

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

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

Call To Order

Greg Mills, Chairman called the Meeting to order at approximately 7:02 PM on July 15, 2004.

Attendance

Those in attendance were:

Greg Mills, ZBA Chairman
Robert Baker, ZBA Member
Brad Livesey, ZBA Member
Timothy Anderson, ZBA Member
Kevin Caraccioli, Legal Advisor
Marjorie Best, Secretary

Absent was:

Greg Auleta, ZBA Member

Acceptance of Agenda:

Brad Livesey moved the Agenda be accepted, with changes made. Bob Baker seconded the Motion. All ayes. Motion carried.

Approval of June 17, 2004 Minutes:

Brad Livesey made a Motion that the June 17, 2004 Minutes be approved. Tim Anderson seconded the Motion. All ayes. Motion carried.

Old Business:

Application #2004-03 - David Welsch - Area Variance:

At approximately 7:05 PM, Greg Mills called the matter of Application #2004-03, David Welsch for an Area Variance. Both David Welsch and his wife, Diane Welsch were in attendance. They were asked to step forward and state their names, address and the reason for their presence. David and Diane Welsch stated their names, and live at 351 West Lake Road, Oswego, New York. David stated this is a follow up on Application #2004-03.

Greg Mills stated we have been presented with a copy of the survey with some modifications relative to a parcel of land that is in the process of being transferred to the Welsch's. The parcel is approximately 30 feet deep by 20 feet wide. The little jog that we were concerned about on the application is no longer a problem. He asked the Welsch's, if there was a time frame on the transfer of ownership. Diane Welsch stated they will be obtaining another survey. Greg asked if there were any questions relative to the change.

Tim Anderson asked if the garage would still be right on the lot line. Diane Welsch stated it would be moved 6 feet from the back, and 4 feet on the side. Kevin Caraccioli stated that the proposed garage should be sited on the new survey, as it would save time and money. Tim Anderson said it looks like they will be moving the garage South. David Welsch said it would

be moved South and West.

Bob Baker asked if we have the authority to change the set backs, or if the Code Enforcement Officer had to do it, and would it have to go back to him. Kevin stated we can change it. We have the authority to reverse, modify or confirm, so modifying would be under our jurisdiction. He also stated that the Secretary and himself will work out a Resolution, get the Chairman's signature, and then the folder will be turned over to the CEO for a Building Permit.

Greg Mills asked for a Motion that we need to define the front setback, and variance to the side and back setbacks. It is not 6 feet - it is the difference between 6 feet and what the setback is. David Welsch said it would be 6 feet from the property line; the side is 4 feet, and 50 feet front from the center line. David Welsch asked a question for his own knowledge, as to where the center line is - from the center of the road, or the edge of the road. Kevin stated from the Ordinance "The nearest abutting lot line or nearest highway right of way". Both Brad Livesey and the Secretary stated when they built structures, the survey line was from the center of the road. Brad said that made sense, because if they decided to widen the road, there could be a problem. Kevin Caraccioli asked the Welsch's. what the time frame was, if they were waiting for the survey before they start the building. Diane Welsch said they will start when they receive the Building Permit.

Greg Mills said at this point, we are ready to entertain a Motion. Brad Livesey motioned that we approve the application with the additions, and clarifications, with 26 feet on the rear, and 14 feet on the side. Kevin told the Welsch's. when they receive the survey, to file a copy with the Town so it could be part of the file.

Bob Baker asked about submitting a record of the sale of the property, as part of the file. Greg Mills stated that would be a good idea. Diane Welsch stated that would go to the County Clerk's Office. Kevin then went over the procedure with the Welsch's., as to what documents would be issued from the County Clerk's Office, and a copy be submitted to the Town. Tim Anderson seconded the Motion. All ayes. Motion carried.

New Business:

Greg Mills stated we have on our Board, a person with professional knowledge, as an Engineer. He asked if Bob Baker could be of assistance on Building Permits, showing his expertise to the applicants on whether structures are up to specifications where a building will not fall down. Kevin Caraccioli said with the absence of a specific requirement in the law, someone has to build a structure a certain way. There is a building code we have to apply. He does not think it creates a special duty. The Building Inspector should be required to inspect the structures to see that they are up to code. The applicant must comply with all Federal, State and Local Rules and Regulations. He does not believe because we have a person with the knowledge, that it creates a special duty on the Board to point it out. What we are looking at in the particular application we approve, is how close they are to the lot line for a Variance. The Planning Board may look at the actual site, with the area being set up for construction. The Building Inspector would be the one to look at the trusses to see they are in the proper code.

Public Comment - No one present.

Open Board Discussion:

Greg Mills asked the Secretary if she had heard if we have a new Code Enforcement Officer at this time. The secretary said she contacted the Town Hall, and was informed there were two persons filling in, and would let her know when a permanent CEO would be on duty. At this point, she has not heard if a new one is on board.

Greg Mills also asked the secretary what the status is of the Comprehensive Plan is. She explained that at the last Planning Board Meeting, Judy Watson was to contact Brian Frazier of the County Planning Board for some material defining definitions. When Judy received these, the Secretary was to make copies and submit them to the Board Members in plenty of time, so the members could read them before the next meeting. She stated she did in fact receive the material today, and immediately made copies and sent them to the Planning Board Members. Greg Mills and Tim Anderson said they would try to attend the Planning Board Meeting on Monday, July 19th.

Tim Anderson questioned whether tonight's application had to be published again. Kevin explained that because it was tabled, it did not have to be republished.

Adjournment:

At approximately 7:45 PM, Brad Livesey made a Motion to adjourn the meeting. Tim Anderson seconded the Motion. All ayes, Motion carried.

Respectfully submitted,

Marjorie Best
ZBA Secretary