

DRAFT

Town of Westerlo Zoning Board of Appeals Westerlo, NY ZBA Meeting

Minutes

Date: Monday September 26, 2022

Location: Westerlo Town Hall

ZBA Members: Chairman Richard VanInderstine, Guy Weidman, George Spahmer, James Gallogly, Sean Leary

Town Attorney: George McHugh- not present

Town Supervisor: Matthew Kryzak- not present

Code Enforcement Office: Jeffry Pine- present

Non-members present: Six interested residents and ZBA Clerk Britta Biggs

MINUTES

Zoning Board of Appeals Member Leary made a motion to approve the August 22, 2022 minutes. ZBA Member Weidman seconded; all in favor motion carried.

OLD BUSINESS

MARCELLO (V-22-2)

ZBA Chair VanInderstine read through the balance test. There were no other comments.

ZBA Member Leary made a motion to approve the Marcello Variance 22-2. Additional questions arose and therefore motion was not carried.

ZBA Member Spahmer indicated the balance test was not one he could support at this time.

ZBA Member Gallogly indicated he is normally a stickler for the 50' setback rule but when he visited the neighborhood, he believed that the applicants request was acceptable for the area.

A neighbor's granddaughter expressed concern regarding her grandmother's vacant lot.

CEO Jeff Pine reminded the ZBA that they can always add conditions, such as a no cut buffer.

ZBA Chair VanInderstine suggested a 25' setback with conditions of a no cut buffer and no storage behind the building. The applicant was fine with it advising it is strictly storage for vehicles. Mr. VanInderstine made a motion to grant a 25' variance with conditions of a no cut buffer and no storage behind the building. ZBA Member Leary seconded; all in favor motion carried.

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NEW BUSINESS

BISHOP AREA VARIANCE (V-22-3)

Mr. Pine asked to explain the Bishop area variance application and provided the Board with two tax maps. One map was from prior to zoning when lots were originally created and were preexisting non-conforming lots. In 2003, the previous owners did a lot line adjustment which kept the acreage the same but changed the layout. This has been before the Zoning Board before and the neighbor took the town to court with an Article 78. Mr. Pine has a copy of the decision and the judge vacated the variance decision due to procedure. Mr. Pine indicated the ZBA can still revisit it as long as the zoning rules are followed. Currently, if the variance is not given, it could convert into the original preexisting lots as seen on the first map. Zoning was established in 1989, these lots were created after zoning. There was originally a trailer, well, septic and slab on the lot. At some point, the well and septic will have to be rechecked by an engineer.

This application is in front of the ZBA to give a relief of 1 acre and 13' of road frontage for the minimum requirement of 200'. Mr. Weidman advised it is a non-conforming lot prior to zoning, the applicant can build and meet current setback requirement without the need to come before the ZBA. Mr. Pine advised that Mr. Weidman was correct however, the lot has been reconfigured and the applicant is the third owner. The Town Attorney advised Mr. Pine that whenever properties are altered it resets the time and, in this case, the 2003 lot line adjustment would now have to meet current zoning. Mr. Weidman explained the lot was non-conforming before they started, and non-conforming after and no matter what they did they could not make it conforming. They can't add more property, but they made the lot better. Mr. Pine agreed it doesn't make sense to go back to the original lots. ZBA Member Weidman made a motion to accept Variance 22-3. Mr. Gallogly seconded; all in favor motion carried.

SCHEDULE PUBLIC HEARING – BISHOP VARIANCE (V-22-2)

ZBA Member Leary made a motion to schedule a Public Hearing on October 24th at 7 pm for the Bishop Variance 22-2. ZBA Member Spahmer seconded; all in favor motion carried.

ZBA Clerk Biggs indicated she would get in touch with the applicant regarding abutter letters in the next week or so.

CRONCE AREA VARIANCE (V-22-4)

CEO Pine advised that the new solar law indicates the building has to be a conforming structure for construction of rooftop solar. The Cronce building is only a few feet from the property line therefore the new law indicates the applicant must obtain a variance. He advised the best way to handle this would be to grant a variance and make a note to change the law. ZBA Member Weidman made a motion to accept the Cronce Variance application 22-4. Mr. Leary seconded; all in favor motion carried.

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SCHEDULE PUBLIC HEARING – CRONCE VARIANCE (V-22-4)

ZBA Member Leary made a motion to schedule a Public Hearing on October 24th at 7 pm for the Cronce Variance 22-4. ZBA Member Spahmer seconded; all in favor motion carried.

ZBA Clerk Biggs indicated she would get in touch with the applicant regarding abutter letter costs.

WINNIE AREA VARIANCE (V-22-3)

Mr. Pine explained that the Winnie's property is a preexisting non-conforming lot because there is more than one residence on the lot. The applicant would like to separate the apartment and rental buildings from the main parcel. Mr. Pine advised that the buildings themselves are preexisting non-conforming so it should be ok; however, the Town does have to comply with the density requirement when dealing with multi-families and lot size. Mr. Pine took the applicants two largest apartments off because a 2 family requires 5 acres. The density formula was applied to the remaining apartments. It was determined that the applicant would be short 3.4 acres for the density by the number of dwelling units. The density formula comes into play because the applicant is creating a new piece. Mr. Pine advised that the preexisting non-conforming multifamily on one lot is legal. There are 13 units in total and on one deed and are on both sides of the road. It's proposed to be on two separate deeds, an east side and a west side. Mr. Pine indicated all the things necessary to support those buildings is on the new proposed lots. This will go back before the Planning Board as a three-lot subdivision, the parent lot and the two new lots. The applicant advised they are starting with three lots and finishing with three lots; Mr. Pine responded that they are manipulating 3 lots, the applicant agreed. The applicant's son explained the idea of this is to get the apartments on one parcel while still having access to the lake and behind the apartments for the rest of the property. Mr. Weidman reviewed the map and asked questions of the applicant's son.

Mr. Weidman made a motion to accept the Winnie Variance application 22-3. Mr. Leary seconded; all in favor motion carried.

SCHEDULE PUBLIC HEARING – WINNIE VARIANCE (V-22-3)

ZBA Chair VanInderstine made a motion to schedule a Public Hearing on October 24th at 7 pm for the Winnie Variance 22-3. ZBA Member Leary seconded; all in favor motion carried.

PUBLIC COMMENT

No Public comment.

CLOSURE OF MEETING

ZBA Chair VanInderstine made a motion to close the meeting at 7:49 pm. ZBA Member Gallogly seconded; all in favor motion carried.

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Respectfully submitted,

Claire Marshall
ZBA Clerk