

ZONING BOARD OF APPEALS

Town of Lewiston 1375 Ridge Road Lewiston New York
Thursday – May 10, 2018
ZB 2018-5

Present: Baker, Balassone, Conti, Machelor, Maggard

Absent: Heuck, Muzzi

Presiding: Joseph Conti

Conti: Welcome everyone to the Zoning Board of Appeals meeting for May 2018.

Pledge of Allegiance

A motion to approve the minutes of April 2018 was made by Machelor, seconded by Balassone and carried. Maggard Abstain, Baker Abstain, Conti Aye, Machelor Aye, Balassone Aye

The first item on the agenda was a request from LMK Realty Associates, LLC, for a variance from Section 360-62 (2) from the required 40' front yard setback to 35' to allow construction of 15 townhomes on the north side of Northridge Drive. The properties are presently zoned R-2, two-family residential.

Conti: Please come to the microphone, state your name and address.

Dominic Massaro, principal of LMK Realty, 4697 Jason Court, Lewiston, New York, my home address. We are here tonight to request a minor setback variance for the planned patio homes along Northridge Drive. I don't know how familiar the Zoning Board is with what has transpired with the Planning Board and Town Board? We basically petitioned the Planning Board and were successful in changing the zoning from an R-1 to an R-2 designation a while back. Across the street on Northridge Drive are the coach houses at Ridgeview which are part of a planned unit development PUD. When we laid out everything on the property we used the 35' setback which is typically for R-1 development. In discussion with the Building Department it was suggested that a 40' setback would be a requirement for an R-2 designation. The buildings across the street on Northridge have a 30' setback. The whole purpose of the development so we would not encroach upon the people behind on Scovell Drive we have created a buffer zone with trees and landscaping which has been approved already by the Planning Board and Town Board. Whether we, we are required to push the buildings back to the 40' in lieu of the 35' dimension that would push the buildings farther back and encroach them farther on Scovell Drive. Also there is drainage behind which we are required to do that our engineer has designed which will drain in to the detention pond that is located off of Legacy Drive. We want to avoid that. We feel that the variance that we are requesting is very minor and it would be, if the homes on one side are 40' away from the right-of-way and the other ones are 30' it would create a difference which we want to avoid and also any of the initial opposition to this development was by the Scovell

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Drive residents and we really don't want to push these buildings back towards them more. I discussed this with Mr. Masters. He felt that it would be reasonable to request this at this time before we get in to engineering drawings. If anyone has any questions I would be happy to answer them.

Machelor: Mr. Massaro could you come up and look at this and show me some stuff here? What does this line represent?

Massaro: That is the right-of-way line.

Machelor: Where does this 5' come in to play here? These are 160' depth.

Massaro: This is the right-of-way line. You can see how the buildings are architecturally off set in terms and we did that so if you entered the one building you're not looking at your neighbors and it gives it a better architectural feel based upon what Silvestri and we discussed. The setback only pertains to the first part of the building, even though the buildings are conjoined. This is another 8' beyond this.....that's 43'.....the problem becomes if we push this farther back we can't have the 8' differential between the 2 buildings because then you don't have the proper rear yard setback. Then you are pushing that building this much farther. If you push it back another 5' you will have a 20' back yard which is a detriment to everything and plus it brings the homes that much closer to Scovell. The buildings across the street are a PUD and those are 30' off the right-of-way. I would think as you drive down Northridge Drive you would see a noticeable difference between 30' and 40' on the setback. I think the difference between the 30' and the 35' would be negligible and would also be a better situation from a construction and architectural look standpoint.

Machelor: This is the center line of the street. This is the right-of-way here?

Massaro: Your right-of-way extends from the center of the roadway to this particular line right here. That is the required off set. The right-of-way is actually less than that.

Machelor: Is this the requirement and you are right on it, that's what you're saying?

Massaro: Correct.

Machelor: So you're asking for a variance to be right on it.

Massaro: Correct. According to the Building Dept. to be in compliance with the R-2 designation we would have to move those back 5' and then by moving them back 5' we can't keep the 8' between them because then we're not in compliance with the rear setback.

Machelor: As they are drawn here is just 5' on these every other.....

Massaro: The 5' is the only variance that we are asking for.

Parisi: What's behind the houses on the north side of the street of your proposed development?

Massaro: The Scovell Drive property. The back yards of the homes basically the back yards and back yards abut each other on that side. As you go further away this way towards Legacy, over here is East Eddy, you come this way along Northridge

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Drive; this is Legacy Drive, as you come up this way these homes abut our existing property off of Legacy and all that's back there is the retention basin that we were required to put in with that development. The homes actually are impacted back in this area, probably the first 6-7 back in here.

