

VILLAGE OF DELANSON

Zoning Board of Appeals

Minutes of Special Meeting

July 30, 2024
7:00 PM
at the Village Fire Hall

Board Members Present

Lawrence J. O'Connor, Chair
Casey LeClair, Member
Daryl Risley, Member
George Martin, Member- Excused
Sharlene Grenier, Member (newly appointed)

Guests Present

Daniel Lindh, Resident
Thomas Malczyk, Resident

The Chair called the meeting to order at 7:12 PM.

This Special Meeting was called to conduct a public hearing and take other necessary actions with respect to an area variance request to allow construction of a house at 180 West Shore Road to replace the domicile destroyed by fire on March 21, 2023.

The Chair asked for a motion to approve the minutes of the July 13, 2024 Special Meeting. D. Risley so moved, seconded by S. Greiner. Motion adopted.

The matter was referred to the Board of Appeals by a July 12, 2024 Notice of Determination from the Building Inspector because variances are required to allow continuation of the pre-fire non-conforming use. The documents submitted included:

- Notice of Determination – July 9, 2024
- SEQR Short EAF Part 1 – Project Information (Type II Action) – July 11, 2024
- Building Plans (from manufacturer's catalog)
- Proposed Site Plan dated July 11, 2024 – ABD Engineers & Surveyors

The Chair requested a motion to confirm that the SEQR Short Form EAF submitted represents a Type II action requiring no further review. C. LeClair made a motion to confirm that granting an area variance to allow continuation of the subject non-conforming use is a Type II action requiring no further review. D. Risley seconded the motion. Motion carried.

The Chair then opened that Public Hearing at 7:22 PM.

The Chair noted that one communication has been received from the public prior to the hearing. A letter dated July 30, 2024 was received from Bruce A. Barton objecting to granting of the area variance. A copy of the letter is made part of the record. In addition, the Chair's email response to Mr. Barton on this date is also made part of the record.

Mr. Barton has several aesthetic and procedural reservations about granting the area variance as proposed. He correctly points out that the Board of Appeals must limit relief what is actually necessary. He points out that the Board of Appeals has an incorrect understanding of the size of the previous house. The Board of Appeals believed that the house that was destroyed was less than 1,200 S.F. He notes that Realtor.com shows the previous building was 1,918 S.F. The Chair responded by email that the Board of Appeals would consider what minimum variance is required.

Mr. Daniel Lindh addressed the Hearing.

Mr. Lindh is Chairman of the Village Planning Board but he is speaking in his capacity as a Village resident. While he is not speaking on behalf of the Planning Board, his knowledge of the rules, regulations and relevant history comes from his service on the Planning Board.

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Mr. Lindh is concerned about precedent. The Planning Board recently denied an application for a party to build a 1,000 S.F. house on an otherwise conforming lot. The party did not pursue the matter further. If the Board of Appeals were to grant a variance to allow for construction of a dwelling that is less than the required 1,200 S.F., this would set a bad precedent.

Mr. Lindh further drew attention to an email he sent just before the meeting which includes a Property Description Report downloaded from the official Schenectady County database. The Chair did not have this email. Mr. Lindh showed it to the Chair on his phone. The official record states that the previous house was two stories with a foot print of 959 S.F., total area for two floors of 1,918 S.F. This provided conclusive evidence that the previous house was greater than the minimum required 1,200 S.F. {Note: The report was downloaded after the meeting. A copy of the report is submitted as a part of the record.}

The Chair asked if there were other comments from the public.
Hearing none the Public Hearing was closed at 7:32 PM.

The Chair said the Board may now consider the area variance requested.

The grandfathering of previous non-conforming uses is limited to those non-conformities that existed at the time of the fire. No new non-conformity may be granted. The pre-fire non-conforming use of the property with respect to the current Zoning Law GR-1 has several aspects:

1. Lot Size/Dimensions
 - a) The lot is 9,191 S.F. – the minimum lot size is 43,560 S.F.
 - b) The lot is 72' wide – the minimum width is 100'
 - c) The lot is 127.3' – 129.0' deep – the minimum is 150'
2. Proposed house on the footprint of the original house:
 - a) The proposed house is 684 S.F. – the minimum house size is 1,200 SF – the previous house was 1,918 S.F.
 - b) The front yard dimension is 7.4' – the minimum is 25'
3. With respect to the Garage/Shed accessory structure:
 - a) The side yard dimensions to the garage are 6.8' – 7.3' – the minimum side yard is 10'
 - b) The rear yard dimension from the garage is 12.7' – the minimum rear yard is 30'.

The resident petitioned the Board of Appeals to resume the pre-fire non-conforming uses of the lot. The request to build a house less than 1,200 S.F. cannot be included in this area variance because the previous house conformed with the Zoning Law with respect to minimum S.F. of living area.

The Chair asked the Board for a motion to approve the area variance for the pre-existing non-conformities identified as 1. a), b) and c); 2. b) and 3. a) and b) above. C. LeClair made a motion to grant the Area Variance. D. Risley seconded the motion. The motion carried.

There being no further business before the Board, the meeting was adjourned at 7:45 PM.

As there are no further pending matters, the Board of Appeals has not set the date for a next meeting. When a need arises the Board of Appeals will be called back into service.

Respectfully submitted,

L. J. O'Connor
Chair, Delanson Board of Appeals

Note: Because the Board of Appeals is not meeting on a regular schedule, these minutes will be considered approved hearing no corrections or amendments within the next 10 calendar days.