

June 17, 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 June 17, 2004.

Attendance

Those in attendance were:

Greg Mills, ZBA Chairman

Greg Auleta, ZBA Member

Robert Baker, ZBA Member

Brad Livesey, ZBA Member

Timothy Anderson, ZBA Member

Kevin Caraccioli, Legal Advisor

Marjorie Best, Secretary

Approval of Agenda:

Greg Auleta made a motion that we accept the Agenda. Brad Livesey seconded the Motion. All Ayes. Motion carried.

Approval of May 20, 2004 Minutes:

Greg Auleta made a motion that the May 20, 2004 Minutes be approved. Tim Anderson seconded the Motion. All ayes. Motion carried.

New Business:

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

Greg Mills called the Public Hearing at approximately 7:10 PM on Application #2004-03, David Welsch being the applicant for an Area Variance. Both David Welsch, and his wife, Diane Welsch were present. Greg asked Mr. Welsch to state his name, residence address, and the purpose of the application.

Mr. Welsch stated for the record that he is David Welsch, 351 West Lake Road, Oswego, New York. He stated he wants to build a garage. Greg Mills stated that according to the survey map, the garage is sitting on the Northeastern corner of the property, primarily the Eastern corner boundary. As a result, there is zero set back to the East, and behind the building, there is zero setback to the South. The regulations require a 30 foot setback on the side, and a rear setback of 20 feet. Greg asked if there were any questions from the applicant at this time. At this point, the members and applicants pointed out the property lines on the survey, as well as where the septic tank, leach field, driveway, water line, wooded areas, and the stone wall are situated. The survey was completed in 1986.

Greg Mills verified that the application was filled out completely, the neighbors have been contacted, and there has been a Legal Notice put in the paper on June 10th, and there is no opposition.

Greg Mills asked Kevin Caraccioli what the practical difficulty would be. Kevin stated when looking at the Variance provision in the Ordinance, it talks about in order to grant a Variance, there are special circumstances or conditions that apply to the land or building, and not applying generally to land or buildings in the neighborhood. Said circumstances or conditions are such that strict application of the provisions of the Ordinance would not deprive the applicant of the reasonable use of the land. To grant a Variance for the reasonable use of the land, and the Variance as granted by the Board is the minimum Variance that will accomplish this purpose. The granting of the Variance will be in harmony with the general purpose and intent of the Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The Board can prescribe any other conditions that are deemed necessary to accomplish those goals.

Bob Baker was concerned about the size of the building, being 24 feet wide and 32 feet long, and how Mr. Welsch was going to meet the 50 foot setback from the road. According to the survey, the property is 409.9 feet, and where the garage is going is 81.2 feet.

Greg Auleta stated there were procedural questions, which were discussed at the Workshop last week. Greg Mills stated that whenever you see construction and modification, if there was an incorrect placement, it would have to be corrected. He asked what would happen if the property owners change, and you have a building sitting on the boundary, if we make a decision tonight, and agree with the placement? He said since he has been on the Board, there has never been a building right on the property line.

Brad Livesey was concerned if the construction work goes over the property line, there could be a problem. The distance of a wall could be in a 2 foot situation. Brad explained a problem he encountered with a neighbor 30 years ago on a hand shake deal. Then years later, a new owner stated his building was over the property line. He said he would not want to see this happen to the Welsch's.

Diane Welsch stated they had informal discussions with the neighboring property owner about buying some land. She was afraid someone else might want to buy it, and stick a trailer in there.

Greg Auleta asked that suppose the Welsch's moved the building 4 feet North. This would eliminate the concern of constructing on the property line. There was also discussion of the jog in the property where the shed is.

Diane Welsch stated the problem could be solved by buying the portion of land from their neighbor. Greg Mills said it is the Welsch's decision, but he truly believes they could move the building 4 feet forward.

Greg Auleta stated that if the Welsch's buy the property from Rodney Byrne, there is a sense that the Variance can change. It would be good on their part, and it would protect us. He wanted to go on record that if we move the building 4 feet, is the water line going to create a problem by an act that we in sense imposed on him? Is that creating a liability? He said the solution to this would be a compromising tool. He said he would like to see them build this year.

Diane Welsch stated this would not be a problem, as they have waited 15 years to build. If it does not go up this summer, it would not be a problem.

Greg Auleta said in many cases, a Special Permit would be approved, based on a purchase agreement. The Welsch's made the decision to table the matter, and pursue purchasing some of the abutting property.

Greg Auleta moved that the application of David Welsch, Application #2004-03 be tabled to a subsequent meeting determined by the Welsch's

Greg Mills wondered if we would run into any complications, and Kevin stated that we would not at this point, as it was the request of the applicant. The Motion was seconded by Brad Livesey. All ayes. Motion carried.

Old Business:

No old business.

Public Comment:

No one present for public comment.

Open Board Discussion:

At approximately 7:55 PM, Greg Mills stated he would like to open discussion as to a Deputy Chairman, in the event there may be a meeting he cannot attend. It was stated that Brad Livesey had seniority, but Brad declined, as he did not feel qualified. It was agreed by the Board Members that Greg Auleta be appointed Deputy Chairman.

Brad Livesey made a motion that we appoint Greg Auleta to act as Deputy Chairman for the Zoning Board of Appeals. Bob Baker seconded the Motion. All ayes. Motion carried.

Adjournment:

At approximately 8:10 PM, Greg Auleta moved for adjournment. Brad Livesey seconded the Motion. All ayes. Motion carried.

Respectfully submitted,

Marjorie Best
ZBA Secretary