Parisi: On the south side of Northridge is multi-family as well?

Massaro: These are the coach houses at Ridgeview which is part of the old PUD that was constructed back in 1999. Those setbacks are 30'. I talked to Tim about the provisions in the town code about.....there is a situation where if the adjoining properties within 300' are contiguous or similar, if you have 35' and it says 40' you can make a case that from a continuity stand point it could be done that way. Tim feels it would be better and that is the reason we are here tonight. He suggested that we come and make a presentation to you to ask for this variance because even though the code doesn't specifically prohibit that, it doesn't say R-2 – R-2 or R-1 – R-1. He is fighting a little bit between the R-2 and the PUD adjoining from that stand point. The PUD is closer than the R-1 is. I think a 30' and a 40' would not work at all. That is the reason we are requesting that we leave it at the original R-1, 35' setback. Thank you very much.

Conti: Any other questions for Mr. Massaro? Is there anybody that would like to speak for or against this project? Please state your name?

Ken Penvose, I live at 690 Northridge Drive. I'm not against the development. The question I have is the variance they're asking for, is that the driveway that they will shorten it?

Conti: From what I understand the closest house will be 35' from the roadway.

Penvose: My driveway is 50' long. What I'm getting at, I just moved there last year. What I've noticed even at Legacy now that they put a sidewalk there, they can only get one car in there. Everybody has 2 cars now. I see they are parking on both sides of the road already which I would do to and that's the only thing I want to say is the traffic is going to start picking up if that gets developed. I think there should be some thought about parking on that road. There should be enough parking for these people to park off the road.

Conti: Can you answer that Mr. Massaro?

Massaro: Thank you for that. At Legacy you are correct, they are not supposed to be parking on the road because we have adequate guest parking adjacent to the condominiums for other residential parking. They are one car garages. Each person in the condo gets a one car garage and there is a space in front of the garage to park another car. There will be sidewalks here too on this development as approved because it's been required by the Planning Board and the Town Board. However, the patio homes are going to have 1.5 car garages. We looked in to possibly doing 2 car garages. However the lot widths don't allow that from a stand point of the required setbacks. Because the lots are deeper than they are wide we basically went deeper with that and made the houses that much longer and gave them 1.5 car garages. That's how we handled that.

Penvose: That was another thing; a lot of people didn't get a notice. Are they two family town houses?

Massaro:common wall, two bedroom, two bedroom, three bedroom, three bedroom. That's the situation. There will be two units per building.

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Penrose: That's the only statement I have. I noticed on Legacy that it already seems like it's a jammed up thing. What is it going to be like in the winter? I happen to live on the corner where the parking is so it's very handy for me to park my car there if I have people over.

Conti: That would fall in to a town situation. I know on town roads in the winter time they are not allowed to park vehicles. That would be a police item.

Massaro: That is correct, people are not supposed to be parking on Legacy Drive, he is correct. I have noticed that and I've asked all the residents there through the HOA's if those are their cars or relatives then not to do that because there is plenty of parking there otherwise for them not to park on the roadway.

Penrose: That is all I was concerned with. Thank you.

Conti: Anyone else want to speak? I would like to close the open session now. Any discussion across the Board?

A motion to approve the variance whereas the Zoning Board of Appeals finds that pursuant to the prior discussion that the benefits to the applicant outweighs the detriment to the health safety and welfare to the community was made by Machelor, seconded by Balassone and carried.

Maggard Aye, Baker Aye, Conti Aye, Machelor Aye, Balassone Aye

Conti: We'll just take a few minutes to finish our notes and then move on.

The next item on the agenda was a variance request from James Baptiste, 945 Edna Drive, from Section 360-38, A (2) from the required 48.66' front yard setback to 15' to allow construction of a new residence. A variance is also required from Section 360-36 from the required 75' lot width to 21.5'. The property is located west of 945 Edna Drive, SBL# 131.06-1-3.

Conti: Please state your name and address for the record please.

James Baptiste, Architect. I live at 945 Edna Drive. This is my fiancé. We are getting married in August. She lives on Brookside around the corner from us. We want to build a new house on the property next to my one on Edna. We've had several people from the Town out to look at this very difficult property. Obviously the road ends before the property starts. The road ends right at the property line. Then it's buffered by a neighbor across the street, Mr. Colucci. There is no access to the property right now. I could try to write a permanent access easement in to this property from my current property but I would rather just change the property lines the way I've shown them on the drawing. The light green is existing and the dark green is the proposed.

Conti: You own the existing house on the property now?

Baptiste: I live there now.

