

TOWN OF VIRGIL ZONING BOARD OF APPEALS
Public Hearing/Meeting Minutes - Monday, 27 March 2017 – 6 PM
Town Hall Meeting Room - Virgil, Cortland County, NY

Board Members

Jeannine Sprague, Acting Chair/Chair
Linda Edwards
*John Coulter
Sheila Morse
Jeffrey Hall
Steve Terwilliger, Alternate

(*absent)

Others Present

Joan E. Fitch, Board Secretary
Craig Umbehauer, Town CEO
Patrick Snyder, Town Attorney

Public Present

Attorney Mike Shafer for Estate of David L. Ford, Appellant; Town Supervisor John Kaminski, Town Planning Board Member Gary Wood.

PUBLIC HEARING

At 6 p.m., Board Secretary Fitch read aloud the Public Hearing notice as published in the Cortland Standard. Proof of Publication has been placed on file for the record.

Estate of David L. Ford, Appellant/Reputed Owner – 1578 & 1592 NYS Route 3922 – TM #126.00-11-17.000 – Road Frontage & Side Yard Setback Less Than Allowed

Chairperson Jeannine Sprague recognized Attorney Mike Shafer, representing the Appellant in seeking an area variance to divide this property which contains two residences into two parcels, each containing a residence, one of 1.45± A. and one of 3.23± A. The frontage requirements for either lot is less than allowed, and the division of the property, as proposed, would place a garage too close to the property line than allowed, all as shown on a survey map prepared by Denkenberger Surveying dated 30 June 2016. Attorney Shafer commented that there was no way to carry out the provisions of the Will without a division of the property.

Attorney Shafer stated that both residences have separate water and septic systems. Member Jeff Hall said that a big issue was the garbage/junk that is presently on the property, and there's been no effort to clean up the property. Attorney Shafer stated that he has never been notified of this, and Mr. Ford died five years ago. CEO Craig Umbehauer stated it was "basically a junkyard," and many years ago the Town took Mr. Ford to court. There are many unregistered vehicles there and the property is not up to Code. Attorney Shafer felt he should have been advised of this problem back in November when he first talked with the CEO regarding the property. He had no problem if the requested variance included a condition for cleaning up the parcel.

Member Hall stated that the map indicated only one septic system and, if there are two, the other should be shown on the map. Attorney Shafer responded that he had relied on one of the heirs for the information on the septic systems.

Acting Chair Sprague asked if there was anyone present who wished to comment on the requested area variance; there was one:

Town Supervisor John Kaminski – The Town of Virgil wants the property brought up to Code. The property has been a problem for 23 years.

With everyone wishing to be heard having been heard, Acting Chair Sprague closed the Public Hearing at 6:21 p.m.

DISCUSSION/DECISION

Chair Sprague acknowledged receipt of a 2 February 2017 memo from the Cortland County Planning Department, Dan Dineen, Director of Planning. The memo advised that their staff had determined that the request was technically adequate and had no State- or County-wide impact; therefore, it was being returned for final determination. A copy of this memo has been placed on file for the record.

Member Terwilliger commented that existing wells/septic systems should be shown on the survey map. CEO Unbehauer responded that as long as the Health Department has a record of their existence, it doesn't matter if it's on the map or not.

The Board then asked about a right-of-way to the cemetery lot shown on the map. Attorney Shafer stated he had no idea what the cemetery's arrangements are for access to their property. The cemetery, he said, has been inactive for over 100 years. Town Attorney Patrick Snyder stated that he did not think there was any affirmative obligation on the part of the Town to force a landowner to give any kind of an easement in a situation like this; it would, however, be nice to know what access there is on record.

It is noted that this request for an area variance is a Type II Action and, as advised by Town Attorney Patrick Snyder, requires no SEQRA.

The Board then proceeded with the required questions (balancing test), with the responses being given by the ZBA members, as follows:

1. Will the proposed action produce an undesirable change in the character of the neighborhood, or a detriment to nearby properties be created?

Finding: Nothing will change. All Board members present agreed.

2. Can the applicant achieve his goals via a reasonable alternative which does not involve the necessity of an area variance?

Finding: No. All Board members present agreed.

3. Is the variance substantial?

Finding: No (Morse, Hall, Edwards, Terwilliger). Yes, it's substantial (Sprague).

4. Will the variance have an adverse impact on physical or environmental conditions in the neighborhood or district?

Finding: No. All agreed.

5. Has there been any self-created difficulty?

Finding: No. All agreed.

With no further discussion, **a motion was made by Member Linda Edwards to grant the area variance, as requested, contingent upon the property being brought up to the Town of Virgil Zoning Law, and receipt of proof from the Cortland County Health Department that there is a satisfactory water well and septic system on each proposed site.. The motion was seconded by Member Sheils Morse, with the vote recorded as follows:**

Ayes:	Chair Sprague	Nays:	None
	Member Morse		
	Member Edwards	Absent:	Member Coulter
	Member Hall		
	Alternate Member Terwilliger		

Motion carried.

This becomes Action #6 of 2017.

APPROVAL OF MINUTES – 27 FEBRUARY 2017

A motion was made by Member Morse to approve the Minutes of the 27 February 2017 meeting of this Board, as submitted. The motion was seconded by Member Hall, with the vote recorded as follows:

Ayes:	Chair Sprague	Nays:	None
	Member Edwards		
	Member Morse	Absent:	Member Coulter
	Member Hall		
	Alternate Member Terwilliger		

Motion carried.

This becomes Action #7 of 2017.

ADJOURNMENT

A motion was made at 6:48 p.m. by Member Edwards to adjourn the meeting, seconded by Member Morse, with all members present voting in the affirmative.



Joan E. Fitch, Board Secretary

Submitted via e-mail to Town Supv., Town Clerk,
Town Attorney, CEO, ZBA Members &
Co. Planning on 4/24/17.