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**ZONING BOARD OF APPEALS
WESTERLO, NY
MEETING**

DATE: October 23, 2023

Location: Richard Rapp Municipal Building

ZBA Members: Chairman George Spahmer, James Gallogly, Sean Leary, Guy Weidman and Rich VanInderstine.

Town Attorney: George McHugh- not present

Code- Enforcement Officer: Jeff Pine- present

Non-Members Present: Thomas Smith, Didi Rea, Joseph and Stephen Kralovich, Planning Board Member Bill Hall, and Claire Marshall Clerk to Zoning Board.

OPEN MEETING:

Meeting was open at 7pm with the Pledge of Allegiance

ZBA Member VanInderstine made a motion to approve the September 20, 2023 meeting minutes. ZBA Member Spahmer seconded; motion carried all in favor. ZBA Chairman Spahmer made a motion to approve the September 25, 2023 meeting minutes. ZBA Member Gallogly seconded; motion carried all in favor.

OLD BUSINESS

SMITH VARIANCE V-23-3 (Steward Rd)

Applicant is appealing a Stop Work Order and asking for a Variance. A Public Hearing was done on September 20, 2023. A discussion ensued regarding a court order, restricted deed requirements, and definitions of foundations and square footage. A motion was made to postpone a decision till tonight. A letter was never received from Santos the Developer. Chairman Spahmer mentioned how this was a difficult case and unusual case. Not common for the Town to be involved in upholding deed restrictions of this nature. The applicant is asking to overturn the determination of the zoning officer in regard to two deed restrictions. The requirement for a foundation wall, and the minimum required 2000 Square ft of living space. In addition, if the board does not decide in favor of the applicant, a request of relief is sought for a variance.

Chairman Spahmer made a motion to vote on the request to overturn the stop work order involving definition (Code Enforcer determination) on the poured wall versus the pier system foundation and on the living, space actually being 2,000 square ft. ZBA Gallogly seconded; The ZBA board agreed with the zoning officer's interpretation. 5 yes votes. SWO not removed at this point which leads to the request for a variance in a separate action.

Chairman Spahmer mentioned a request for a Variance for relief for the concrete wall requirement and the 2,000 square ft of living space. He mentions that it meets the Balancing test.

1. Whether the benefit can be achieved by any other means. (Properly designed foundation, all codes meet NYS requirements) The right foundation for the project.

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2. No adverse change in Neighborhood. (800 ft rd. no neighbors)
3. Request Substantial, no (complies with living space requirements for Town of Westerlo
4. Adverse effect on Environment: No
5. Self-Created: No

Chairman Spahmer made a motion to vote on the request for a Variance to the Smith V-23-3. ZBA Member Gallogly seconded; the Board Voted 4 Ayes 1 Nays motion carried.

CEO Pine mentioned to the applicant that a permit will need to be updated. Contractor needs to connect with Mr. Pine.

NEW BUSINESS

Kralovich Variance V-23-6 Applicant would like to sub-divide his 40-acre lot to create a 3-acre lot for his father to build a house. He is seeking relief of 25 feet from Zoning, Article 6 definition (Flag Lot). Flag lots require the flag corridor to be no less than fifty feet. The existing lot has 50 feet of road frontage on Elm Lane Ext. Applicant owns Elm Lane Ext. according to his deed. All other parcels have easements. It is a Town Road.

Chairman Spahmer made a motion to accept the application of Kralovich Variance V-23-6. Member VanInderstine seconded; motion carried all in favor.

Public Hearing will be November 27, 2023 at 7pm. ZBA Member VanInderstine made a motion for a Public Hearing for November 27, 2023 at 7pm for the Variance V-23-6. Member Leary seconded; motion carried all in favor.

ZBA Member Weidman mentioned to CEO Pine if the comprehension plan would work for a Use Variance. He asked Chairman Spahmer to read the part of the plan about senior housing. Chairman Spahmer read 8.21 Accessory dwelling unit could be an in-law, parent or other dwelling in parcels that are at least 3 acres. CEO Pine mentioned that the comprehension plan is a guide for future Zoning and not an enforceable factor. CEO Pine suggested that Elm Lane Ext. should be deeded to the Town.

COMMENTS

Board Members were wondering where the Attorney was, they felt they could have used legal advice and Chairman Spahmer mentioned he asked the Attorney to be at this meeting.

With no other questions or comments Chairman Spahmer made a motion to close the meeting at 7:50pm. Member Weidman seconded; motion carried all in favor.

Respectfully submitted,

Claire Marshall- Clerk to ZBA