Conti: When you bought that house you bought that house with that?

Baptiste: Yes they came together when I purchased the house. Then there is a mosquito infested swamp on the next side. I've reached out to the owner several times to ask if I could add to my own property and clean it up to get rid of the marsh land. The difficulty with this property primarily is getting to the utilities which is why I laid it out the way that I have. There is no easement that goes beyond Edna Drive; I can't get any of the utilities this way. I have to take all the utilities out this way

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and go alongside the driveway. I can't drain the property this way, I can't connect to the storm here, and I can't connect to the sanitary sewer here, so they all have to go this way. If I push the garage back this way and leave the residence on this side closer to the driveway it allows to subtract 25' of piping for all the utilities that need to come this way. I did a couple of studies that showed the garage here and it's great in terms of concreting my driveway but it pushes all the utilities farther away.

Machelor: Can you bring that up closer?

Baptiste: This is a blow up of the proposed area, the proposed garage and driveway. The only way to get the utilities to follow the property line and come down this side, squeeze next to the driveway and connect to the road. Because there's no easement here I can't come straight out. I can't drain the property in this direction. No sanitary, no storm here. I would create a permanent access easement here if I had to.....This is Mr. Colucci's property. The light orange lines here are existing property lines. It goes all the way across....Edna Drive ends and his property starts here. They are even allowed to push snow here.

Balassone: So Edna Drive can never be extended?

Baptiste: Part of the argument for that layout is it's a panorama photo. You see Mr. Colucci over here across the street built his house and it's a nice enough house but he built it so that it faces a road that will never exist. The better detailing should have gone at the end facing the dead end traffic rather than facing a road that's never going to go past his house. What I propose to do you see on my renderings is tilt a house created court yard in the middle that faces the on-coming traffic from the dead end.

Conti: What will happen to the existing house?

Baptiste: I'm going to pick my own neighbors and sell it. She is going to sell her house around the corner on Brookside and we're going to sell this house and build the next house.

Conti: You're looking for 2 variances, 1 to make the front yard from a 75' width to 21.5'.

Baptiste: It's actually 100' lot and a 100' lot.

Conti: It doesn't have 100' frontage, because of the street you're looking from 75', a substantial amount. 75' is required and you're looking to go down to 21.5'. You're also looking for a front yard setback from 44.88' down to 15'.

Baptiste: I know that it says it should be within 300', it should line up with the other properties around it to a street that is never going to exist. So what I did was I took the residential portion of the house and lined it up with my existing house and the house next door, then turned the garage this way. This addresses the traffic this way. It's purposely designed that way.

Machelor: As Joe says the problem is you have this restrictive frontage on to a road.

Baptiste: If I don't change the property line.....

Machelor: We can't call this the frontage.

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Conti: This is the front of your lot right here. Your frontage needs to be a minimum of 75 and you're looking to go down to 21.5' which is a substantial variance that you're looking at.

Machelor: And this is 15' instead of 44.88', both of these are very substantial.

Baptiste: It's also a very unique piece of property.

Conti: It is but when you purchased the house and you purchased that land with it, it all came together.

Machelor: You knew there was no road.

Baptiste: No actually myself and Tim Masters and all the other people from the Town that came up are shocked that there isn't an easement that goes all the way down this way. They assumed that if they ever needed to extend this road it would just extend and I could put a driveway in here. That's not the case.

Conti: That is way beyond our scope.

Baptiste: The property comes all the way across the street and ends at the property line. I could try to write an easement access from here to this to extend the width of my driveway and come in here and always have this property so I can eliminate that variance if I needed to. The alternate would be making it 49' back, it puts the garage here and meets zoning restrictions but then it pushes all utilities 30' away from here so there is an additional 30' from the residential part of the house here that has to come this way and along and out here. It's a difficult property.

Conti: It is and it's not something that happened after you purchased the land, it was already there. It was a piece of property that was a side yard on to the original house. When you bought this you bought it as two separate pieces?

Baptiste: They both have their own tax ID number. I pay separate taxes for each one.

Conti: This that you did right here, this brings your property to 44.88' with the proper setback, what about the variance for the frontage at that point?

Baptiste: I would either need a variance for the entry or I would need to keep the property lines the way they are and deed in an access allowance permanent that always allows whoever owns this property access on to this property to come in here. It's just legally complicated and something I would like to avoid.

Machelor: If you were to do that to this property are you going to make this substandard?

Baptiste: No. The property lines would stay the same. I would write an easement access so this property would always.....he would never be able to say you can't use my driveway. It's done in Buffalo.

VanUden: The Town doesn't like shared driveways.

