestnut Ridge Road. The one acre lot is in the RR 10 zone. 2) Mabbettsville Market (L. Associates LLC) 3809 Route 44, Mabbettsville, for area variances from the Town of Washington Zoning Code, Section 355 Accessory Structures. The property is zoned HM, AQ.

Members present: Chairman, Brad Roeller, Peter Audia, Jerry Baker, Donald Marshall, John Parisi.

The meeting was called to order by Chairman Roeller at 7:30 P.M., asked for approval of the November 18, 2008 meeting minutes. **A motion to approve the November 18, 2008 meeting minutes with a correction to the Dutchess County Tax Map Grid No. 6864-00-405274 was made by board member Parisi, and seconded by board member Baker. All ayes.**

Chairman Roeller distributed the revised public notice for TD Rentals, Inc. previously scheduled for tonight as requested by Scott L. Volkman, Esq. Gellert & Klein, P.C., to be rescheduled for the January meeting.

Previously submitted to the board for the Senkbeil application were completed Application to Board of Appeals, Short Form Environmental Assessment Form, full scale survey map prepared for the Estate of William L. Whiteley, dated 8/4/98 by Fowler & Zarecki, consulting engineers/land surveyors, Ridgefield, CT & Pawling, NY. structural drawings, layout plans for the project and photos of the existing structure.

Dutchess County Tax Map Grid No.: 6863-00-809591

Chairman Roeller read the Senkbeil published public notice, said the application is a Type II Action that falls under the DEC Law 617.5, paragraph C, sentence 7, "construction or expansion of a primary accessory nonconforming residential structure less than 4,000 sq. ft. of gross floor area" therefore no determination of significance or further SEQRA review is required.

Mrs. Angela Senkbeil appeared before the board.

Chairman Roeller questioned if anyone from the public sector is in attendance to comment on this application? Since noone was in attendance motions to open and close the public hearing were waived.

Chairman Roeller recapped the August 15, 2000 application before the board that requested to

rebuild the structure on a nonconforming lot after a fire. Approval was granted conditioned upon the Senkbeils not using the original footprint where the fire was because that would need an addition to the side yard variances, also a front yard variance. The condition was to move the footprint where the residence was to be placed to negate the use of a yard variance. The applicant built the house but never completed the construction of a sun room. The foundation was poured, however the time frame lapsed. When Mrs. Senkbeil applied for a building permit, she was told that she needed to appear before the board for area variances. The proposal is for a 12'x12' sunroom.

Chairman Roeller spoke to contacting Mrs. Senkbeil because the only map that was included in the original application packet was a survey map of the Whiteley property which showed the footprint of the remains of the foundation of the building and a barn. Something was needed to verify the amount of relief requested from the side yard variances. Chairman Roeller met with Mrs. Senkbeil who submitted additional documentation that was xeroxed for board members for this meeting. These were the original drawings that were used by Mr. Senkbeil in 2000 that agree to the dimensions that the ZBA granted the necessary relief. The conditions haven't changed, the west side yard is 95 ft. from the foundation to the property line, the east side yard is 67 ft. from the foundation to the property line. The rear setback is fine, is 76 ft. to the property line; the standard setback is 75 ft. in the RR 10 zone. The front setback where the new foundation is located is 102 ft. 8 inches to the property line.

This application is for a five ft. west side yard setback variance and a 13 ft. east side yard setback variance. This was granted in 2000. Chr. Roeller reiterated since there is 95 ft. on the west side (the left side), the standard is 100 ft. for the side yard, a five ft. relief is needed on the west side, on the east side it is 67 ft. from the foundation to the property line, 33 ft. relief is needed. The lot is a nonconforming lot. Chr. Roeller said in the front, the distance from the road to the foundation line is 102 ft 8 inches which is over the 100 ft. standard.

Chairman Roeller reiterated that for the new footprint a five ft. variance on the west side yard setback is needed, a 33 ft. variance on the east side yard setback is needed.

Chairman Roeller expressed that the standards used for setbacks criteria is straight forward, the evaluation of any adverse effects or impacts on the physical environmental characteristics of the neighborhood, etc. is critical. In Chairman Roeller's opinion, this application was previously approved, for whatever reasons, never was completed, the public notice was sent to adjoining neighbors, no one from the adjoining neighbor list is in attendance. Chairman Roeller expressed that he has no problem "rubber stamping" what was done in 2000.

A motion to grant the Senkbeil application the needed five ft. variance on the west side yard setback, and 33 ft. variance on the east side yard setback from area and bulk requirements was made by Chairman Roeller, and seconded by board member Parisi. All ayes.

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Chairman Roeller directed Mrs. Senkbeil to contact secretary Caul for determination on appearance before the planning board for site plan approval.

Previously submitted to the board for the Mabbettsville Market (L. Associates LLC) application were completed Application to Board of Appeals, Full Environmental Assessment Form, and Site Plan for Mabbettsville Market, prepared by M. A. Day Engineering, PC, Wappingers Falls, NY.

