

UNION VALE ZONING BOARD OF APPEALS
Minutes of the Regular Meeting
VIA ZOOM
7:30 pm

September 14, 2021

Members Present: Chairperson Jane Smith and Board members Dennis Dunning, Michael McPartland, Ilana Nilsen, and John Hughes

CALL TO ORDER / DETERMINATION OF QUORUM

Chairperson Jane Smith determined that there was a quorum for the Zoning Board of Appeals (“the Board”) to conduct business and called the meeting to order.

BUSINESS SESSION

Agenda reviewed for September 14, 2021 meeting.

Board unanimously approved minutes from August 3, 2021 meeting.

CORROSPONDENCE

None

PUBLIC HEARING

Clove Valley Baker Property
2130 Clove Road
Lagrangeville NY 12540
Applicant- Henry Welch.

Meeting - 2

Variance - 1

Height- Area variance

Owner: Arthur DeMoulas. Applicant: Henry J. Welch. Applicant proposing a caretaker cottage to the height of 26’ 3. Maximum height under code for accessory structures is 20’ in height. Applicant requests a height variance of 6’ 3”.

Chairperson Smith asked Mr. Welch the applicant on the project to give a brief overview of the proposed plan. Mr. Welch described the proposed structure’s location and size which had been discussed in the previous meeting. Member Dunning asked the applicant if he considered creating two structures, a garage & a caretaker’s home, which would perhaps not need a height variance instead of creating one structure that does not conform. Mr. Welch replied that did not seem feasible to have two buildings as there are already other structures on the property. There was a discussion about the geography of the parcel and location of the proposed cottage, that it would not be visible from the road or neighboring properties because of the mountain in the rear. Member Nilsen questioned the cupola proposed on some of the plans and if it was included in the height variance. There was a discussion between the applicant and board about whether the applicant would pursue building the cupola, as it was not a necessary design and does not wish to increase the requested variance at this time. Chairperson Smith asked if there were any other questions, with none made a motion to close the public hearing, which passed unanimously.

Chairperson Jane Smith read and the Board considered the following standards for interpretation in accepting/denying the area/use variance application:

Applicant requests a height variance of 6' 3 for Caretaker's cottage.

In making its determination, the ZBA shall take into consideration the benefit to the applicant if the Area Variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider:

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the Area Variance.* Chairperson Smith stated there will be no undesirable change as it is not near any neighbors or visible from the road, the board members agreed.
- 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance.* Chairperson Smith stated the benefit to the applicant in the request was to be able to store equipment and have a cottage in one structure only, Member Dunning stated there was another alternative to have two structures which would not have required a variance. Chairperson Smith stated that may have created further disruption of the physical environment.
- 3. Whether the requested variance is substantial. Member Dunning stated in the context of the setting of the proposed variance it is not substantial.* Chairperson Smith added to the record that the application is also before the Planning Board which also felt that because of the location being so far from the road, and that it does meet all setback requirements, it was a positive attribute for the application. The variance requested is not substantial for the setting it is in.
- 4. Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.* None have been identified by the board.
- 5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.* No self-created difficulty that would preclude the granting of the variance.

The Town of Union Vale Zoning Board of Appeals GRANTS the following:

6' 3" Height Variance to Build a 26' 3" Caretakers Cottage.

Conditions: NO.

*Motion: Chairperson Smith
Second: Member McPartland*

All in favor: AYE

**Liberty Way subdivision
Bruzgul Road & Liberty Way
Lagrangeville NY 12540
Applicant- Michael Gillespie- Engineer**

Meeting - 2

**Variance - 1
Area Variance**

Applicant is requesting an area variance in the RA-3 Zone of .67 acres on a proposed two lot subdivision for lot two to be 2.3 acres in the required 3 acres zone.

Chairperson Smith asked the applicant, Michael Gillespie, engineer for the project to give an overview of the requested variance. Mr. Gillespie began by describing the location of the property and the previous subdivision that was created along Liberty Way. Mr. Gillespie stated they had reached out to neighboring property owners to explore other options for obtaining more land so that the applicant would not require obtaining a variance and there was no interest from adjoining property owners to do so. Mr. Gillespie also brought up the drainage easement that exists on the neighboring and previously created subdivision; he explained the subdivision of this parcel would create another lot to lessen the overall cost of the drainage agreement shared among the neighbors. He explained that the type of homes being proposed would be consistent with the size of other homes in the neighborhood, and that there are no trees that need to be taken down, therefore not much disturbance. Member Dunning asked what the special conditions are for this variance that they should consider, in which Mr. Gillespie responded that the drainage cost alleviation would benefit the other neighbors. Chairperson Smith asked Mr. Gillespie if he had any documentation from the neighboring properties showing that is a benefit they would welcome. The owner of the property Colin Martin responded that he and the other property owners did speak to Mr. Rodrigues who owns the property directly across the street and had a discussion with him about their plan for the property, he was not unfavorable about the project, there was not much discussion about the drainage other than stating the location and function of it. Chairperson Smith welcomed comments from the public.