Maggard: Why did you move this driveway over this way?

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Baptiste: I didn't move anything yet. This is the existing property line. There is no way to get on to this property because Mr. Colucci owns this. What I did was I took this nugget away from this property and I added it to this property. I just carved the driveway out of this. I took this from 100' down to 75' and then I took this 100' and made it 125'.....

Conti: The frontage he's looking for a variance is to go from 75' minimum to just 21.5'.

Baptiste: I can't do 75' because someone else owns it.

Maggard: Why is this (sketch) cut like that?

Parisi: Who owns this property over here?

Baptiste: Mr. Colucci, all the way to the old AAA building.

Conti: Your land goes how far?

Baptiste: Then the marshy land is here. When I was planning all this I always thought that I was going to grade the whole thing and just let it run in to this ditch which is about 4' deep and there is also a storm running here and the sanitary sewer is here so I always thought I would just take all my utilities and run to here and just be done with it. I always thought as did Tim Masters thought there was an easement here that I would just extend the road a little bit and pop a driveway in right at the end. Come to find out to my amazement and Mr. Master's and the maintenance department it doesn't do that.

Baker: That can't happen why? Who owns that property?

Conti: Mr. Colucci owns that property. The road physically ends right at Mr. Colucci's driveway.

Machelor: Have you talked to Mr. Colucci about this?

Baptiste: Yes. I had him over, I have it all staked out and brought the plans over to him a long time ago and he said build whatever you want but the property lines are the property lines. I walked it with him.

Baker: I thought there was a question of State owned property somewhere involved in this too?

Baptiste: I thought there would be some utility easement here because there are so many power poles in the area, plus there is a significant sanitary line that is buried here. Is someone going to go on his property sometime and dig that up to repair it? The yellow is the existing driveway here and then this is grass. This green line is the little nugget I want to carve out of this property to install a driveway here to get to the new house.

Parisi: This driveway is pretty close to this driveway. Is there anything planned for here and buffer?

Baptiste: Plantings for sure.

Parisi: Any plantings contemplated here to block the front of your house and the garage from that other house?

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Baptiste: Mr. Colucci's house is way back as far as it is and I talked to them about this ditch and usually we let this grow really tall with weeds and natural flowers because it creates a nice buffer between the properties. He has offered to cut it and I said just leave it, we like it. Every spring that fills up and creates a natural buffer.

Parisi: You have neighbors that way and that way as well?

Baptiste: This neighbor here is on Hewitt Drive and this neighbor over here is a new neighbor. I took all my stuff and sat in his living room and talked about it. They only bought the house this past year. They love the idea.

Balassone: Does Mr. Colucci access his property from the end of Edna Drive?

Baptiste: Yes he does. This yellow is his driveway. The road comes here and it stops here.

Conti: When they have to plow in the winter, they have to back in and drag it out.

Baptiste: They back the truck up to here and drop the plow and push the snow out that way. They didn't always do that. Before he built the house they used to plow it to here. I guess he has owned it for a long time and 2 brothers wanted to build houses and he said no only one.

Baker: So if that driveway had an alternate configuration it would not require a variance then? If you had an easement from yourself before you deeded the property to someone else. You would not need a variance then?

Baptiste: That is correct. I would need one for the frontage. I would like to leave the garage where it is at the 15' if I had an easement because then I would come in straighter and not loop around to the garage. Regardless of whether I have the easements or if I have the variance for the driveway for the frontage I would like to have a 15' setback from the ditch.

Parisi: Would that increase your costs, I assume and how substantial would that increase be?

Baptiste: It's 30' extra in linear feet for every utility that has to come around to the outside to the driveway. Like I said I can't go straight out to the ditch so I have to come around the edge of the property, the new property line that I made, out to the road for sanitary for water for storm because I can't take the storm to the ditch.

Parisi: Would that make the project cost prohibitive?

Baptiste: Significantly yes. Not having the garage where it is now would make it more expensive. If I put the garage closer to the driveway and set everything back it adds 30-40' of length of utility pipes that I have to do. That 15' setback reduces the cost of supplying the property with utilities.

Balassone: What if the garage was turned a quarter turn?

Baptiste: It's certainly a study I can do. (discussion)

Conti: The tough part of this is one of the things that we have to look at in looking at an area variance is if the variance is self-created. When you bought the property that's the way it was. It wasn't something that happened afterwards that you had no control over. This was something that was always set that way.

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Baptiste: Created by the Town of Lewiston.

Conti: If you had purchased the property when there was a road there and the Town now took that road away and made it all green space, you didn't have any control over that.

