Zoning Board of Appeals
Minutes
December 19, 2013

Present **Absent**

Chairman John Dole
Mark Unvericht
Dale Kellerson
Diana Powell Keery

Also Present

Village Attorney Eric Stowe
Building Inspector Patrick Smith
Deputy Clerk Pam Gilbert

Bettie Burtch
John Burtch
Teresa Flaherty
Larry Fenity
Joan Quigley
Debbie Redden
Cathi Squier

Chairman Dole led the Pledge of Allegiance.

Public Hearing

The application of Tony and Debbie Redden, 125 Village Hill Drive Spencerport NY 14559 for a temporary special permit and an area variance for an in-law apartment addition (960) square ft at property located at same. Whereas, this is permitted subject to the issuance of a temporary permit by the Zoning Board of Appeals and where the gross floor area of the in-law apartment and should not exceed 700 sq ft. pursuant to Chapter 340-9-J-(2) and 340-9-J(2) (e) in a PRD Zoning District.

Larry Fenity distributed updated drawings and will be representing the applicants this evening.

Larry Fenity: Seeing that this is a continuation of the former meeting I don't want to go through everything again. I will quickly go over a couple of things to get us back on the same page.

1. The desire for the temporary special use permit was to allow the applicant's parents to move into the same house and prolong the amount of time that they can live independently with the help of their family nearby.
2. In terms of the variance we were talking about 960 sq ft vs. 900 sq ft there are two major issues one being the full basement underneath and to allow accessibility to that with a full set of stairs and also the installation of an elevator. Also, they are moving from a 3000 sq ft house which makes it difficult to downsize to a 960 sq ft house.

3. We are not looking for any other variances in terms of the lot or setbacks the lot is plenty big enough.
4. In terms of the 960 sq ft vs. the 700 sq ft of new build given the particular lot in order to allow their own entrance for some independence and access to the garage it is appropriate to build this addition to the left hand side of the house which has the greatest depth of the lot.
5. Much of the discussion at the last meeting had to do with drainage. The Village staff looked into that and I agree that there is a way to make this physically work very well just by piping the drainage from the roof and how we allow it to drain in the back. By getting as much as we can into the ground prior to the fact that is becomes surface drainage. I don't think that this addition can take care of all the problems that are out there we can certainly keep this addition from making any more problems back there.
6. The other concern had to do with how close we were getting to the property line and that also had to do with drainage as well as disturbing the neighbor's property. What we did is go back and look at it and by making the front portion of the addition a little less wide we were able to push some things around in there and also give them the room they need as they continue to live there. By doing this we were able to pick up approximately 1.5 ft along the side line. Where before at our closest spot we had about 5 1/5 feet or a little more to the property line now we are closer to 7 ft from the property line. By doing this we are able to reduce the sq footage down to 940 sq ft.

Chairman Dole opened the meeting to the public at this time.

Mr. Burtch: I am the next door neighbor and will basically be looking at this structure from my bedroom window. How tall will this structure be?

Larry Fenity: It is a one story structure the same height as the garage the roof will be sloping away probably about 15 -16 ft at the peak.

Mr. Burtch: How much cinder block are we looking at as far as the cellar is concerned?

Larry Fenity: At the rear most corner you will have probably 10 or 11 course exposed at the front you will have 1 or 2 courses exposed.

Mr. Burtch: So we are basically looking at a 50 ft long wall by approximately 16ft high about 7 ft from our property.

Larry Fenity: Yes it is not a simple wall it does jog back.

Mr. Burtch: We have no water problems presently on our property or in our basement, hypothetically this structure goes up and now we have water problems who would be responsible for that?

Larry Fenity: I am not sure how that works out on a legal basis but typically it is the responsibility of the builder and the design not to increase the flow.

Mr. Burtch: How would that be resolved?

Patrick Smith: Our goal would be to resolve it before it starts and to design it making sure that it is not going to cause a problem.

Mr. Burtch: You can say that but is everyone 100% sure?

Patrick Smith: I don't know if anyone could legally say 100% but our intention is to make it so that won't happen. If we had such an unusual weather event we could have a flood without the structure.

Mr. Burtch: It doesn't have to be an event it might just happen where the water runoff is different than it has been things change nobody can say for sure that we are not going to have any problems as far as water is concerned.

Mrs. Burtch: What is going to be in between the two houses?

Patrick Smith: The ground will still be there that was there before. I actually predict this will be better than it is now. We are also going to require him to pick up both gutters that are on your side that now just flow into what little bit of strip is there before you get to the swale. We are going to require them to take those two downspouts along with the other ones run them through a pipe perforate it with gravel so it drains into the ground and angle the pipe to the center of their backyard so that by that time there may not be any water coming out.

Larry Fenity: Part of our intention and I realize a foot and ½ doesn't sound like a tremendous amount but part of our intention in moving this over here was to allow for grading between the two properties. Obviously we will try and follow all the typical engineering procedures that allow buildings to be built without causing drainage problems elsewhere.

Patrick Smith: Our goal from the building department is not to just let him do what he wants to do it is to protect you too

Mr. Burtch: I understand that fully but things happen.

Patrick Smith: I think if this ends up being a water issue it falls back on the village because they maintain the ground and swales. Tom West and myself; neither one of us wants to have that issue later on so the two of us will tell him what he needs to do in order to prevent any water problems.

