

MINUTES OF THE REGULAR MEETING OF THE TOWN OF ELLICOTT ZONING BOARD OF APPEALS/ PLANNING BOARD WAS HELD AT THE ELLICOTT ADMINISTRATION BUILDING, 215 SOUTH WORK ST., FALCONER, NY 14733 ON APRIL 19, 2018 AT 6:00 P.M.

PRESENT: Chairman Dan Evans, Jean Holton, Ken Lyon, Patricia Martonis, Paul Volpe

ABSENT: None

Chairman Evans opened the meeting at 6:00 PM and led in the Pledge of Allegiance.

Motion made by Patricia Martonis, seconded by Ken Lyon to approve the minutes of the March 15, 2018 meeting.

Carried. Ayes – 5 Noes – 0 Absent – 0

Chairman Evans opened the public hearing for **James E and Suzanne R Boland, 2064 Ashmar Lane, Jamestown, NY 14701 for a variance to place a detached garage on a parcel of vacant land which does not include a house.**

Attorney Duncanson swore in Mr. Boland.

Mr. Boland explained to the Board what he wanted to do:

- he told the Board that they had purchased a piece of property on Ashmar Lane in West Ellicott off Hunt Road for the purpose of building a pole barn to store equipment - he had owned a business in Lakewood and had stored the equipment at his business but had since sold the business and now has no where to store the equipment
- his mother lives on Ashmar Lane in a house he owns and that is part of the Hawthorn development - the property he purchased is not part of the Hawthorn housing project
- he had talked to Dave Rowe, code enforcement officer, and received some guidance – Dave had suggested that he combine the lots but explained he would still need a variance to build a second garage
- he would like to build a pole barn on the corner about 30 feet from the property line of the existing house
- he would make it as environmental friendly as possible as far as the colors and what is existing there now
- the sole purpose of the building would be to store his equipment that is there now – there is currently a boat, snowmobiles, a couple trailers and a truck - this would be a great improvement over what there is there now because the equipment is exposed to the elements and is unsightly
- where they live on Southwestern Drive there is no room to build – there would be no access to the back of the property
- he provided photos of the building for the Board
- eventually they will probably move into the existing house

- they want to make the building as inconspicuous as possible so there would be landscaping in front of it and on the side to obscure the view - Dave also suggested to him that he try to blend in the colors to match the house as close as possible – he brought samples of the siding he is considering
- he provided a sketch of where he planned to place the building
- the proposed building is 40’ by 48’ – his trailer with the boat on it is approximately 40 feet – the height of the building is 16’- 18’ – there will be 10’ doors – one man door – there will be windows on the side but they will be up tall and will be approximately 1’ x 3’ just to get light in – he wants it to be a secure building
- Pat asked what kind of landscaping he was planning – Mr. Boland stated they would probably have evergreens because he does want to obscure the view of the building when people drive down the street from inside the development towards Hunt Road – except at the driveway - there will be landscaping around the building which will be small trees and small plants
- the driveway will probably be asphalt
- Ken asked about lighting – they will run electric and gas to the building – the lines are already there underground – he would like to light up the front of the building as Ashmar Lane is a little dark at night

Dan asked if the Home Association would approve the addition of the lot to the housing development. Mr. Boland has discussed that with the Chairman of the association and neighbors and there does not seem to be any objection but it is not official. Mr. Boland stated that if he cannot build the building he would have to leave what was there now and that would be more upsetting to the neighbors than the building.

Attorney Duncanson said that the applicant needs to decide if he wants to go ahead with the lots being combined or if he wanted to ask the Zoning Board to approve a building on a residential lot without a house. He stated that the latter would be much harder. Mr. Boland asked “What if a house was planned for the rest of the lot?” Attorney Duncanson said that would add more variables and he needs to come to the Board with a decision how he wants to pursue this.

Dan said that there will be other issues for the Board to consider such as traffic and an additional access to the road and if this would coincide with the rest of the development.

Mr. Boland asked what would be the best way to approach this. Dan said the best option would be to combine the two properties. If the Board would grant the building on a lot without a house it would set precedence on other similar buildings being built in the Town. Dan stated that he would like to avoid having buildings being built in residential zones without housing. It would be easier for the Board to approve this request if the parcels were combined. Attorney Duncanson stated that would not be a guarantee but would make it much more palatable to the Board.

Mr. Boland asked if the Board needed something from the Hawthorn HOA to stipulate that they would approve this. The Board said they would. Attorney Duncanson said the Board could table this for a month.

Mr. Boland requested that the Board table this application for one month in order to give him time to get approval from the Hawthorn HOA.

