

TOWN OF LAKE LUZERNE
ZONING BOARD OF APPEALS
NOVEMBER 12, 2015
7:00 PM

MEMBERS PRESENT: JAMES MOELLER, KRISTEN ZEHNTER, ANNIE MCMAHON, STANLEY GOLDBERG AND MARK MAYHEW. ALSO PRESENT: ZEO, ALLEN SAHEIM

AGENDA:

RODRIGO VILLAMARIN – AREA VARIANCE AV 15-1
PARCEL ID # 286.08-47
1420 LAKE AVENUE

THE APPLICANT HAS PARTIALLY BUILT A NEW RESIDENCE, THE NEW HOME MUST BE 25 FEET FROM THEIR RIGHT SIDE LINE. THE APPLICANT'S NEW HOME IS 9.7 FEET FROM THEIR RIGHT LINE. THEY MUST BE GRANTED AN AREA VARIANCE FROM 25 FEET TO 9.7 FEET. THE APPLICANTS EXISTING MOTEL NEEDS A SIDE SET BACK AREA VARIANCE FROM 25 FEET TO 10.3 FEET.

CHAIRMAN GOLDBERG OPENED THE PUBLIC HEARING AT 7:04 AND ZEO SAHEIM READ THE LEGAL NOTICE. THE FOLLOWING WERE NOTIFIED BY MAIL REGARDING THIS APPLICATION: MURPHY TRUST, LAWRENCE & BONITA BENNETT, GREGORY BENNETT, JOHN & LAURA PAVELKO, THOMAS WALSH TRUSTEE, MNZ HOLDINGS INC, DEBORAH ANELLO, RUTH DIETRICH, MICHAEL RUSSELL, SHAWN & SUSAN BARRETT, BRIAN & MARYANN BEAURY, RACHAEL RAY, BARBARA BORMANN, BYRON SULLIVAN, JOSEPH & ANGELINA DIMARCO, ALFRED ESSER, MARC & LENORA MERKLE, RICHARD BAVETTA, GEOFFREY NESTLE, RUTH MERKLE, ANTOINETTE LOMBARDI, ROBERT & JENNIFER GRIERSON, VIRGINIA BOVEE AND THOMAS & MARIE BRANIECKI.

ZEO – DID NOT RECEIVE ANYTHING IN MY OFFICE FOR OR AGAINST .

GOLDBERG ASKED MR. VILLAMARIN TO PRONOUNCE HIS LAST NAME, THIS WAS MR. VILLAMARIN'S BEST FRIEND JIM THAT WAS REPRESENTING HIM. ASKED HIM IF HE WAS GOING TO DISCUSS THIS OR THE AGENT.

JIM – OUR AGENT.

JOE FUERST – WE TALKED ABOUT SEPTIC SYSTEM SHOWING ON THE MAP. RED LINES INDICATE EXISTING LINES, YELLOW IS VARIANCE WE ARE LOOKING FOR . SEPTIC SEEMED TO BE AN ISSUE THAT THE RESIDENCE HAVE IT'S OWN SEPTIC, BILL BRADLEY IS HERE TO DISCUSS.

MOELLER – JOE, I HAVE A QUESTION FOR YOU FIRST. I WENT TO THE SITE TODAY AND I MEASURED QUICKLY BETWEEN THE TWO BUILDINGS WITH AN ELECTRONIC LASER IT IS LIKE 19.2 SO YOU ARE CLOSE, IF YOU LOOK, YOU HAVE AN OVERHANG THAT PROTRUDES OUT 7 FT AND HAS SUPPORTS THAT COME DOWN TO THE GROUND. THAT BRINGS THE VARIANCE TO ABOUT 12 FT. IT HAS TO BE PART OF THE STRUCTURE SO IT WILL CHANGE SETBACK. IT IS PART OF THE HOUSE FOOTPRINT.

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JIM – WE CAN REMOVE ROOM 11 TO MAKE MORE ROOM

MOELLER - I AM LOOKING AT 7FT WITHOUT OVERHANG, IT WOULD HAVE TO BE AMENDED ON THE APPLICATION.

MAYHEW – THE VARIANCE WOULD CHANGE THE VARIANCE TO 6FT.