Baptiste: For conversation and not to be argumentative if I had asked Tim Masters prior to showing him that there was no easement access there, if I said hey come out I'm thinking about buying this property he would say yes there's access easement in there, we'll just extend the road 50'. Since I showed him this he learned that there is no access easement.

VanUden: I think he learned that with Colucci's house.

Conti: He would have known that. He would have never approved that without obviously looking in to it. Once he saw it he would have understood that. That is one of the things we have to look at. We have to balance everything out. Any other questions?

Baptiste: If you have a better solution?

Balassone: Move the house back further.

Conti: You're looking for 2 very substantial variances obviously from 44.88' to 15' front setback and a front width from 75' to 21.5' which is very substantial. It's a unique situation but they are very substantial variances that you are looking for. There are some other options that you have to provide yourself the access as you were saying. Being an architect you know the things you can do without having to go for a variance. Any other questions for Mr. Baptiste? Is there anybody here to speak for or against?

Machelor: Under discussion I think Joe you've covered most of it. Let's look at it, would it cause an undesirable change in the neighborhood? No. Is there a feasible way to do this other than what you proposed? There is. Is it substantial? It is. Is it self-created? It is. Adverse impact on physical or environmental conditions in the neighborhood? No, maybe even better but when you have 5 things to look at and 3 of them are no, it's pretty hard to say yes. We're not the Planning Board but the suggestion was made, you have a lot of property there. There is no reason why because of where you are that you can't move that house back and comply with that part of it. Then if you wanted to give yourself an easement back there....whether you're.....

Conti: There's other ways to do it without having to be able to approve a very substantial variance on both requests. Any other discussion by the Board? Anything else that you want to add? I will close the open session right now.

Maggard: I believe that the benefit can be achieved by other means feasible to the applicant.

A motion to deny the request was made by Machelor, whereas the Zoning Board of Appeals based on the prior discussions had tonight, we find that the benefit to the applicant is outweighed by the detriment by the health and safety welfare of the community as presented because of the substantial nature of the variance required and the fact that it's a self-created problem, seconded by Balassone and carried.

Maggard Aye, Baker Aye, Conti Aye, Machelor Aye, Balassone Aye

Conti: We'll take a few minutes to fill out the paperwork.

The next item on the agenda was a request from Emery Simon, 4859 Creek Road, SBL# 102.09-1-3 for a variance from Section 260-38B, from the required 15' side yard setback to 6' to allow for a 12'x56.6' addition to the house. A variance is also required from Section 360-185 B, from the required 5' side yard setback to 3' to allow construction of a 24'x60' garage. The property is presently zoned R-1, one-family residential.

Conti: Please come to the microphone, state your name and address for the record.

Emery Simon, 4859 Creek Road. I own the house at 4859 Creek Road and I would like to do some additions and move in to it. Originally I bought it for my daughter and mother-in-law. My mother-in-law passed on and my daughter moved away so now I own a house. That being said since I've never really had a house so I want to move in to it. In order to move in to it the house presently has a single car garage which makes it stand out in the neighborhood because most houses in the Town have a two car garage. I would like to add a second car garage to the right of it and extend the house back evenly so it looks esthetically correct.

Conti: The addition on to the side of the house is actually for a garage for the front part of it?

Simon: The front part and the back part, not to air my problems or anything but what I'm using the back part for is I have a real bad back. I have a medical device called a spinal decompression table. Presently it's upstairs at 755 Center Street. I would like to move it in to my house where I can utilize it in a more residential manner. It would make the back of the house even. If I carry the line at the garage the two car garage, if I carry that line back it gives me another room that I can use for this medical device. On the left side of the house what I would like to do is put I believe a 24'x60' garage on it. I would like to set that closer to the property line as my neighbor's garage is close to the property line. I've spoken with both my neighbors and neither one has a problem with either one of the setbacks. If you drive by there right now you can see I've done a tremendous amount to clean it. The house was in decay. Rather than letting it continue to deteriorate I got a good deal on it. I'm trying to fix it up and make it look nice. So let's say for the sake of argument if something did happen and we needed to sell the house it would be more conducive to the neighborhood. It would increase the tax base.

Balassone: The concrete drive that goes to the house right now is going to the garage is that right?

Simon: Yes, right now if you look at the house there is a concrete driveway going to the house and what I did was I added on to the driveway. There is no turn around on the house. I made the driveway wider because I figured that would be my daughter my mother-in-law, and I thought they could turn in to the turn around so as to not pull out on to Creek Road. Since thenCreek Road is just a bad road to back out in to so what I'm doing right now and I've talked to Tim Masters and what I'm going to do is make a circle driveway in front so that they will be able to park their car there and yet the car will be able to turn around and drive out so it's not backing out on to the street.

