

Town of Washington Planning Board

The monthly meeting of the Town of Washington Planning Board was held on January 8, 2019 at 7:30 P.M., the Town Hall, 10 Reservoir Drive, Millbrook, New York.

Members Present: Chairman, Paul Schwartz, Donald Hanson, Ed Jorgensen, Tara Kelly, Bob Kulpa, also, Al DeBonis, Councilman/Planning Board liaison, John Parisi, Chairman, Zoning Board of Appeals, Howard Schuman, Conservation Advisory Commission representative.

Chairman Schwartz opened the meeting with the Pledge of Allegiance at 7:32 P.M., announced the first agenda item.

The application request of Oken Special Permit (Erik Oken) 636 Deep Hollow Road, is to renovate the existing 643 s.f. barn and convert to a guest house along with a 2,500 s.f. addition. The total proposed guest house is 3,143 s.f., also the installation of a new septic system. The property is zoned R 10. **Dutchess County Tax Map Grid No. 6966-00-617541.**

John Allee, Allee Architecture & Design, LLC Lakeville, CT appeared before the board representing the applicant, gave a description of the proposal. Said, their application to the Board of Health for the new septic system is for a four bedroom guest house, the plan itself is for a two bedroom guest house.

John Allee spoke to the zoning code for a barn conversion, referred to pgs 49 bottom, to pg. 51, said the barn was in existence prior to 1989 when zoning was adopted. The intent is to maintain the agricultural rural character. Referred to Section 330b, said his understanding is that a lot area is not required for a barn conversion, the code for a barn conversion doesn't talk about lot size.

Chairman Schwartz reiterated that the code for a barn conversion doesn't talk about lot size. Said, page 50 paragraph 2, a-f does not mention lot area. Said, what he is reading is that the conversion of a pre-existing barn is exempt from lot size. As written, the code doesn't speak to any discussion of zone or lot size.

Board member Jorgensen remarked that he didn't see that the code addressed the size and number of bedrooms or the acreage that it is on. It would be for the use of the main house, its providing additional space for the caretaker of the property of the main house. There are twenty two acres that can't be subdivided and the barn cannot be rented out, its not a rental property, is for the use of the main house.

John Allee said they would have a separate septic system, both he and their engineer say that the well will satisfy both structures. A new septic system is being planned. Quoted the code as saying “may be shared with the principal dwelling on the same lot, such sharing as allowed by the Department of Health.” Said, he wants to put in a new well and a new septic, the application before the Board of Health is for a new septic system, currently are not drilling a new well. Chairman Schwartz stated that if a new well is to be drilled, this needs to be placed on the site plan, the new septic system also to be placed on the site plan, in the legend it is to say that the guest house is not to be used as a rental property.

John Allee said the site plan shows the existing house, the existing septic field, the current well, the existing driveway that comes up to what is the current existing barn. They have the design for the septic field, the reserve area,

Board member Jorgensen questioned about the foundation of the barn? Its all cement.

Chairman Schwartz questioned if the new construction meets the 75 ft. in the rear, yes. In the new construction will the height of the roof be modified? No.

Chairman Schwartz suggested that John Allee approach the neighbors saying what they intend to do, secretary Caul sends a copy of the public notice to the adjoining neighbors. The reason he is suggesting this is that Deep Hollow is very close knit, will be an easier situation for the public hearing.

John Allee questioned if the application is for a three bedroom, depending on how the Board of Health classifies it, is approved for a four bedroom septic system, does the board want him to scale back? Chairman Schwartz said the code doesn't speak to the square footage.

A public hearing is scheduled for February 5, 2019.

The application request for Levine Lot Line Change (Eric Levine) 461 Woodstock Road is to convey approximately seven (7) acres from their existing 20.88 acres lot to Randy Reiff, 527 Stanford Road who has an existing 31.52 acres lot. The property is zoned RL 5. **Dutchess County Tax Map Grid No. 6666-00-872228.**

Brian Houston, L.S. and John Tamberino, L.S. appeared before the board. John Tamberino was introduced to the board as working for Brian and as Brian's replacement

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at the February 5th meeting. Brian next gave a description of the lot line change proposal. Said, Randy Reif wants a buffer to his property. The color yellow shown on

the site plan is the Levine property, the color purple is the Reiff property, the orange line heading north indicates the 7.3 acres being conveyed to Randy Reiff. No proposed development is being planned.

A Public Hearing is scheduled for February 5, 2019.

Steven O'Brien, L.S. appeared before the board representing Chris and Shelly NeJame, 5103-05 Route 82, Salt Point, NY for a pre-application discussion to bring the existing accessory apartment on the property into compliance. A ZBA variance request for an area variance for Accessory Residential Housing permitted on lots where the owner resides is pending. The property is zoned RL 5. **Dutchess County Tax Map Grid No. 6566-00-846091.**

Mr. O'Brien presented a small scale survey of the property, said the NeJames have just purchased the property, a four bedroom house is in the front, and a one bedroom apartment attached to the garage in the rear of the property. No permit was ever issued for the apartment rental so now they are looking to bring this into compliance.

Chairman Schwartz questioned if Mr. and Mrs. NeJame have closed on the purchase of the property. Yes. Said, he recused himself at the last meeting due to a conflict, now that they own the property there is no longer a conflict.

Board member Hanson questioned the status of the ZBA application? ZBA chairman, John Parisi who is in attendance stated that no variance has been granted. A continued Public Hearing is scheduled for January 22nd. Said, the board needs clarification on the current septic system needing proof of the shared well and septic. Along with the survey of the property an invoice from the septic company saying that the existing septic system and field can accommodate both lines. Board members said the Board of Health determines this and grants approval not the planning board.