GOLDBERG – VARIANCE GOES FROM 10 FT TO 17 FT.

ZEO – IS 2.7 FEET FROM THE LINE

MOELLER – IT IS 2.7 AND 10.3 FT.

ZEO – SAHEIM – IS YOUR INTENTION TO KEEP IT THERE?

JIM – WE DON'T HAVE TO KEEP IT

GOLDBERG – THERE IS A CHANGE TO THE VARIANCE

ZEO – APPLICANTS NEW HOME IS 2.7 FT FROM LINE NEED 25 FT TO 2.7 FT SO VARIANCE WILL BE 22.3 FT

JIM – DISREGARD THE OVERHANG

GOLDBERG –NO CHANGE TO THE VARIANCE.

MAYHEW – IS THERE A PROBLEM WITH A NEW SEPTIC SYSTEM, WAS THE PERK TEST DONE

BILL BRADLEY – BRADLEY'S SEPTIC - I SEE NO PROBLEM

ZEO SAHEIM – DID YOU DIG DOWN, NO GROUND WATER?

BILL BRADLEY – I DUG DOWN 4 FT

ZEO SAHEIM – ARE YOU GOING TO HAVE TO BRING IN FILL?

BILL BRADLEY – IT WOULD HELP

MOELLER – IS IT A CONVENTIONAL LEACH FIELD?

BILL BRADLEY – YES

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GOLDBERG – TELL THE BOARD WHY AFTER PARTIALLY BUILDING THE STRUCTURE THERE IS A HARDSHIP.

JIM – MAIN REASON IS THAT THERE WAS ENOUGH MONEY TO DO THE PROJECT AND RAN INTO DIFFICULTY – WANT HOME INDEPENDENT FOR FUTURE IN THE EVENT HE WANTS TO SELL AND TO GET A CONVENTIONAL MORTGAGE IT HAS TO BE RESIDENTIAL. (very difficult to hear on tape).

GOLDBERG – LAST TIME YOU SAID THE WOODED AREA TO SIDE ISN'T BUILDABLE?

JIM – TOO MANY ROCKS, TREES AND WATER COMING DOWN

MOELLER – WHERE IS THE SEPTIC GOING THEN

JIM – IN THE REAR OF THE HOUSE

MAYHEW – ASKED ZEO MEASUREMENTS REGARDING SEPTIC

ZEO – HAS TO BE 10 FEET AND 10 FEET FROM THE FOUNDATION.

GOLDBERG – NOTHING FROM THE PUBLIC, WHAT ABOUT THE COUNTY AND PLANNING BOARD RECOMMENDATION.

ZEO – NOTHING FROM PUBLIC, COUNTY AND PLANNING BOARD SENT IT WITHOUT RECOMMENDATION. AND MR. BENNETT'S SON GREGORY, WHO IS TO THE LEFT IS IN FAVOR.

GOLDBERG – IS THERE ANY REASON THIS BOARD WANTS TO TABLE IT.

NO ONE RESPONDED

GOLDBERG – ASKED EACH MEMBER TO GIVE THEIR OPINION BASED ON WHAT THEY HEARD, THE VARIANCES ARE APPROXIMATELY 60%.

MAYHEW – SHOULD NOT BE GRANTED DUE TO THE FACT IT SETS A NEGATIVE PRECEDENCE IN THE NEIGHBORHOOD AND IT SUBSTANTIAL AND WOULD BE NEGATIVE TO THE ENVIRONMENT AND IT WAS SELF CREATED ALL I CAN SEE IS THEY ARE DOING IT TO MAKE THE FUNDING EASIER FOR THEM AND THAT IS NOT WHY WE GRANT VARIANCES.

MOELLER – THE WORD IS PRECEDENCE, THERE HAS TO BE A CONCRETE REASON, IT DOESN'T COME DOWN TO MORTGAGES, UNFORTUNATELY, IT WAS POOR PLANNING, WHEN WE LEARN ABOUT VARIANCES, THERE IS TALK ABOUT PRECEDENCE.