Motion made by Jean Holton, seconded by Pat Martonis to table the application of James and Suzanne Boland until the May meeting.

Carried. Ayes – 5 Noes – 0 Absent – 0

Chairman Evans opened the public hearing for The Gerry Homes d/b/a as Woodlands, 2000 Southwestern Drive, Jamestown, NY for an adjustment to their site plan to include the phase 3 expansion and requests for improved signage.

Mr. Thomas J Wolanski, PE from GPI Engineering, and Mr. David Smeltzer, President and CEO of the Gerry Homes were sworn in.

Mr. Wolanski addressed the Board concerning phase 3 of the site plan.

- the original site plan was approved in 2010
- they have built 2 phases so far – phase 1 was the assisted living and phase 2 was the single family and duplex units
- they want to implement phase 3 with this application – it includes the extension of the roadway off Southwestern Drive
- they are not looking to change the number of units – they are looking at one additional assisted living facility and 6 single family units and 6 duplex units
- there is a drainage divide that runs through the center of the site from phases one through three and the remainder of the site is ultimately phase 4
- there was a storm water management facility originally designed for the project that was updated due to some concerns downstream relative to drainage issues and they expanded the capacity of that facility – all of those computations were done for the entire portion of this development (phases 1 through 3) – they were designed such that the outfall from the storm water management basin would not be greater than the outfall from the existing prior to the development
- at the Town's request they expanded the basin providing additional storage capacity
- they added a bench
- buildings are the same size
- there will be no additional access points to Southwestern Drive
- they are looping the water through the project and continuing the sanitary service through it and utilizing the existing outfalls
- from the original design they originally did a wetland delineation – that has expired - they are in the process of surveying
- they will be updating the application for the SWEP (the storm water erosion and sediment control plan)

- they will be updating the water and sanitary extensions and getting appropriate approvals
- they are creating a trail that goes behind the units on the east of the property – it is a walking path and will be graveled
- lighting will be the same
- they are will be requesting a 20 SF sign and a gazebo in the center of the courtyard area - the gazebo will be open – Mr. Smeltzer told the Board that the State of New York provides grant monies to those facilities that provide care at the SSI and Medicaid level – this is one of the things they are presenting
- there are currently 6 SF temporary signs against the fences to demonstrate what the signs would look like

Attorney Duncanson asked Dave Rowe if he had any technical issues that the Board should be aware of. Dave said he was not here when the original site plan was approved. The original site plan had 6 large buildings. Mr. Smeltzer said that they had proposed 6 and they are on this site plan but he is not sure if they will build all of them. They could potentially build a skilled nursing if the need would arise but as of now it is not needed.

Pat asked if there would be additional parking. There is an added area of parking in front of where the other building would be. If they have special events they tend to run out of parking space. The biggest change in this plan from the previous site plan is they are coming further to the east with this one.

Carol Gaiser, a resident of Orchard Road, had concerns about if this would affect the residents of Orchard Road. They are the only family that has land that butts up against their design. She said that her questions were answered.

Motion made by Paul Volpe, seconded by Pat Martonis to approve the modified site plan for The Gerry Homes d/b/a the Woodlands as presented.

Carried. Ayes – 4 Noes – 0 Absent – 0 Abstain – 1 (Holton)

Mr. David Smeltzer addressed the Board concerning the improved signage for The Gerry Homes d/b/a The Woodlands.

- he provided pictures of other facilities in residential areas that have additional signs and signs that are larger than what is permitted
- they are asking for consideration for a variance that this piece of property under the Town code be considered a sub-division – the sign that they want to put in the center of the property would be compliant with the signage requirements of the Town’s sub-division development section - he provided samples pictures of the signs they want

Ken Lyon stated that when the Zoning Board was a separate Board The Gerry Homes had appeared twice for signage and the signage was rejected. He asked if anything had changed as far as the road entering the site. Mr. Smeltzer said nothing had changed. He feels what did change is that they did not bring samples of other sites, as well as

competitors, which had been approved for additional and larger signage as he did for this meeting. He did not feel they were being treated fairly.

The second issue that was not mentioned when they appeared for signage before is that when they purchased the property there were two separate lots. The Town code allows for a sign for each lot but unfortunately the South and Center Sewer District said they had to combine the lots. Because they had to combine the lots for the sewer district they are now limited to the number of signs they can have. The characteristic of this site is that of a sub-division.

The signs are 23' and 25' feet back from the road on the fences. The signs on the fences are currently 6 SF and they are requesting 8 SF. Pat asked if the current signs are legal and Mr. Smeltzer stated they were not. They are requesting a total of four signs on the fences. The main sign will be approximately 20 SF.

