

August 23, 2007
Zoning Board of Appeals Minutes
Oswego Town Hall

Chairman: Greg Auleta
Board Members: Robert Baker, Timothy Anderson,
Debra Jaskula, Robert Dexter
Attorney to the Board: Kevin Caraccioli
Secretary: Marjorie Best

Call To Order:

At approximately 7:03 PM, Chairman Greg Auleta of the Zoning Board of Appeals called the meeting to order.

Attendance:

Those in attendance were:

Greg Auleta	Chairman
Timothy Anderson	Member
Debra Jaskula	Member
Robert Dexter	Member
Kevin Caraccioli	Legal Advisor
Marjorie Best	Secretary

Absent was:

Robert Baker	Member
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Acceptance of Agenda:

There were no issues in objection to the Agenda, and therefore Tim Anderson made a motion we accept the agenda. Deb Jaskula seconded the motion. All ayes. Motion carried.

Approval of July 19, 2007 Minutes:

There being no comments or corrections, Deb Jaskula made a motion that the July 19, 2007 minutes be approved. Bob Dexter seconded the motion. All Ayes. Motion carried.

New Business:

Application #2007-09 - Richard Bush - Area Variance For Swimming Pool - Public Hearing 7:10 PM:

Greg asked Mr. Bush to come up to the conference table, state his name, address and what his plans for the application are. Richard Bush identified himself, and that he resides at 10 Perry Hill Road. Rich said due the shape of his lot and the drainage, he would like to put a pool on the left side of his house, but cannot make the standoff of 50 feet from the Town's setback requirements. He said he would like to put the pool a little bit closer inside that 50 foot. The edge of the sidewalk would be 41 feet, so is asking for a 9 foot variance.

Greg said he was not clear as to the construction of the pool itself, would appear to meet the side yard setback, but the construction of the stockade fence would not. Mr. Bush said it was described to him, once we give him the variance for the pool, he needs to enclose it -

whatever it takes to get the job done. Greg said the map provided would suggest that you anticipate on the Northwest side a 10 foot gap in the distance of the stockade to the boundary line, it would probably mean we would have to move away from it. The measurement that was made on the rear yard setback - is this because of the slant in your line? Rich said it is supposed to come from the closest point of the anticipated project to the property line. You show 20 feet, but that is conveniently in the middle of it. From the back of the pool, Rich thinks it is only 10 feet I have to stay off the back. Greg and the members then looked at the map, pointing to lines, and trying to figure it all out. Greg asked Rich from his view, would it be a 5 foot variance? Rich asked if the Zoning Board works on a "foot" thing, but he claims he has a 30 foot setback. The front of the house sets on that building line. Would your variance say "Stay behind that building - do you give by the foot or is it more of a general thing? Greg, again looking at the diagram, the edge of the pool in the front yard, you measure as being 41 feet from the setback line, and Rich said yes. Greg said, then you measure to the stockade fence. Rich said Wayne had explained to him that the fence is a 10 foot offset from the side yard and back yard. It just so happens that the fence on there is just about on that 10 foot mark. Greg said on each side yard, you have to have 20 feet, between the end of the property. Rich said he hates to say this, but these numbers are not the ones Wayne Newton quoted him. Wayne didn't like Rich going to him twice to ask questions. He said he quoted from a big fat book from the State.

Kevin said if Wayne is interpreting this as an accessory use - that's when buildings are permitted and half the distance would be established. Greg said he sites Article III, Section A-2. He doesn't site Article III, Section B-1. He said he has no problem in granting the variance, but he wants the numbers to be reasonably close to what they should be, and if the measurements should be from the stockade or the side of the pool. Greg asked if Mr. Newton read the following from our Ordinance: "Location of accessory buildings. No accessory building hereinafter permitted by this Ordinance shall be constructed near the street or road line that is permitted for it's principal building nor nearer to any side or rear lot line respectively than one 1/2 the distance established in the schedule". Rich said Wayne didn't read that?

Greg proposed that the 50 yard front setback - a variance of 9 feet be requested. That a 10 foot variance on the Northwest side - and that a rear yard variance of 5 feet. Rich asked if we could make the variance 10 feet on each side? Greg asked if there were any more questions on the application. He said he wanted it noted on the record that Mr. Bush returned to us receipted letters of notification from his neighbors - 56 of them signed a Distribution Sheet, and 21 were sent Certified Mail.

Tim Anderson made a motion that we accept the Variance for Application #2007-09, the variance to be 9 feet in front, 10 feet on each side, and 10 feet on the back. Debra Jaskula seconded the motion. All ayes. Motion carried.

Old Business:

Application #2007-02 - United Group - Oswego College Suites:

Greg said at this point, we cannot take any action by the Board until the SEQR has been completed, and submitted. However, he said he would open the floor for discussion. Kevin said he has a couple of items. He said he is sure all are aware there was a Memorandum of Decision in order by Supreme Court Justice, Hugh Gilbert, on the 2nd of this month, whereby the Petition - Article 78 filed by various Petitioners against the Zoning Board of Appeals and United Group Development was denied, and the action was dismissed. It was actually signed by the Judge on August 9th. Kevin said he does not know if it has been formally filed and served on the parties, but once that occurs, there is a 30 day frame within which to file an appeal. The Court that this decision would be appealed to would be the Appellate Division, which is the second highest court of the state. Our particular department is the 4th

Department, in Rochester. There is nothing we have to do at this point.

Greg asked when the engineering firm we hired sent a letter outlining the relevant questions for the SEQR in that was a recommendation that a traffic study take place when students were present. He said he was directing the question to Supervisor Mullen, who was present at the meeting. Are we planning to wait for that level of a traffic study before Planning takes any action. Vicky said until that part of the SEQR is completed, they won't take action.

Kevin said he has a letter from Attorney Michael Stanley, representing United Group, in response to a letter he had sent to him on July 26th, which I suggested the 62 day time frame under the New York State Town Law begins to run from the completion of the process. So I believe it will be October before everything is completed. Mike's letter agrees with that, and goes on to say if there is information that would be helpful, they request that it be communicated to them. There are 5 different points that have to be worked out.

Bob Dexter asked if we received any communication from Wayne regarding the height issues of the college suites. Kevin said he has not received anything from Wayne.

Public Comment:

None

Open Board Discussion:

As to the Training Session in September, Vicky Mullen found a copy of a letter. There is one for Planning Board Overview and Site Plan Review, and Special Use Permits at Pulaski Junior High on September 10th. The other is SEQR and Enforcement of Zoning and Other Local Laws, on September 11th in Phoenix High School. If anyone wants to go just let Vicky know. Greg Auleta, Tim Anderson, Deb Jaskula and Bob Dexter all signed up with Vicky to attend the training session.

Adjournment:

Greg entertained a motion for adjournment. At approximately 7:30 PM, Tim Anderson made a motion to adjourn the meeting. Deb Jaskula seconded it. All Ayes. Motion carried.

Respectfully submitted,

Marjorie Best
ZBA Secretary