

April 15, 2004
Zoning Board of Appeals Minutes
Oswego Town Hall

Chairman: Randy Pratt
Board Members: Greg Auleta, Timothy Anderson,
Robert Baker, Brad Livesey, Greg Mills
Attorney to the Board: Kevin Caraccioli

Call To Order

Greg Mills, Chairman called the meeting to order at approximately 7:04 PM on April 15, 2004.

Attendance

Those in attendance were:
Greg Mills, ZBA Chairman
Robert Baker, ZBA Member
Greg Auleta, ZBA Member
Brad Livesey, ZBA Member
Kevin Caraccioli, Legal Advisor
Marjorie Best, ZBA Secretary

Approval of March 18, 2004 Minutes:

Greg Auleta made a motion that the March 18, 2004 Minutes be approved. Brad Livesey seconded the motion. All ayes. Motion carried.

Greg Mills stated we still need to make some changes in the order of the Agenda. He said New Business should come before Old Business. Kevin Caraccioli, Legal Advisor stated he would come up with the correct format and send it to the Secretary.

New Business:

Application #2004-02:

Greg Mills called the Public Hearing at approximately 7:20 PM on Application #2004-02, Tammy E. Anderson being the applicant. Greg asked Mrs. Anderson to state her name, residence address, and the purpose of the application.

Mrs. Anderson stated her name is Tammy E. Anderson, and resides at 909 County Rte. 20, Town of Oswego. She stated she wants to build a barn to replace the old barn. It does not fit within the code as to the distance from the side boundary. She would like to keep the house and barn on the same spot as it was. The barn was 15 feet from the line, and she moved it over 3 more feet away from it. Greg Auleta questioned 18 feet to 20 feet, and now 33 feet? Tammy Anderson said the 18 feet is the proposed building. The dotted line on the survey is the barn in ruins, and that corner (pointing to the survey), if we are able to build it, will be 18 feet away from the line. Greg Mills said there would not be any confusion, as to the way the surveyor broke down the map. It looks like a border on the back of the property, which would be 2 feet. The reason he brought that point up, is the County Planner looked at it for rear and side yard variance.

Greg Auleta brought up the fact that in the inspector's denial, the data was not filled in as to the front, back, left side and right side. More information needs to be filled in on the application to get the process streamlined. He said it is a bureaucratic thing, but needs to be addressed. Greg Mills said that if the Anderson's planned on building the barn on the existing foundation

as a replacement, we would not be here. The reason it was denied was because it would be moved off the existing foundation, and it would be a practical difficulty. The reason he brought it up was to generate dialogue as to why Mrs. Anderson changed the position of the barn.

Tammy Anderson stated it was stone and unsafe. Greg asked if part of the barn would be put on the original foundation. Tammy stated they are going to have a whole new pad. There were no footers in the old barn. She wants this to function as a farm. There will be a stable, and also a garage. She could not use any of the old building, as it was unsafe. The design of the new building will be easier to operate. Greg asked her if she was going to use part of it as a garage, how is she going to get the car in there. Mrs. Anderson showed on the drawing where the front of the building will be, as the garage.

Kevin Caraccioli asked what practical difficulty would there be by not moving the barn over. Tammy said the garage part would be difficult, as well as the barn. She stated the main thing is keeping the farm the way it was originally laid. She thinks the aesthetics would look better. Greg Mills pointed out if it was moved 32 feet, and the driveway was on a curve, the shed would be in the way. Tim Anderson stated there are also the utilities to consider from the house to the proposed barn. Greg Mills wanted everyone to understand that if it was moved 32 feet to the right that the leach field exists.

Greg Mills asked if there were any more questions for the applicant from the Board relative to the proposal. He said we are basically looking for a variance of 32 feet and 30 feet in the back. The neighbors signed for the letter and have no objection. He also mentioned that on the survey, the left boundary is stone wall. He asked if there was any comment from the public. Mr. Hal Hanson was sitting in the room, but said he was not there to comment on the application, that he was just an observer. Greg then asked for a motion.

Greg Auleta moved that Application #2004-02 submitted by Tammy E. Anderson for an Area Variance be approved for a reduction in area variance; 32 feet from the proposed building. It is documented as a practical difficulty. The building is to be placed on the original footprints; that there would be significant clearance from the leach field, as well as the practical difficulty with the utilities, and the curving of the driveway.

Kevin Caraccioli stated we should modify the motion showing practical difficulty of moving the building 50 feet, in compliance with the Town Code. Greg Auleta then moved that the application should be granted; (1) Significant clearance from the leach field (2) Interference with the existing utility lines connecting the residence to the pole barn, and (3) Alteration of the existing driveway.

Greg Mills asked if there were any further questions. Brad Livesey seconded the motion. Ayes by Greg Auleta, Bob Baker, Greg Mills and Brad Livesey. Tim Anderson recused himself because it was his wife's application. Motion carried.

Public Comment:

At approximately 7:45 PM, Greg Mills asked Hal Hanson if he would like to present anything to the Board. Again, Mr. Hanson stated he was present for observation. The Public Comment session was then closed.

Open Board Discussion:

At approximately 7:50 PM, there was discussion on the forms for the types of applications. The form presented at this Public Hearing was entitled for a garage, whereby the applicant wants to build a pole barn. Greg Auleta said it does not seem to be the same type of application that was presented by Mr. Yule at the last Public Hearing. He said there should be

specific forms for specific structures, as Mr. Yule's application had more information.

Kevin Caraccioli stated that he planned to meet with the Town and Planning Board Attorney to sort out the Land Use Control and District Regulations Ordinance, and come up with an updated Ordinance. At that time, he said we could go over the forms and applications.

Discussion then came up as to footers and foundations for utility and tool sheds, and whether they are considered a permanent structure. Greg Mills said some people get confused when they have an 84 Lumber tool shed. They cannot be on the property line, and the structure is not permanent. Brad Livesey asked if we have a definition for a moveable building. He stated he has some plans in mind, and would like to determine what is movable, and what is permanent. Tim Anderson said he looked into specifics of a utility shed, and there is nothing in black and white.

Kevin Caraccioli quoted from the Ordinance "Building shall be so located as to allow the following minimum sizes of yards in feet, measured from such building to nearest abutting lot line or nearest highway right of way." It also depends on what zone you are in. Front yard could be 50 feet, side and rear could be 20 feet. Kevin then quoted the definition of a building - "Any non-portable structure built for the support, shelter or enclosure of persons, animals, mechanical devices or chattels, and, when separated by division walls without openings from the ground up, each portion of such structure shall be deemed a separate building."

Greg Mills stated a shed would be a building. If you put a shed on the ground and have piers under it, that it would be movable. Greg Auleta stated if you put skids under a building, it would be movable. Brad Livesey said he plans to put in a very large outside freezer that will require a pad, and wondered if that would be considered portable. Greg Mills said the definition of a building is so general. Greg Auleta said there are Ordinances in Geneseo and Hannibal, that have definitions which would enable the Town to gain control of its land use without opening issues of confusion. There should be specific definitions. Kevin Caraccioli again stated when he meets with the other Board's Attorneys, they hope to come up with a solution.

Adjournment:

At approximately 8:15, Greg Auleta made a motion to adjourn the meeting. Brad Livesey seconded the motion. All ayes. Motion carried.

Respectfully submitted,

Marjorie Best
ZBA Secretary