

Village of Tivoli
Zoning Board of Appeals Meeting Minutes
July 6, 2015

Meeting opened at 7:05 PM

ZBA Attendees:

Chair, Laura Gail Tyler
Jonathan Trombly
Robert Zises
Mark Bennett
Karen Cleaveland

Also present:

Susan Ezrati, Trustee Liaison and Secretary, pro-tem

Public:

Samantha Hunt
Nancy Wells
Sean Wells
Harry Colgan
Robert Barrett
Amy Breedlove
Mary E Bednar
Joan Lobis
Joe Hagan
Linda Murphy

The first item of business was to approve the draft minutes from the June 1, 2015 meeting.

The Chair asked the Board to review the minutes. The chair suggested adding "The Board reviewed the list of allowed primary uses in the R2A zone. If the variances are not granted, the other permitted uses include: agriculture, parks and playgrounds."

Robert Zises moved and Jonathan Trombly seconded the approval of the minutes of the June 1, 2015 minutes as amended. The motion was passed unanimously.

Old Business:

Four Area Variances for parcel 134803-6174-02-643925-0000 on Clay Hill Road:

1. Minimum land area per dwelling is 2 acres, he has 0.149 acres.
2. Lot width at street is 100 feet minimum, he wants 36.31 feet
3. Lot width at front building line is 100 feet minimum, his is estimated to be 34.84 feet
4. Side setbacks are 35 feet minimum on each side of building, he wants 10 feet on each side

Chair Tyler announced that the applicant notified her by email that he could not be in attendance at the July 6, 2015 meeting.

After discussing the application with the village attorney, Chair Tyler communicated with the

applicant that he would need to provide information that a septic system is dimensionally possible. The ZBA could not consider granting the variances contingent upon septic approval.

As a result, the applicant replied by email that he thought it was “probably in his best interest to withdraw his application.”

Because the ZBA has not received a definitive written request for the application’s withdrawal, the public hearing was continued.

Chair Tyler stated for the record that the parcel was created in August 1989 after zoning was enacted in March 1989.

The public hearing was opened at 7:10 pm.

Public comment

- Robert Barrett noted that the parcel’s history is not accurately recorded. The parcel actually was created about 15 years earlier than 1989. He provided a history of a land transfer that occurred between the village and the owners at that time. Clay Hill Road was shifted resulting in the exchange of property from the south and the west of the corner parcel for the old roadway to the north and the east. However, the transfer of parcel 134803-6174-02-643925-0000 was not properly recorded at the time of the transfer.
- Sean Wells discussed a succession of owners of the parcel subsequent to 1990 and misinformation regarding it.
- The chair noted the cycle of transactions, the real estate tax was not paid and each time the property reverted to the county for auction.
- Joe Hagan commented on the need to resolve the larger issue, namely, the existence and repeated sale of such a substandard parcel. He presented the ZBA with a petition from neighboring properties in opposition to the applicant’s request for variances (available in the parcel file). His largest concern was that of the impact of a septic system on the creek.
- Amy Breedlove asked whether the issue should even get as far as discussing the septic. She commented on the criteria of the area variance balancing test. She commented that it had a negative impact of the character of the neighborhood. She then noted the significance of each variance being requested. She noted that the applicant’s prior attempts to purchase land indicate that he “self-created” the issue because was aware of the potential issues. Amy asked why the issue was still being discussed.

The chair reviewed the process that the ZBA was required to undertake. She referenced her stated intent to “be slow, careful and deliberate about the consideration of the application” to be fair to all parties. She also reiterated the board’s acknowledgement that the variances requested are “quite substantial both for the number of variances and the amount of the variances.” She noted the fact that only one neighbor appeared at the prior hearing date as one reason for continuing the public hearing, and the board had yet to deliberate on the variances.

- Mary Bednar listed issues related to the stream flooding several years ago and short sight lines for traffic on Clay Hill.
- Harry Colgan noted that he had researched the issues related to the septic system. He said that the required land for his own septic system exceeded the size of the parcel being considered by the board. He learned that the county did not do any review of any parcel prior to placing it on the auction list. Harry suggested that the county should do

such a review of the parcel being considered for the purpose of removing it from their list. Brad Kendall is the County Clerk that could be applied to for this purpose. Such action would need to be taken by the Mayor and the Village Board.

- Linda Murphy noted that she could confirm that the parcel was created in the early 70s. She also noted that the driveway would be narrow and at the crown of the hill and, therefore, would create a dangerous situation for traffic on the road.
- Joe Hagan asked what the ZBA's role would be in getting the parcel reclassified by the county.

The chair commented that this relief from the county was not part of the ZBA's role and she reviewed the board's purpose. The issue would need to be taken to the Village Board and the Mayor to create a dialogue with the county or a private purchase among the neighbors could occur. She noted that even if the variances were not to be granted, other primary uses, such as planting hay, would remain permitted uses.

- Robert Barrett asked where the applicant is at this point. Laura Gail read an e-mail from the applicant. It read as follows: "Last months ZBA meeting was not particularly enthusiastic towards my project and I think it is probably in my best interest to withdraw my request. My sincerest apologies to my neighbors for causing undue alarm and for time wasted. "

Motion to continue the public hearing until 8/3/2015 at 7pm: Mark Bennett moved, Karen Cleaveland seconded the motion. The motion carried.

Adjournment:

Motion to adjourn at 7:40 pm. Moved by Mark Bennett, seconded by Jonathan Trombly. All in favor. Motion carried.

Respectfully submitted by

Susan Ezrati
Trustee Liaison and Secretary pro-tem