Chairman Schwartz questioned if there are any setback issues with the side yard or rear yard? Mr. O'Brien said for the rear yard there are more than the required 75 ft., for the side yard 38 ½ ft.,

Board member Hanson questioned what company signed off on the septic system? Mr. O'Brien said Post Septic, Poughkeepsie, NY. Chairman Schwartz indicated that Mr. O'Brien needs to show the well and septic system on the site plan.

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Board member Hanson said in the zoning code the water used in the dwelling has to be occupied by the owner. Mr. O'Brien said NeJame does not want to sell it, would like

to use it as investment income. Board member Hanson stated that the zoning code says that of the two structures one has to be occupied by the property owner. Mr. O'Brien said that the NeJames applied to the ZBA for a variance for that.

Chairman Parisi said the structure was built in the 1940's, is pre-existing, according to Nancy Patrick and Tom Fiore, the footprint/structure has not been changed. Chairman Schwartz questioned if NeJame is looking for a variance of the use to have two separate rental residences on a five acre lot? Chairman Parisi said if the variance is granted by the ZBA the applicant would need to come to the planning board for a second approval, (special permit) Chairman Schwartz said they cant have the two structures on five acres unless the ZBA grants them a variance.

Chairman Parisi gave clarification on the current septic system, said applicant needs proof of the adequacy of the shared septic system for the two structures and the wells.

Chairman Schwartz said the hurdle is that there are two houses on one acre. Board member Jorgensen remarked that there are two rental properties on one acre. Board member Hanson commented that this is a self inflicted hardship, was purchased knowing can rent out only one. Chairman Schwartz said this is a ZBA question, not a planning board question. Board members were in agreement.

The Board determined that this is strictly a Zoning Board of Appeals issue. Section 330B, Accessory Residential Housing no. 3, reads, "Accessory Residential Housing is permitted only on lots where the owner resides, this being a ZBA issue.

Board member Kelly referred to the November 6, 2018 meeting when Mr. And Mrs. NeJame appeared before the board for discussion on the 5103-05 Route 82, Salt Point property, said they had not acquired the property yet, wanted to get the planning board opinion on the property before they contracted with the bank. Wanted some type of direction. Mr. NeJame said they wanted to purchase the property as an investment, bring it into compliance. ZBA chairman Parisi had stated if Mr. NeJame wanted the apartment to live in, this is fine, if not, he has a problem, the owner has to live on the property. Acting chairman Hanson deferred board decision to town attorney Blass, if feasible for the Board to give a recommendation since the NeJames will not be living at the property, only purchase the property for investment purpose, and directed to the ZBA for a variance.

Chairman Schwartz questioned, hypothetically, if Mr. and Mrs. NeJame could get from a ZBA appeal a variance from the Code? Councilman DeBonis said there are three

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criteria that have to be met to get a variance, one is hardship, this hardship is self imposed. Chairman Schwartz reiterated that this decision is for the ZBA to make, not

the planning board.

Board member Jorgensen spoke to the ZBA granting variances for the mechanics for setbacks, lot coverage, lot size, but a variance from the essential zoning code does not have two residences on one lot, the number of houses that one can build on a lot.

Chairman Schwartz questioned what happens when you have a detached garage on a lot, a single dwelling, an apartment goes above the garage, is rented out, There are two dwellings on one property. Board member Hanson said if the owner of the garage lives in the house this is not an issue.

Chairman Schwartz next read from the zoning code, page 104, no. 4, reads, “the Zoning Board of Appeals shall not accept for review, continue review, continuing on to make any decision on any application for a use variance that creates additional residential dwelling unit.”

Chairman Schwartz stated that it is up to ZBA chairman Parisi to consult with the town attorney whether he has oversight and the ability to act on it. Chairman Parisi referred to the College Lane application recently heard by the planning board. Board member Hanson said the owner lives in the main house so there was no issue for the attached garage. Secretary Caul said Board of Health approval for the shared septic system being adequate for both structures was received and is on file. The applicant was Jeff Craig, 79 College Lane, who appeared before the board for inquiry to bring into compliance the existing garage apartment,

Chairman Parisi is to consult with the town attorney relative to going forward with the application request.

Mr. and Mrs. Winslow Stevens, 109 North Mabbettsville Road, appeared before the board for inquiry/discussion on the remodel of the office building on the property. Presented a plan set of survey map, proposed floor plan, plan of existing structure and color photos of the current structure.

Mr. Stevens said the building has been empty, has been on the market for about one and one half years, he purchased, plans to remodel for a residence. Said he understands that the grandfathered commercial use has lost its commercial use. Said, his question for the board is about adding square footage. Chairman Schwartz questioned if he talked to building inspector Fiore? Mr. Stevens said he suggested to appear before the planning board first.

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Review of the plan set by the board and Mr. and Mrs. Stevens followed. Board member Jorgensen said this is a renovation for a single residential use, will have the egress and ingress, electrical, all residential checks, is a building department issue.

Chairman Schwartz questioned about the Zoning District being HM2? If its in the HM2 district there is no issue. Board member Hanson checked the zoning district map, said it is in the RL 5 zoning district.

The board determined that the applicant only needs to apply for a building permit with building inspector Fiore. Chairman Schwartz informed applicant to keep the structure 150 ft. from the stream on the property, Board member Jorgensen advised to check the setbacks to see if any variances are needed.

There being no further discussion, business, a motion to adjourn the meeting was made by board member Kelly, seconded by board member Jorgensen. The meeting was adjourned at 8:55 P.M.

Respectfully submitted,

Nikki Caul, secretary

