MINUTES
ZONING BOARD OF APPEALS
DATE: May 16th, 2017 at 7:00 PM
LOCATION: Willsboro Town Hall

Present: Chairman, Carol DeMello, Board Members, Brian DeGroat, Peter Sowizdrzal
Absent: Jason Morgan, Barbara Paye
Member of the Public: Eric & Patricia Crowningshield, Mark Hall, Douglas Rock (Code Enforcement Officer)

Meeting called to order at 7:03 pm

MINUTES: DeMello called for a motion to approve the February 2017 Zoning Board of Appeals Minutes. DeGroat moved. Sowizdrzal seconded. All in favor and the motion carried.

PUBLIC HEARING: No public hearing

OLD BUSINESS: No old business

NEW BUSINESS:
Application No. 2704: Eric & Patricia Crowningshield, 979 Middle Road, 40.12-1.252, RR, New Garage Construction*

Doug introduced the garage project to the board. Doug noted that the Crowningshield property is in the RR district but is just outside the RL-1 district. If this project was in the RL-1 district Doug would have been able to give them a building permit. He also stated that within the RR district there are similar cases that are less conforming. The Crowningshields plan to make the garage match the house in style and not block the house. The garage will be to the side of the house but slightly forward due to the land dropping off so steeply making it not feasible to build back any further.

DeMello requested the Crowningshields get a copy of the current deed and the property card to the Board before the public hearing.
(Sowizdrzal/DeGroat) A motion was made and seconded to approve that the variance application for the garage be moved to a public hearing for June 20th, 2017 at 7 pm. All in favor and the motion carried.

Application No. 2714: Anna, Dan, Albert & Lois Herbert, 1502 Reber Road, 30.2-1-29.000(LOT 2), LC-W, New Year Round Residence*

Application No. 2715: Anna, Dan, Albert & Lois Herbert, 1508 Reber Road, 30.2-1-19.030(LOT 1), LC-W, New Year Round Residence*

Doug introduced to the Board two projects for new year-round residences on both parcels. The Herbert's want to build a year-round residence, one on each parcel, almost identical; they need to get a variance for the front yard setback, the side yard setbacks, and an accessory building in the front yard. Doug pointed out that the lots are located along Long Pond in between the RL-1 and RL-3 districts and appear to be lakefront lots though the survey shows the "front" of the lot borders a road which borders the lake, so they technically cannot be considered "lakefront." The applicants would need to put the accessory building in the front yard due to the slope of the lot.
Application number 2714 & 2715 are identical cases.

Mark Hall appeared on behalf of the Herbert's—he has been hired to design the residences. Because of the uncertainty of variance approval, they are asking for approval of a "buildable area" on the lot before they invest a lot of money in blueprints. DeMello recalled a case where the applicants brought a home plan design from a magazine for variance approval which they received. The Board then asked that something similar be provided to the ZBA for consideration keeping in mind that the ZBA is charged with granting the minimum variance necessary to achieve a balance between the needs of the applicants and the spirit of the Zoning Law.

The ZBA requested that a proposed building(s) be added to the survey with approximate desired setback dimensions and location of water, sewer, etc.; a copy of the deed; proposed elevations (plan from a magazine acceptable). It is not necessary for the surveyor to update the map, just draw in to scale as best they can the proposed location.

(DeGroat/Sowizdrzal) A motion was made and seconded to approve that the variance application for the new year-round residences be moved to a public hearing for June 20th, 2017 at 7 pm. These applications will include 3 different variances: a front yard variance, a side yard variance, and an accessory structure in the front yard variance. All in favor and the motion carried.

DISCUSSION:
The board discussed briefly the ZBA Handbook that is being created and how they would like it put together and where to keep it so it will be the most conveniently accessible.

*The attachments can be found at the town hall. Attachments include Area variance application & deeds. *

ADJOURNMENT: Sowizdrzal made a motion to adjourn the meeting at 8:20 pm. DeGroat seconded. All in favor, motion carried.

Respectfully Submitted

Codia Crandall
Secretary for Planning and Zoning Board

ZBA Area Variance Findings DRAFT

Name: Anna, Dan, Albert, Lois Herbert Tax Map #: 30.2-1-29.000 Lot# 2

Area Variance Application Number: 2714 Date of Vote: June 20,2017

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:

   There is no other means for achieving a buildable lot. No land is available. Lot existed before zoning laws went into affect.

   As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:

   The proposal is in keeping with the use of the adjacent properties and has no impact on the character of the neighborhood. This land borders RL-1 and RL-3 districts on each side. There is already an existing house next to their lots.

2. As to whether the requested area variance is substantial, I find that:

   I think this request is substantial if it is zoned as LC-W. The lot requirements are much higher. If you use the requirements for the zoning districts that border the property I don't think it is substantial.

3. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:

   In their design of the year round residence there intent is to preserve as much of the properties characteristics. I don't see any adverse physical or environmental effects to the property. The site plans take in stormwater runoff and septic system.

4. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)

   It is not self-created. They can't build back any farther due to the landscape of the land.

