

WILTON ZONING BOARD OF APPEALS
THURSDAY, September 26, 2019

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, September 26, 2019 at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Chairman O'Brien at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Chairman O'Brien, Christopher Ramsdill, Robert Barrett, Scott Kingsley, Gerard Zabala, and David Querrard. Also present were Brian Reichenbach, Town of Wilton Zoning Board of Appeals Attorney, Mark Mykins, Zoning Officer, and Lisa Closson, Zoning Clerk.

ABSENT: Jim Deloria, Dean Kolligian.

MINUTES: The minutes of the last meeting, held on August 22, 2019 were approved, as submitted, on a motion made by Mr. Kingsley, seconded by Mr. Barrett. All board members were in favor.

CORRESPONDENCE: Three letters of correspondence received from 16 Craw Lane addressed to Joseph O'Brien.

OLD BUSINESS:

EXTENSIONS:

No extensions before the board.

NEW BUSINESS:

APPEAL NO. 2019-16 DEC Development, PO BOX 5107, Clifton Park, New York 12065. Request for an Area Variance, pursuant to §129-157 of the Zoning Ordinance, property located at 10 Cardiff Circle, Gansevoort, New York 12831, Tax Map No. 127.12-4-15, zoned R-1 in the Town of Wilton.

Mr. O'Brien opened public comment at 7:02 p.m. Chad Pagan, from Ingalls and Associates, was present to represent DEC Development, LLC. Mr. Pagan presented to the board the variances that became apparent after a final survey was submitted to the Building Department for 10 Cardiff Circle. He explained that this proposed single family

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home was submitted to the building department a couple of years ago by Farone, and that DEC Development, LLC had recently purchased the lot and hired Ingalls and Associates for the final survey. DEC Development, LLC was unaware that the foundation was not within the building setback lines. The Board and Mr. Mykins discussed the foundation, the building lines along with proposed house location, and the foundations of other houses in the subdivision.

Public comment closed at 7:05 p.m.

Mr. Ramsdill made a motion to approve Appeal No. 2019-16, DEC Development, LLC, PO Box 5107, Clifton Park, NY 12065. Request for an Area Variance pursuant to §129-157 of the Zoning Ordinance, property located at 10 Cardiff Circle, Gansevoort, NY 12831, Tax Map No. 127.12-4-15, zoned R-1 in the Town of Wilton be granted in the amount of relief of 6.2 ft. front yard setback because the benefit to the applicant outweighs the detriment to the health, safety, and welfare of the community, for the following reasons:

1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the structure is built and is hard to distinguish because of the minimal amount of the setback that brings it closer to the road than other properties in the area.
2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because the house is completely constructed, and the current owner was not aware of the situation. When DEC Development, LLC, took over the project, and substantial work was already completed at that time, it would be cost prohibiting to him to have the building torn down for this minimal amount of variance.
3. The applicant has demonstrated that the requested Area Variance is not substantial because it's a minimum amount of 6.2 ft., and is a currently constructed structure.
4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it's indistinguishable along the road and is a completed structure.
5. The applicant has demonstrated that the alleged difficulty is not self-created for this applicant.

Mr. Zabala seconded the motion. All were in favor. The motion passed.

APPEAL NO. 2019-17 Gary Childs, Jr., 15 Damascus Drive, Gansevoort, New York 12831. Request for an Area Variance, pursuant to §129-157 of the Zoning Ordinance, property located at 15 Damascus Drive, Gansevoort, New York 12831, Tax Map No. 128.5-2-5, zoned R-1 in the Town of Wilton.

Mr. O'Brien opened public comment at 7:08. p.m.

Mr. Childs, Jr. presented to the board his request for a 6 ft. side variance he would need to fit in a garage on his property along with an existing pool. The board questioned the shed on the property, and Mr. Childs, Jr. explained this existing shed will be removed for placement of the new proposed garage. He furnished the board with pictures of his property and what the garage will look like. The board acknowledged the wetlands on the north side of the property. He also furnished the board with correspondence from Mr. John Sesselman, 17 Damascus Drive, which will be placed in the file for record. The board also discussed other properties in the neighborhood with other out buildings.

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Public comment closed at 7:10 p.m.

Mr. Zabala made a motion to approve Appeal No. 2019-17, Gary Childs, Jr., 15 Damascus Drive, Gansevoort, NY 12831. Request for an Area Variance pursuant to §129-157 of the Zoning Ordinance, property located at 15 Damascus Drive, Gansevoort, NY 12831, Tax Map No. 128.5-2-5, zoned R-1 in the Town of Wilton be granted in the amount of relief of 6 ft. south side setback because the benefit to the applicant outweighs the detriment to the health, safety, and welfare of the community, for the following reasons:

1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the garage will be at the rear of the home and will not be very visible from the front. Also there are similar out buildings in the surrounding neighborhood and the immediate neighbor has granted his ok to place the structure where he is designated to.
2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because it would require that the garage be close to the pool fence, and the applicant will not be able to get a vehicle between that structure and the pool fence.
3. The applicant has demonstrated that the requested Area Variance is not substantial because it's the minimum that can be done with the pool and the pool fence, and adhere to building codes.
4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because the garage will be replacing an existing structure, will be used for storage, and there are similar structures in the development.
5. The applicant has demonstrated that the alleged difficulty is self-created due to the need for the garage.

Mr. Barrett seconded the motion. All were in favor. The motion passed.