Balassone: That portion of the house is showing 20.5" is that not adequate for 2 cars?

(looking at survey)

Simon: Right now there is a 12' wide garage door. This is a bearing post right here and this is bearing here. Inside the garage is the fire place for the house so even though you come in the door that sticks in to the garage.

Balassone: So you have maybe 14'-16' left?

Simon: Yes. What I thought about doing is keeping this 12' door there and putting a 10' door and maybe even setting it back 2' so you won't notice that this one is a 12' and this one is 10' or what I would do is I would cut this one down to 10' and this one 10'. My pick-up truck is longer. There is just not enough room to turn around so what I did was I started digging out right here. Right here is the neighbor's garage. He is going to build an addition on to his garage. Coppins has the bigger garage that goes back here (map). Unfortunately the way they built the house, why they built it with one car garage, back then it could have been when they were building the Power Authority houses. They were popping them up left and right.

Machelor: What year was it built?

Simon: I don't know. Even if I put a 2 car garage here it's going to look like a duplex.

Machelor: Self-created doesn't mean what you think. To do this you are creating the problem.

Simon: I'm encroaching, I'm minimizing this. I thought that self-created meant somebody else built the house here.....

Machelor: They built it according to Code.

Conti: And years ago like Pat was saying, 50 plus years ago people only had one car. One car garages were kind of the norm. We really can't look back and see on that.

Simon: I'm just trying to make the house fit in to the neighborhood.

Conti: Right now the width of the inside of that garage is what?

Simon: 16'.

Machelor: Where is your neighbor's house?

Simon: The neighbor's house is over here. Their garage.....

Machelor: I wish that was on the drawing. One of the things we're doing is, we don't know where that is from the property line.

Simon: If I may suggest if your thought was not to say yes then my thought would be could you wait and as opposed to saying no, could you give it one more month that I could get a survey of over here or at least take pictures and measurements so that you would have that? If you're going to give it to me I'm happy but if you're not going to give it to me.....

Conti: What are you looking for from your neighbor?

Simon: I'm not looking for anything. My neighbors are happy.

Conti: You are saying you want to possibly come back in a month.....

Machelor: I want to know how close the neighbor is to that too. Are we going to make an unsafe situation by agreeing to such a thing?

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Conti: The decisions are made upon your lot not on what your neighbor's lots are. They may have other situations that in the past approved, not approved, whatever. Your variance is strictly for your lot. If you're saying right now that the inside of your existing garage is 16' wide approximately.....

Simon: You're losing a foot for the

Conti: A normal 2 car garage is approximately 20'x20'. You're looking at adding 12' on to an existing 16', now you have a 30' garage width.

Simon: It won't be 30' because you are losing 1.5' to the wall, 28' in the width. The only way I can get a second car in to there is because the way the house is built is to add 12'. If I had my preference I would add 14' and then I would have 2 12' doors so it would look symmetrical.

Conti: The zoning law is there to protect both your lots and your neighbor.

Machelor: I don't want him encroaching on a neighbor that maybe already encroached. He may not have gotten a variance for his house.

Baker: I have a question also whether or not there is any impact to surface drainage putting these structures there because you could impact the surface water and your neighbor's lot.

Simon: The land behind there is Tri-Con's property. The land behind my property is all flooded back there. There is 220 acres of land that floods back there. What I did was I took the house, there was drainage on both sides of the house at one time, 4" perforated pipe filled up with dirt and you always get flooding in the area. What I did was I put 6" pipe on both sides of the house and I brought it all the way to the front of the house on the side where I want to do the addition and I brought it to the back of the house where it is. Behind the house when I bought it there was a foot of water behind the house. Both neighbor's yards were flooded. Since I've put the drainage in and cut a ditch on both sides going all the way back I've alleviated the water problem out there. It's taken me over a year to do it because you can't put a machine back there when it's wet. I'm drying the property out.

Baker: Relative to that you have improved the drainage along both side lot lines the full depth? I'm concerned about the 60' building that's close to the property line with quite a bit of water shed area.

Simon: The thought was since I was putting the drainage in that's why I put a 6" in. I went bigger so it would handle anything I put in to it.

Baker: You say you ditched both sides also?

Simon: I went from the back of the property about 720', I put a ditch in the back, coming forward which drains my property, and both neighbor's.

Baker: Where is the 6" pipe?

Conti: On both sides of the lot lines you put a 6" pipe?

2018-5L

Simon: Yes. There are two monster trees on their property that they are afraid of falling. I told them if I get the variance I will remove all 3 of these trees, then I can continue the drainage where that tree is. I drained his garage as well as, I try to be a really good neighbor.