Draft Motion:

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Possible conditions or limitations:

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ZBA Area Variance Findings DRAFT

Name: Anna, Dan, Albert, Lois Herbert_____ Tax Map #: 30.2-1-19.030__Lot #1_

Area Variance Application Number: 2715 Date of Vote: June 20,2017

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:

   There is no other means for achieving a buildable lot. No land is available. Lot existed before zoning laws went into effect

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:

   The proposal is in keeping with the use of the adjacent properties and has no impact on the character of the neighborhood. This land borders RL-1 and RL-3 districts on each side. There is an existing house already here next to their lots.

3. As to whether the requested area variance is substantial, I find that:

   I think this request is substantial if it is zoned as LC-W. The lot requirements are much higher. If you use the requirements for the zoning districts that border the property I don't think it is substantial.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:

   In their design of the year round residence there intent is to preserve as much of the properties characteristics. I don't see any adverse physical or environmental effects to the property. The site plans take in stormwater runoff and septic system.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)

   It is not self-created. They can't build back any farther due to the landscape of the land.

Draft Motion:

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Possible conditions or limitations:

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ZBA Member Area Variance Criteria Notes DRAFT

Name: Eric & Patricia Crowningshield **Tax Map #:** 40.1-2-1.252

Area Variance Application Number: 2704 **Date of Vote:** 6/20/17

Findings:

1. **As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:**

   Applicant states that the cost of fill for necessary for fill that would be required to locate the accessory building completely out of front yard area is not financially feasible. The on-site visit confirms the slope of the land would require additional cost to comply with 5.52-2. If the accessory building were attached to the primary structure, no variance would be needed but the applicant would lose their porch or the view from their southern exposed windows.

2. **As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:**

   The applicant's small RR neighborhood is sandwiched in between 2 RL-1 Districts. There are approximately 5 RR lots in that RR district and 2 already have accessory buildings in their required front yard. Applicant states there accessory building will be similar to the appearance of the primary structure. During most seasons the accessory building is only visible from the road. Therefore, their request is unlikely to produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

3. **As to whether the requested area variance is substantial, I find that:**

   It appears that the accessory building will protrude about 18 feet into the required front yard so that approximately 720 sq. ft. of the 1120 sq. ft. project will be in the required front yard or 64.29% will be in the required front yard, so I find that the variance is substantial. But if you look at it from the point of view that this request if granted would make 3 of the 5 lots with an accessory building protruding into the front yard, it is not a substantial request.

4. **As to whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood of district, I find that:**

   Physically, the accessory building is only visible from the road most of the year and should not have an adverse effect or impact on the visual physical condition of the neighborhood. There should be no environmental impact due to the planned location with the planned proper drainage the applicant verbally commits to.

5. **As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)**

   This difficulty is not self-created as the difficulty arises from the natural lay of the land that has always been there.

Draft Motion:

A motion is made to grant the variance from Section 5.52-2 allowing the accessory building to protrude into the front yard approximately 18 feet from the house. No conditions or limitations are placed on this variance.

ZBA Member Area Variance Criteria Notes DRAFT

Name Eric & Patricia Crowningshield Tax Map # 2704

Area Variance Application Number: 40.1-2-1.252 **Date of Vote:** 6-20-17

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:

   applicant states cost for fill that would be required ~~by~~ to locate ~~garage~~ accessory bldg completely away from front yard is not feasible. On site visit to see moderate slope confirms that there would be additional cost to comply w/ 5.52-2. If attached to house no variance would be needed but applicant would lose their porch to South

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:

   That small RR neighborhood sandwiched between 2 RL districts.
   There are approximately 5 RR lots in that district 2 already have accessory bldgs in their front yard
   Applicant states accessory bldg will compliment appearance of home that is attractive. During most seasons accessory bldg only visible from road nor neighboring properties

3. As to whether the requested area variance is substantial, I find that:

   It appears that the accessory bldg will project about 18 ft into the front yard so that approximately 720 sq ft of the 1120 sq ft project will be in the front yard OR 64.29% will be in the front yard, so I find that the variance is substantial as far as size goes

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:

   Physically - accessory bldg only visible from road most of the year & should not have an adverse effect or impact on physical condition in the neighborhood. There should be no environmental impact due to the planned location with proper drainage

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)

   This difficulty is not self created as the applicant states the area to be used is just the natural lay of the land.

Draft Motion:

motion to grant variance from Section 5.52-2 allowing the accessory bldg to protrude into front yard approximately 18 ft.

Possible conditions or limitations:

siding & roofing similar to house

Barbara Gaye
ZBA Member Signature

6-20-17
Date

ZBA Area Variance Findings DRAFT

ne: Eric and Patricia Crowningshield Tax Map #:40.1-2-1.252

Area Variance Application Number: 2704 Date of Vote: June 20,2017

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:

   Land elevations from front of house to rear of house drops off substantially making it not feasible to build back any farther than proposed.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:

   Accessory building will be architecturally similar to the house. There are other properties in area that are similar in placement. It will fit nicely into the existing character of the area.