APPEAL NO. 2019-18 Richard Spackmann, 582 Route 9, Saratoga Springs, New York 12866. Request for Area Variances, pursuant to §129-157 and §129-170 of the Zoning Ordinance, property located at 582 Route 9, Saratoga Springs, New York 12866, Tax Map No. 153.5-1-11, zoned CR-1 in the Town of Wilton.

Mr. O'Brien opened public comment at 7:16 p.m. Mr. O'Brien read correspondence from the Saratoga County Planning Board, and a neighbor, Richard Green, 584/586 Maple Avenue, which will both be placed in the file. Tonya Yasenchak, from Engineering America Co., stood before the board to represent Mr. Spackmann. Tonya presented the board with the proposed 43.5' x 24' detached garage with accessory apartment. Tonya described the proposed garage would act as an insulated buffer for the Spackmann's residence from Route 9, and neighboring residences, would not detract from the neighborhood, it would not pose a harm to the neighborhood, and would keep the underlined zoning of the property. Tonya explained the septic system would be designed by a licensed engineer and that it would meet town and state code. She also mentioned that the lot is pre-existing, non-conforming. The board discussed the use of the new proposed garage with Tonya, and the previously filed appeal for a smaller garage from 2011. Mr. Mykins explained that there was a previous proposed garage, and Mr. Spackmann explained that this particular garage was approved. Mr. Spackmann explained that the he was not aware, at the time,

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that an additional variance would be needed for permission to add an apartment above the garage. The board then acknowledged that Mr. Spackmann was in front of them tonight for permission to add an apartment to the garage. There was discussion between the board, Mr. Mykins, and Mr. Spackmann about the variances needed for this new proposed use, which would put two uses on the property. The board expressed that the lot size variance needed is pretty substantial, and that there would also be a need for an additional frontage relief of 50 ft. with the addition of the apartment. Spackmann explained that this property is intended to be his forever home, and also that his mother is getting older and would like to get this apartment for her to live in. Tonya explained the lot is already pre-existing, non-conforming. Mr. Mykins responded that these variances will make it further more non-conforming, and that is for the board to review. The board questioned whether there was thought for an in-law apartment and Mr. Spackmann explained that the septic behind their house would have to be disrupted to add an in-law apartment, and that would require trees to be cut down. John McEchron made comment in favor of the application before the board. Mr. McEchron made reference to the 3 story apartment buildings down the road, 20 ft. from Route 9. Mr. Mykins explained there are different zones along Route 9. Mr. McEchron explained that the applicant before the board is a long time resident of Wilton. The board explained that if the appeal is denied, it cannot be heard again, and that it is up to the applicant to proceed or not proceed. Mr. Spackmann stated he will table the appeal.

Mr. Kingsley made a motion to table the appeal at the applicant's request. Mr. Ramsdill seconded the motion. All were in favor, the motion passed.

APPEAL NO. 2019-19 Frank Izzo, 13 Van Brummel Lane, Ballston Spa, NY 12020. Request for Area Variances, pursuant to §129-157 of the Zoning Ordinance, property located at 12 Cardiff Circle, Gansevoort, New York 12831, Tax Map No. 127.12-4-14, zoned R-1 in the Town of Wilton.

Mr. O'Brien opened public comment at 7:33 p.m.

Chad Pagan, from Ingalls and Associates, was present to represent Frank Izzo. Mr. Pagan explained to the board that this house is next door to the previous appeal heard for 10 Cardiff Circle, and that Mr. Izzo bought the property unfinished as well. The difference here is that there is a need for 2.5' front and 2.9' side relief.

Public comment closed at 7:35 p.m.

Mr. Ramsdill made a motion to approve Appeal No. 2019-19, Frank Izzo, 13 Van Brummel Lane, Ballston Spa, NY, 12020. Request for Area Variances pursuant to §129-157 of the Zoning Ordinance, property located at 12 Cardiff Circle, Gansevoort, NY 12831, Tax Map No. 127.12-4-14, zoned R-1 in the Town of Wilton be granted in the amount of relief of 2.5 ft. front yard setback and 2.9 ft. south side setback, because the benefit to the applicant outweighs the detriment to the health, safety, and welfare of the community, for the following reasons:

1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variances because the structure is built and is hard to distinguish because of the minimal amount of the setback that brings it closer to the road than other properties in the area.

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2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because the house is completely constructed, and the current owner was not aware of the situation. Frank Izzo took over the project, and substantial work was already completed at that time, it would be cost prohibiting to him to have the building torn down for the minimal amount of variances.
3. The applicant has demonstrated that the requested Area Variances is not substantial because it's the minimum amount of 2.5 ft. front yard for a triangular section of the front porch, and 2.9 ft. south side, and is a currently constructed structure.
4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it's indistinguishable along the road and is a completed structure.
5. The applicant has demonstrated that the alleged difficulty is not self-created for this applicant.

Mr. Zabala seconded the motion. All were in favor. The motion passed.

The board discussed dates for the combined November/December meeting. This meeting will be held Thursday, November 21, 2019, with a submission deadline of Tuesday, November 5, 2019, at 12:00 p.m.

Adjournment:

Mr. Kingsley made a motion to adjourn. Mr. Ramsdill seconded the motion. All were in favor. The meeting was adjourned at 7:37 p.m.

Dated: September 26, 2019

BOARD OF APPEALS

BY _____

Lisa Closson, Zoning Clerk

BY _____

Joseph O'Brien, Chairman