Baker: I sort of understand your rationale for this variance here but why does that have to be so close to the property line? It doesn't matter that somebody else has built right up to the property line because that's a different case.

Simon: What I'm trying to do here and it's just a preference is bring it over closer to the property line so I can build a patio here and just have a better view going back.

Conti: But you're talking 2'.

Simon: Yes but if I change my mind and make this 30' or 24', at 24' it's going to be 24' plus 5' is 29'.

Conti: You have 700' so you could go back further.

Simon: I can make it deeper. This is not the end all. If I'm coming and asking for this I might as well ask for that is what I was thinking. With that being said, this is what I really....

Baker: This is a little more understandable, this is your preference. A couple of minutes ago you were asking for more time. It would have been very helpful if all this information was presented with your variance request regarding the drainage improvements that you made and those that you intend to make which could be made a condition of the variance to further improve the drainage on this side.

Simon: I didn't know the drainage was part of this?

Conti: It is and it isn't. It's really not part of this. That is not what he's looking to do. We're not the Planning Board.

Baker: I think there is a regulation that you're not to negatively impact storm drainage on adjoining property.

Conti: Being on the Zoning Board, that's not what we're in front of right now.

Baker: It goes to the physical and environmental impact on your neighbors.

Balassone: I have a suggestion. You're talking about putting in a circular driveway anyway right? What if you decided to make a 2 car garage out this way with a side load that way and you could come in with a circular driveway and go right in to the garage?

Simon: Because I already have that driveway and this garage would be getting closer to the road.

Balassone: You have 71' right now.

Simon: They just cleared all the land on Creek Road over here to put apartments there which had I known I would have never bought this house. With that being said if anything what I'm going to try and do is plant a buffer here. If you drive down Creek Road right now there is going to be a monster building right there. I will be looking out at an apartment building.

2018-5M

Balassone: I'm saying you have 71' now, if you made this 28' you would have plenty of setback that's required by the Town.

Simon: This garage would be sticking in front of all these people's houses. These people would be looking at my garage.

VanUden: Then you would need a variance for that.

Simon: My garage would be in front of their house.

VanUden: He would need a variance.

Balassone: Why would he need a variance if he's complying with our variance?

Baker: You can't extend beyond the existing homes.

Conti: Ryan do you have an answer to that?

Parisi: What is the exact question?

Conti: The houses are all even right now at approximately 71' back, if he builds a garage on the front of his house which he would still be within that 35' range but now he's closer to the road than the rest of the houses on that road by 20'-30' is that a variance?

VanUden: It's a variance.

Baker: I had the same condition at my house and the Building Inspector told me I would

Parisi: Because where the houses in the other neighborhood are set and the setbacks are to be even with the other houses or the 35'.

Baker: He's not asking for that variance right now.

Maggard: We're not looking at that.

Conti: Both are very substantial. One is the 24'x60' garage 2', within 3' of the lot line. One of the main things is that it's too close to the lot line from my own opinion. If for some reason it got granted that whole side would have to be fire rated by Town Code. That would be a huge increase in cost right there. The other side as far as the garage on the house, you're telling me approximately a 16' garage width right now, 14' is the actual part you can use as the garage correct? A typical two car garage is about 20' width. You're looking for a 30' something foot wide garage. You're looking for something over and above a 2 car garage.

Simon: 16 and 12 is 28; you take away the wall.....

Conti: If you measure out a regular garage of just a standard 2 car garage like you're saying you're trying to match in the neighborhood is usually 20'x20'.

Baker: It's the outside dimension.

Simon: Two houses over just built a new garage. His garage is 26' inside.

Conti: He is obviously within the Code. If you were within Code you could build your garage 100' wide.

Simon: I'm just using it as an example. He has a suburban and a full size pickup. I have a full size pickup and a car so I'm trying to make the garage more accommodating to bigger vehicles.

Conti: But because you're so close to that lot line that's where we are running in to a problem. If it was a couple foot variance it would be easier to look at and try to grant. You're asking for a very substantial variance to build 6' from the lot line. Even the water is piped out or whatever, it's still very close. One of the reasons people move out this way is because the zoning gives you a little extra buffer. You're not living in the city where you are right next to your neighbor, a foot or two from your neighbor's house. That's one of the reasons why it's zoned out here this way.

Simon: I do have the consent of both neighbors.

Conti: That is something we can listen to but we still have to follow the law. The Zoning Board is very unique in that sense. There are certain zoning laws we have to follow. We can give variances, site variances where it's not going to make a big change in the neighborhood and so on and so forth. I was trying to say can you make it smaller?

