

Village of Kinderhook Zoning Board of Appeals

Minutes of November 23, 2015

- Present K. Gray; D. Sullivan, Chair of ZBA; G. Seaman; J. Callahan; M. Van Allen; C. Weaver, Liaison of ZBA; D. Flaherty, Chair of PB; M. Browne, B. Charbonneau; M. Cabral; R. Philipps, Liaison of PB; R. Fitzsimmons, Village Attorney; G. Smith, CEO/ZEO;
- Absent S. Patterson, Vice Chair of PB
- Also Anne Schomaker; Lynn Mazure-Collins; Brian Murphy, Trustee; Jim DiGioia; Peter Van Alstyne; Alexander Anderson; Dana Spot; Bill Van Alstyne
- Public Hearing 7:00 PM Area Variance and Minor Subdivision Joint Hearing, Anne Schomaker, corner of Broad Street and Gaffney Lane, 53.07-2-37
D. Sullivan, Chair of ZBA opens public hearing. G. Smith, CEO explains the applicant is requesting a 35' rear variance as the set back is only 15' of the required 50' per Village Code. R. Fitzsimmons, Village Attorney reads letter from CCPB with recommendations on minor subdivision. He then reads over the area variance finding and decision worksheet that helps the ZBA's determination for the area variance. Peter Van Alstyne, surveyor goes over the application and what they are proposing, showing the maps he prepared to the public and going over site plan for property boundaries, where the house will be located on the property and screening for neighbors. Lynn Mazure-Collins borders Anne's property on Gaffney Lane and she asks about the placement of the house and driveway and if lights will shine into her property, she is concerned about the resale value of her house depreciating with a house so close to hers. Pete reassures her that the driveway is angled into the back of Anne's property and not at her house and will wrap around towards Route 9 to circle away from her property and house as well. D. Sullivan asks if there will be a garage placed on the property and at this time Pete is not aware of one but she can if she wishes. K. Gray asks if

there is a possibility that the septic system can be moved and Pete states that he can look into options. Bill VanAlstyne asks why she is subdividing. Anne replies that she is getting older and wants to down size the property and being in the large house now is becoming too much for her to maintain. Alexandra Anderson speaks about code and upholding the village code and urges the board to consider that this “hardship” is being self-created and that is one of the factors to consider on the worksheet. She also states that she feels the variance request is very severe and if granted would weaken the zoning code. D. Sullivan states that the board will take all factors into consideration as hardship is not the only one to consider. Lynn asked if she would consider a fence to shield her property and Anne states that she would discuss ideas and comply with whatever everyone wanted to make it the best situation for all. Brian Murphy, trustee and village resident speaks about the fact that this is a request for a very large variance that is being self-created and urges the board to consider all aspects and possible alternatives before approving. Doesn’t want to set a precedent or let others think we will give them variances. Also wondered about the driveway, seems like it may be narrow and hard for fire trucks, septic trucks, etc to enter. Glenn Smith states that all will be reviewed prior to building and make sure it is up to code. Pete reassures the board and public that everything is up to fire code and compliant. Brian then asks about the variance and if property changes hands and is worried that maybe the new neighbors will not be as compliant as Anne is being. Lynn states that is a good point. R. Fitzsimmons states that the variance does stay with the property but every situation is unique and doesn’t mean that we are setting a precedent that binds future decisions. B. Charbonneau suggests that the house should be moved so that a variance is not required. Bill Van Alstyne goes over some of the questions on the finding worksheet for the ZBA, he does believe that this is a undesirable change, he does believe there are alternatives, he does believe that this is self created, etc. and urges the board to consider all of these aspects before approving such a large variance. Jim DiGioia talks about his own experience and that he was denied an area variance because his proposed chimney was too close to a property line and this is a very substantial variance they are requesting, he believes approving this would weaken the code and we need to look into alternatives. Lynne states that she is not familiar with this process but wanted to

reiterate that she is concerned about this house being so close to her property line and would like to look for alternative positioning of the house. D. Sullivan closes the public hearing at 7:41 PM.

Call to Order	7:47 PM
Minutes	K. Grey made a motion to approve October 26, 2015 minutes with changes discussed; J. Callahan seconded; all members are in favor.
Funds Remaining	\$1,005.66
Correspondence	NONE
Old Business	<p>Area Variance, Anne Schomaker, corner of Broad Street and Gaffney Lane, 53.07-2-37</p> <p>D. Sullivan opens the regular meeting for board to discuss the application. He starts by going over the Area Variance Findings & Decision Worksheet for the ZBA. Question 1 asked whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties? The board discusses the 35' variance requested, the distance between the house on the property boarding Gaffney Lane and screening. J. Callahan talks about the screening and what type of trees she will be using, will they get big enough to screen properly, will they get too big that they need to be pruned and since there will only be a 15' space from the back of the house to the trees, will this pose a hazard. K. Grey talks about what type of house and how large she is proposing it is going to be. G. Smith states that the ZBA is looking at the variance not the size and ascetics of the house but where it is positioned on the property. K. Grey states that we do need to consider all of these aspects including if this does affect value of nearby property. The board agrees that the answer to question 1 is YES. Question 2 asks whether benefit sought by applicant can be achieved by a feasible alternative to the variance. Pete Van Alstyne and the board go over the maps and where the house, septic, property lines, etc are for the new property and existing as well. There are some options to move the house and septic and possibly reduce the variance to only needing more like a 15-25' variance vs the 35' they are requesting now but it is impossible to not need a variance at all unless maybe they move the existing septic or something more extreme. The board and Glenn discuss</p>

setbacks for garages, swimming pools, etc. to get a better idea of what is required for what type of structure. Question 3 asks whether the requested variance is substantial and all board members discuss and agree the answer is YES. Question 4 is skipped for now to go back to later. Question 5 asks whether the alleged difficulty was self-created and all board member agree the answer is YES. After discussing different options with the board, Pete Van Alstyne and Anne agree that they will go back to the drawing board and see what he can do to minimize the variance request. They will be scheduled to return at the next meeting to review a new site plan. J. Callahan asks to schedule a walk-through of the property so that the board can take a up close look and Anne welcome them at any time. R. Fitzsimmons goes over the process, stating that the board will keep the application open for next month to review new plans and if acceptable at that time another public hearing will be scheduled. The board discusses with Pete that they would like to see a smaller variance request of closer to 10-15' if possible to reconsider this application. K. Grey asks what will happen if we deny it and Rob states that this would end the application and they would not be able to put up the house as proposed. Pete states that he will do his best to minimize the request but doesn't feel that there is an alternative that will require no variance at all. D. Sullivan motions to keep application open for revised site plan at the next meeting of December 28; G. Seaman seconds; all in favor. Anne states again that anyone is welcome to come look at the property at any time.

New Business

NONE

Next Meeting

December 28, 2015

Adjournment

8:35 PM G. Seaman moved to adjourn; J. Callahan seconded; all in favor.

Kristina Berger

Secretary to Planning Board