Dave said historically the Board has considered the entire sign as part of the square footage. The residential sign code does not address that.

Mr. Smeltzer said they are asking for signs not to advertise but signs so people know where they are going. They feel it is more dangerous not to have the signage. He showed pictures of the signs that are there now and they do not obstruct the view at all.

Attorney Duncanson asked Dave if the sign would be permitted under the sub-division section of the code. Dave stated that under the Town code restrictions a sign was allowed for a sub-division but was not specific. Mr. Duncanson said that this was certainly a rational argument given the reality of what is there. This is not a sub-division because it is not divided ownership of lots. The Gerry Homes own the whole parcel but in function it is a development.

Dan said that in addition the Board needs to take into accountability the informational part. It should be identifiable. The sign will be at least 10 feet from the road. It may or may not be lit. Mr. Smeltzer said they would like to have it lit if it is allowed. Dave said there is no restriction on lighting except it be directed away from the road. Dan said that they need to show the lights on the plan.

Ken Lyon made a motion, seconded by Pat Martonis to approve the signage for The Gerry Homes d/b/a The Woodlands for four signs that will be 8 SF and the main informational sign will be 20 SF and will be lit. The plan will be finalized before the signs are placed.

Carried. Ayes – 4 Noes – 0 Absent – 0 Abstain – 1 (Holton)

Chairman Evans opened the public hearing for Neal and Cyndi Mechling, 3501 Lake Street, Jamestown, NY for a variance to replace an existing deck with a new deck approximately 18' by 25'.

Attorney Duncanson swore in Mr. Mechling.

Mr. Mechling addressed the Board:

- he told the Board they had purchased the property in October of last year
- they are proposing to expand the existing 8' by 8.5' deck on the lake side of the house to approximately 18' by 25'
- he said that Dave Rowe had informed him that the code stipulates that it needs to be at least 50 feet from the lake
- he provided a survey
- this deck will be made of composite material
- there will be no roof
- the height of the deck off the ground is no more than 3 feet – there would be only one or two steps down
- there will be no railing – Dave stated that anything over 3 feet would require a railing
- they would like to have steps around the whole perimeter of the deck which Mr. Mechling thought would eliminate the need for a railing

The Board discussed the height of the deck and felt that if the deck were just two steps down it would not be 36 inches. Mr. Mechling stated they would keep the same height of the current deck. Mr. Mechling said there will be no obstruction of the view of the lake if they do not have a railing.

Pat looked at the site and there is a house next to them that has a large deck but they have more property.

Dave stated that the Mechlins did come in for a variance and there are numerous properties that are completely illegal and were done without a permit. Mr. Mechling said that they would not have stamped concrete nor would they have a roof or railing on their deck. He feels that the two problems would be obstructing the view of the lake from the neighbors and the water percolation of the water into the lake. The shoreline will be maintained green space.

Richard Adams, a neighbor on Lake Street, was sworn in. He asked if the deck would be the same height. Mr. Mechling said that there currently is a railing on the deck and that will be gone and stated the new deck will be no higher than the current deck.

Attorney Duncanson asked what the distance from the lake is. It looks to be 38 feet. Mr. Mechling said that it is 35 feet. The shoreline curves around. If the new deck comes out 25 feet it would be less than 13 feet. Mr. Duncanson stated that would be about 65% of the 38 feet to put in a 25 foot deck and that is a significant area variance. Mr. Mechling is willing to consider less than 25 feet.

Pat said that she does not think just because others have done it illegally that the Board should set precedence in giving a variance approval.

Dan said that the sideline setbacks are legal. It is only the lakeshore side that is not. The Board also needs to know the actual height of the deck.

Dave said that if the deck were over 30 inches it would require a railing and he does not think the current deck, because it has two raisers, is more than 16”.

Dan said that the Board needs to have size and height of the deck to approve the variance. Mr. Mechling said that the new deck will be no more than 18’ x 20 feet and no higher than what is there now.

Motion made by Jean Holton, seconded by Paul Volpe to approve the area variance for Neal and Cyndi Mechling for an expansion of their current deck with the following conditions:

- the deck be no greater than 18 inches in height
- the deck will be 18 feet by 20 feet with the steps included
- there will be no railings
- no lighting
- the deck will not be a solid surface but planks so the water can flow through
- no chemical treatments on the deck

Carried. Ayes – 4 Noes – 1 (Martonis) Absent – 0

Motion made by Jean Holton, seconded by Ken Lyon to adjourn the meeting at 7:30 PM.

Carried. Ayes – 5 Noes – 1 Absent – 0

Valerie Pierce, Secretary