Attorney Paul M. Quartararo, Quartararo & Quartararo, PLLC Fishkill, NY, Russell Sarachek, and Dennis Lynch, Day Engineering PC, Wappingers Falls, NY appeared before the board.

Chairman Roeller read the published public notice, said the application is a Type II Action under DEC Law 617.5 paragraph C 12, “ranking of individual setbacks” could also be under 617 C2, “replacement rehabilitation or reconstruction of a structure”, no determination of significance or further SEQRA review is required.

Chairman Roeller expressed that this application is in the final stages of site plan review before the planning board that sees the sign to be under Section 355 Accessory Structures, sentence 2, “no accessory structures shall be located closer to the street than the front yard setback for a principal structure.” Chairman Roeller commented that this is the first time the board has a sign that is actually qualifying for an accessory structure.

Chairman Roeller related that since no one from the public is in attendance to comment on this application a motion to open and close a public hearing is waived.

Chairman Roeller expressed that an 80ft. front yard setback is the standard in the HM zone. The proposed location of the sign on the submitted site plan scale is about 14 ½ ft. A 65 ½ ft. variance relief from the 80ft. front yard setback standard is needed in the HM zone. The sign is currently located in the State right-of-way.

Board member Audia questioned if a new sign is replacing the old sign?

Mr. Sarachek said that they are going to turn the original sign and move it back; the post is right on the State right-of-way line, the overage sticks out, they also need to remove the bricks and other materials that go over the side, then they should be able to turn the sign around.

Chairman Roeller requested that the distance be verified from the closest part of the new location of the sign to the top of the sign.

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Chairman Roeller related that he scaled the sign off of the submitted plan, which is 14 ½ ft., but he would like a field verification. A review of the site plan and current sign location followed by the board and Mabbettsville Market representatives.

Chairman Roeller said that the current sign is being moved 14 ft. back on the grass area, 14 ft. off the property line. Mr. Sarachek said that he measured the sign from the property line. Attorney Quartararo said they will move the sign so it is inside the property line, asked if the sign can be moved so it is just on the other side of the line, and expressed that the second sign on the property is not shown on the site plan map, this was pointed out on the map at the request of Chairman Roeller.

Chairman Roeller stated for the record that the Site Plan is dated 7/28/08 for Mabbettsville Market with the proposed sign location being inaccurate. The applicant wishes to turn the existing sign 180 degrees on its axes which places the sign just outside the State right-of-way.

Board member Baker remarked that the sign should be zero setback from the property line.

Chairman Roeller said the standard setback is 80 ft. for the setback of an accessory structure, which in this case is the sign. Chairman Roeller said he assumes that Mabbettsville Market wishes to have the sign as close for visibility to the legal State right-of-way that you place it on, and remarked that the board could grant at least 80ft from the setback which would satisfy Mabbettsville Market's intent for visibility of a legal sign.

Attorney Quartararo stated that the planning board is conditioning their approval upon the Zoning Board's approval. In January, when they appear before the planning board, Mabbettsville Market will show where the new location of the sign will be.

Chairman Roeller said that the Zoning Board does not normally get involved with site plan issues, does with issues on impacts on the neighbors, the amount of variance required, and are there alternatives. Said, site planning issues may not like that location.

Mr. Sarachek commented that when a site visit was conducted with the Planning Board, the board walked the site and was okay with the idea, assuming that the sign was the same character as it has been and will be in going forward. The sign was measured off.

Board member Baker remarked that "this is new ground for the ZBA." Their review is about the size of signs, regulations, illumination of signs, but there is nothing specific about their location.

Attorney Quartararo questioned if the variance that the ZBA grants is for two signs. Chairman Roeller acknowledged affirmatively.

Mr. Sarachek spoke to the 2nd sign being a relatively small size, will roughly be the same size.

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Chairman Roeller referred to planning board issues, requested that the sign not be made a nonconforming sign.

Board member Parisi questioned about the 80ft variance from the setback, the corner of the

building is 73.6 ft. Attorney Quartararo referred to consultant Wilson's remarks, that if you place the sign 80ft, you are putting the sign in the middle of the building, he said to request an 80 ft. variance. Chairman Roeller acknowledged that the variance request is for an 80 ft. variance from the setback requirement.

Board member Parisi next questioned the total size of the sign? Chairman Roeller remarked that he assumes the sign is conforming to the square footage of business/commercial size regulations.

A motion to grant Mabbettsville Market an 80 ft. variance for the two signs; the sign design is subject to current regulations and planning board approval, was made by board member Baker, and seconded by board member Audia. All ayes.

A motion to adjourn the meeting was made by Chairman Roeller, and seconded by board member Parisi. All ayes. The meeting was adjourned at 7:57 P.M.

Respectfully submitted,

Nikki Caul, secretary