Simon: The way the house is right now I'm already changing the pitch of the roof. I'm taking out a bearing wall. At that point I would be better off cost wise tearing the house down and starting all over again. I've even thought of that. Does it make sense to just take the house down and build it up but then how much money did I lose on the house? It doesn't make sense to me. I've tried to sell it as is with the single car garage and the reason why I got a deal on it was people don't want a house with one car garages in the town. I'm kind of....even if I want to sell the house I need to do something to make it more sellable.

Machelor: I just built a house with a one car garage.

Conti: It's a balancing act; it's a balancing test we look at with an area variance. We talked about this earlier, whether the benefit can be achieved by the means which it can. Does it make an undesirable change to the neighborhood? Getting it that much closer to the lot line actually it could. It makes it like the houses are on top of each other. Whether the request is substantial which it is. Whether the request will have adverse physical or environmental affects? It may not because you have done some work on the drainage on the side. Whether the alleged difficulty is self-created which it is. You bought the house; it wasn't something that happened after you bought the house. Obviously you bought the house the way it was. Those are the things that we actually look at to see if we would approve or deny any kind of variance. Are there any other questions?

Balassone: Is that 12' you're looking for cut in stone?

Simon: Actually the 12' is giving me 6.5' on the side. I rounded it down to 6'. I have 18.5'. If you guys are inclined to think that you're on the fence give me another month. I will get a drawing done of what I want to do so you can see what it is what it will look like and pictures of documentation of how far the other houses are away.

Conti: At least for myself and I know.....I'm looking at your lot. The area variance is for your lot, not of how close your neighbor is.

Simon: What if it's going to be adversely affecting your neighbor's? I don't want it to adversely affect the neighbors so, it sounds to me and I could be wrong but it sounds to me like you're leaning towards saying no and what I would ask is rather than say no say come back to me with a better presentation next month so I see what you see and maybe you will turn around and say yes. I would rather have come back in 30 days than a no is my thought.

Machelor: I agree with him.

Baker: I understand what Joe just said but how close are your neighbors on either side to the lot line?

Simon: I can't give you the footage.

Conti: Is it a normal distance?

Simon: It's actually less on the Cockayne's side. It's actually less because there are substantial trees that are in there. Three of the trees the neighbors are afraid they are going to fall down on their house.

Baker: Trees don't count.

Simon: I'm saying they fill in such an area that I can tell you the house is not close to the lot line.

Maggard: The 2 variances are very substantial in my eyes. I think with the lot size that you have available to you other areas or means can be achieved.

Simon: I understand that and I have no problem moving the garage over to the 5' if that is what you guys want. I'm only looking for can I get this 12' on the other side would really make a difference for me.

Conti: If we table this for a month right now that's the whole variance not bits and pieces.

Baker: I think we should table it.

Conti: Is there anything else you want to say?

Simon: I would just ask that you table it for 30 days so that I can get you some additional information so you're making a decision based on the facts and not what I'm speculating on. I would rather get the numbers and then you know exactly where it is.

Balassone: Are those numbers going to help us?

Conti: Personally to me no. I don't think so.

Balassone: What do you have left inside your garage from the fire place to that outside wall?

Conti: We already went through this about 14'.

Balassone: How big of a garage do you feel you want to have, for garage space?

2018-5P

Simon: 14' and 12' is 26' but you have to take away a foot for the wall and a foot for the return so now you've lost 2' so now you're in to.....

Balassone: You want 12'?

Simon: I need 12' to get a 10' garage door.

Balassone: If there is any way you can get that 12' down I think that would be your biggest help.

Conti: If the side setback stays at 6' the way it is now nothing you bring to the next meeting that will change that because you're still only 6' from the side and that is a very substantial change. If you're going to go back and relook at the design and think you can make it smaller and gets to a lesser amount of a variance then I can see tabling it. If that's what you're looking at doing? Any other discussion then?

A motion to table the variance request until the June meeting was made by Conti, seconded by Baker and carried. Maggard Opposed, Baker Aye, Conti Aye, Machelor Aye, Balassone Aye

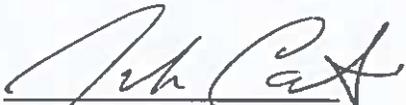
Conti: It is tabled for 30 days; the next meeting is June 14, 2018.

A motion to adjourn was made by Conti, seconded by Machelor and carried. Maggard Aye, Baker Aye, Conti Aye, Machelor Aye, Balassone Aye

Respectfully submitted,



Sandra L. VanUden
Zoning Secretary



Joseph Conti
Zoning Member