3. As to whether the requested area variance is substantial, I find that:

   I do not think this request is substantial. The required front yard setback is 100 feet for RR district but is right outside the RL-1 district which is 50 feet. Buildings setback will be approximately 70 feet from road.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:

   It will have a positive effect on the physical and environmental conditions in the area. Stormwater runoff will be managed effectively.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)

   It is not self-created. They can't build back any farther due to the landscape of the land.

Draft Motion:

I make a motion to grant the Crowningshield's a variance from section #5.52-2 which states 100' front yard setback for Accessory Buildings to a setback of 66 feet.

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Possible conditions or limitations:

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ZBA Member Signature Date

ZBA Member Area Variance Criteria Notes DRAFT

Name: Anna, Dan, Albert & Lois Herbert

Tax Map #: 30.2-1-19.020 Lot 1

30.2-1-29.000 Lot 2

Area Variance Application Number: 21714 & 2715

Date of Vote: 6/20/17

Findings:

1. **As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:**
   The two lots of the Herberts are surrounded on East and West sides with lots w/ established residences, so there is no opportunity to buy additional land to meet their side yard or front yard requirements for LC-W. Even if you were to combine the two lots to build only one residence with an accessory building, the 200 foot width would still not meet the sideyard requirement for 150 feet and it the additional land would not allow the applicant to comply with the 150 foot front yard setback requirement for the LC-W District. Therefore, there does not seem to be any feasible method for the applicant other than an area variance. The topography of the land also does not lend itself to the placement of the accessory building anywhere but in the front yard area.

2. **As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:**

   The cabin owned by Jack & Lucille Martin to the East is in a similar location from the road in line with where the new homes will be located, so the cabin's view will not appear to be obstructed by either of these two requested homes. The neighboring Martin cabin is actually closer to the property line than the setback requested by the applicants so this side yard setback is in keeping with the neighbor on the East. Applicants' representative states the two homes will be constructed with materials and color choices that will be characteristic to blend in with the surrounding environment. No undesirable change has been identified that would be detrimental to neighboring residences. While no other nearby properties have accessory buildings that protrude into the front yard, no evidence was presented or discussed that would create an undesirable change in the character of the neighborhood or create a detriment to nearby properties. The only concern mentioned by the Martin family was in regards to a driveway ownership issue that is not pertinent to this ZBA.

3. **As to whether the requested area variance is substantial, I find that:**

   While trying to trying to come to a conclusion for this, I looked at section 4.23 - existing undersized lots, (of which these lots are as they were created before Willsboro's Zoning Regulations and APA in 1965), and it lists one of the four criteria for not requiring a variance for said undersized lots is that the lot have at least 2/3's of the required footage for side, front & rear yards. For LC-W that would be 100 feet of the required 150 feet for both side yard and front yard. So the fact that this property has only 70 feet on lot one for the main structure and 80 feet on lot 2 for the main structure for front yard setback is substantial. Because the property in the front yard cannot even meet the 2/3's rule mentioned above, I find the request substantial.

   As for the side yard, that variance would be even more substantial since the applicants are asking for a 15 foot side yard setback and one of the factors for not requiring a variance is that the side yard have at least 2/3's of the required side yard setback in LC-W which again would be 100 feet. Since a 15 foot side yard setback is very substantially smaller than the 100 feet, in my opinion, that makes this a request for a substantial variance for the side yard.

With regards to the variance for an accessory building in the front yard, I do not find a 10 X 20 (200 square foot) accessory structure to be substantial in area size on this unusually narrow and long piece of land that is identified as 100 X 600. And it is off the road by at least 50 feet and will undoubtedly blend in with natural vegetation as long as applicants select the color and materials appropriate for this wooded area.

4. **As to whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood of district, I find that:**

   Plans for an appropriate septic system located 200 feet from the lake across from the property location should protect any adverse effect on the lake or neighborhood. Applicants have indicated in their application that they wish to preserve the natural qualities of their environment.

5. **As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)**

   This is not a self-created issue. The property was divided into two long narrow lots in 1965, well before any zoning regulations were created in Willsboro or long before the Adirondack Park was established. The LC-W requirements were added with the creation of the Zoning. The current owners purchased the property in 2004 and no further subdivisions have ever been requested. The topography of the land is certainly not of their making and that is what requires them to seek relief for the necessity to place the accessory building in the front yard.

Draft Motion:

1. Motion is made to a grant variance for the side yard setbacks from section 4.10 to be reduced to 15 feet instead of the required 150 feet for LC-W for both lot 1 and lot 2.
2. For Lot 1 (30.2-1-19.030) A motion was made to grant a variance to reduce the front yard setback from section 4.10 to 70 feet from the required 150 feet in the LC-W district.
   For Lot 2 (30.2-1-29.000) A motion was made to grant a variance to reduce the front yard setback from section 4.10 to 80 feet from the required 150 feet in the LC-W district.
3. Motion made to grant a variance from Section 5.52 in order to allow the accessory building on Lots 1 & 2 to protrude into the required front yard area.