Neighbor Vicky Pittman made a comment about the location of the property being directly out her window and that it is very visible in the open space. She stated when she bought her property there were no homes in her view, and the potential of now building two homes instead of one would be detrimental to her. She had concerns about noise of construction, the traffic on the road, noise of music & lighting at night shining into her home.

Member Hughes commented on Ms. Pittman's concerns about the impact on the neighborhood and said he did not hear a compelling argument or hardship for why the variance should be granted. He stated without a compelling reason, he feels the Town needs to maintain the minimum standards of the code for zoning. Member Dunning followed up on that statement in agreement that the Board would need to hear specific justification to allow such a variance, and asked the applicant if they considered other properties as an alternative. Property owner Mrs. Comatos commented that they had been looking for other properties to build on in the area, but being former Arlington students wanted to be close to where they grew up and wanted to find property near to each other to grow families in. Mr. Bill Martin, on behalf of the owner made statement that the area is growing and is beneficial to have development especially with people who are from the area, and he does not believe these to be small lots and the homes that would be built on them would fit in with the character of the neighborhood, and would improve the community overall. Member Nilsen made a statement that a lot of farm land in the area has been over developed and her opinion is that these are smaller lots for this area. There was a

discussion about the uniqueness of this particular property that the owners felt compelled to purchase, which Mr. Martin stated that the location, the view, the cul-de-sac were things they admired. He continued to say the developed part of the neighboring properties is only around two acres and that much of the land is undeveloped farm land therefore the location of the proposed homes on the subdivision would look very similar to the other properties from the front lot line. There was a comment from Member Dunning regarding setting a precedent for neighboring lots in keeping the zoning that is in place for that area, as he does not hear a compelling reason to approve a variance without one. Mr. Gillespie made an argument that due to the way the lots are proposed to be divided, they would meet similar widths to the neighboring properties and would meet bulk and setback requirements.

Chairperson Smith asked if there were any other questions, with none makes a motion to close the public hearing, which passes unanimously.

Chairperson Jane Smith read and the Board considered the following standards for interpretation and accepting/denying the area/use variance application:

Applicant is requesting an area variance in the RA-3 Zone of .67 acres on a proposed two lot subdivision for lot two to be 2.3 acres in the required 3 acres zone.

In making its determination, the ZBA shall take into consideration the benefit to the applicant if the Area Variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider:

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the Area Variance.*** Chairperson Smith stated the arguments from the applicant that the character of the home would be unchanged due to the buildable area of the other properties and the plan to build a similar sized home, would not be detrimental. However, as per the comment from the neighbor the variance would change the character of the neighborhood reducing the size of the lot compared to the others. Member Hughes adds that also sets the precedent to change the density in that entire neighborhood.
- 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance.*** Chairperson Smith stated the benefit to the applicant in the request was to be able to build two houses instead of one, but there was no evidence presented about the availability of other properties in the community on which to build without an area variance.
- 3. Whether the requested variance is substantial.*** Member Dunning stated in the context of the setting of the proposed variance it is substantial as mentioned by an existing neighbor that it would allow double the homes that could be built there. Chairperson Smith added that she agrees with it being a substantial variance, as compared to the other lots, which are closer to 5 acres, this would create a far smaller lot.

4. *Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.* Member Denning stated that the view scape is a concern to the neighbor. Member Hughes commented that the requested variance does have a detrimental effect on the neighborhood. Member Nilsen commented that the increased traffic would also have a negative impact.
5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.* Yes, the lot purchased by the owners was not large enough to create two lots without requesting a variance for one of them, as zoning was in existence at the time of purchase, and the lot becomes non-conforming when divided into two lots.

The Town of Union Vale Zoning Board of Appeals DENIES the following:

Applicant is requesting an area variance in the RA-3 Zone of .67 acres on a proposed two lot subdivision for lot two to be 2.3 acres in the required 3 acres zone.

*Motion: Chairperson Smith
Second: Member Nilsen*

All in favor: AYE

REGULAR SESSION/NEW BUSINESS

None

OTHER BUSINESS

None

ADJOURNMENT

As there was no further business, a motion was made by the Chairperson Smith, seconded by Board member Ilana Nilsen, and unanimously accepted by the Board, to adjourn the meeting at 8:52 p.m.

The next regular/public meeting of the Zoning Board of Appeals is scheduled for **Tuesday, October 5 2021, at 7:30 PM.**

The agenda will close on **September 21, 2021, at 12:00 Noon.** Items for consideration at the **October** meeting must be received by that date.

Respectfully submitted, 9/22/2021



Emily Cole
ZONING BOARD OF APPEALS CLERK