Mr. Burtch: What you're saying is that the village would be responsible?

Patrick Smith: I believe so that is usually the way it works out.

Attorney Stowe: I think the village would assist responsible is a strong word.

Patrick Smith: I don't think this is anything we are going to need to worry about this is a pretty good plan.

Mr. Burtch: I just want to be on record with my point of view on this.

Larry Fenity: There is a certain amount of lot coverage allowed part of that is for intensity of development but part of that is also in terms of water because we all know we have a water problem in the village it just doesn't drain well at least the south part of the village.

Mr. Burtch: Obviously the Reddens mother and the stepfather have a lot of options my wife and I am basically innocent bystanders we don't have many options. If this structure goes up and we don't like what we see our only option is basically to move. We have no idea how this will affect our property value or the ability to sell the house. We would be in uncharted territory there is no other property like the Reddens if they go through with this structure that you could even get a comparable from. You basically have a neighborhood with 130,000 dollar houses and theoretically this property could be worth 330,000 after the build. Obviously no one has an answer let's face it this will be a little unusual as far as our neighborhood is concerned.

Larry Fenity: This is something that is happening a lot more which is why we have this law on the books in the village because there is a need for it.

Mr. Burtch: We could have a very tough time selling our property with this structure 7 ft off our property line.

Larry Fenity: I am hoping that is not the case.

Mrs. Burtch: What kind of precedent is this setting for the village?

Chairman Dole: Each application is judged on its own merit.

Attorney Stowe: The in-law apartment in the code is permitted subject to a permit so whether it is precedent setting or not I can't speak to how many there are but each case is independent and a permit is required on an individual basis.

Diana Powell Kerry: This is not a court of law so what your saying is that each case is individual and may or may not be appropriate.

Mrs. Flaherty: Is it legal for someone to put their drainage on to an adjacent lot?

Attorney Stowe: You will have to forgive me but I can only give the Board legal advice.

Mrs. Flaherty: We have drainage issues now I have a swale in my backyard now.

Attorney Stowe: The site plan at the time would have incorporated some sort of drainage review so what that board did at that time and what this board is considering are apples and oranges.

Theresa Flaherty: Was the village lax because they permitted this?

The board stated they couldn't answer that.

Theresa Flaherty: Tax payers who live adjacent to this property are going to have to consider that when we have all the drainage in our backyards if they have a problem with water.

Attorney Stowe: This board can't necessarily resolve that issue it can be a consideration but this is not a revision of a drainage plan.

Theresa Flaherty: They already have the drainage system planned right?

Larry Fennity: My clients have agreed to do more with their drainage than what is typically done with an addition. In this case they are willing to go the extra mile in order to keep water coming from the garage and from the house and piping it underground to help absorb the water.

At this time 7:26 pm the public hearing was closed.

Dale Kellerson: The intent of the law is to promote family cohesiveness aging in place the village is saying that this is something that they want to do. To have in-law apartments for family as opposed to putting them somewhere else. I think one of the biggest things now is the size of the addition.

At this time the following resolution was offered:

Resolution No 235 **Introduced by Diana Powell Keery**
December 19, 2013 **Seconded by Mark Unvericht**

Resolved, that the application of Tony and Debbie Redden, 125 Village Hill Drive, Spencerport 14559 for a temporary special permit and an area variance for an in-law addition (960) at property located at same be approved. Whereas, this is a permitted use subject to the issuance of a temporary special permit by the Zoning Board of Appeals and where all new construction or addition to existing residential structures shall not exceed 700 square feet; and where the gross floor area of the in-law apartment shall not exceed 900 square ft. Pursuant to Chapter 340-9-J-(2) and 340-9-J (2) (e) in a PRD District.

Such approval was granted based on the following criteria:

1. Will not produce an undesirable change to the neighborhood or be a detriment to nearby properties.
2. The benefits sought can only be achieved through this means.
3. Such requested area variance is not too substantial.
4. Addition will not create an adverse effect on the neighborhood.
5. Such difficulty was not self created.

Ayes: Dole, Unvericht, Powell Keery
Nays: Kellerson

Old Business

Spennachio
Major Home Occupation renewal

Motion made by Diana Powell Keery Seconded by Mark Unvericht to renew the application of Marianne Spennacchio for a major home occupation to operate a dog grooming business located at 337 Village Walk Circle, Spencerport for a term of five (5) years expiring on December 18, 2018. Renewal is pursuant to Chapter 340-49-A of the village code and conditional upon the following considerations and conditions.

1. An inspection of your business was conducted by the Code Enforcement Officer and there were no violations.
2. All standards and conditions should be adhered to as outlined in Chapter 340-37.9 B.
3. All terms of revocation, renewal and termination shall be adhered to as outlined in Chapter 34-37.12
4. Hours of operation 9:00 am – 5:00 pm Wednesday, Friday and Saturday
   9:00 am – 8:00 pm Tuesday and Thursday
5. Parking on Village Walk Circle is prohibited.
6. No more than two non animals on the premises at one time.

Ayes Dole, Unvericht, Kellerson, Powell Keery
Nays: none

Approval of Minutes

Motion made by Chairman Dole and seconded by Mark Unvericht and carried unanimously to approve the minutes of November 21, 2013 as written.

Adjournment

Motion made by Chairman Dole seconded by Diana Powell Keery and carried unanimously to adjourn the meeting at 7:35 pm