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GOLDBERG – IF YOU HAD COME TO US BEFORE THE STRUCTURE WAS BUILT, AND SAY THERE ARE ROCKS ETC., WE COULD HAVE MADE SUGGESTIONS WE LOOK AT THE MINIMUM AND ASKED EXPERTS TO SAY HOW FAR IT COULD BE PUSHED. YOU HAVE IT ALREADY, THE PROBLEM IS FINANCIAL WHICH IS NOT A HARDSHIP TO THE ZONING BOARD OF APPEALS. THE HARDSHIP WOULD BE IF THERE WAS A MOUNTAIN IN THE BACK AND YOU CAN'T MOVE THE HOUSE ANY FURTHER, THAT IS A HARDSHIP THAT IS UNDERSTANDABLE, SO AGAIN I DON'T SEE THAT THERE IS ENOUGH HER

MAYHEW – IN ADDITION IT IS A SEMI FINANCIAL ISSUE BUT EVERY STEP OF THE WAY IT BEEN, OK, WE WILL THROUGH MONEY AT ITS, WE WILL TAKE THE OVERHANG OFF, ADD ANOTHER SEPTIC SYSTEM, ALL THAT COSTS MONEY, SO IT DOESN'T REALLY BOIL DOWN TO THE FACT THAT THERE IS A FINANCIAL HARDSHIP HERE, SO IT IS VERY CONFUSING TO THE BOARD TO REALLY UNDERSTAND WHAT IS GOING ON.

JIM – IT ISN'T JUST BECAUSE OF MONEY, HE WANTS TO BE INDEPENDENT

MAYHEW – HE SHOULD HAVE THOUGHT ABOUT THAT EARLIER

GOLDBERG – EVEN WITHOUT THE OVERHANG IT IS 60% ITS 15 FT CLOSER.

JIM – THAT IS WHY WERE ARE HERE

GOLDBERG – WE DON'T PROVIDE A SIGNIFICANT VARIANCE UNLESS THERE IS A HARDSHIP, WHICH IS USUALLY GEOGRAPHIC.

JIM – SO MR. BENNETT COULD BUILD THERE

GOLDBERG – MAYBE

JIM – IT IS WHAT IT IS, WE WILL GO FORWARD THE WAY IT IS NOW, MAYBE A YEAR FROM NOW WILL COME BACK AND MAKE ANOTHER REQUEST.

GOLDBERG – RATHER THAN WAIT ANOTHER MONTH BASED UPON WHAT HAS BEEN GIVEN TO US, NOT PROMISING ANYTHING BUT PUT A CHANGE IN. DOES ANYONE HAVE AN ISSUE?

MAYHEW – YES – IT IS SUBSTANTIAL CHANGE, IT IS STILL SELF CREATED, FINANCIAL .

GOLDBERG – WE CAN VOTE AND MOVE FORWARD.

JIM – YOU ARE SUPPOSE TO BE HERE TO HELP US

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MAYHEW – WE ARE NOT HERE TO HELP YOU OUR JOB IS TO KEEP THE LAWS THAT HAVE BEN ENACTED IN THE COMMUNITY , THE ZONING LAWS IN TACT AS MUSH AS POSSIBLE.

JIM – I CAN FIND 5 HOUSES THAT ARE NOT IN COMPLIANCE, THIS IS THE WAY IT IS.

A MOTION BY GOLDBERG, SECONDED BY MAYHEW TO DENY THE VARIANCE AS IT WAS SELF CREATED, THERE ARE TWO VARIANCES HERE, EACH WITH 60% REQUEST AND IT WOULD SET A PRECEDENT THAT THE BOARD DOES NOT WANT TO DO. ROLL CALL VOTE: ZEHNTER, AYE, MAYHEW, AYE, GOLDBERG, AYE, MOELLER, AYE, MCMAHON, AYE. MOTION CARRIED.

OTHER BUSINESS:

GOLDBERG – HAS ANYONE HAD A CHANCE TO LOOK OVER THE FORMS. WE SHOULD HAVE THE ATTORNEY LOOK AT THEM.

GODLBERG IS THE NEXT MEETING IS December 3, 2015?

ZEO - YES.

A MOTION TO ADJOURN WAS MADE BY GOLDBERG, SECONDED BY MOELLER. ALL IN FAVOR

RESPECTFULLY SUBMITTED,

LORRI HOLCOMB, SECRETARY