

TOWN OF DRYDEN
Zoning Board of Appeals
Nov. 6, 2018

Members Present: Jeff Fearn (Chair), Ben Curtis, Mike Ward, Henry Slater, Janis Graham

Absent: 0

Others Present: Ray Burger Director of Planning, Joy Foster Recording Secretary

Residents: Brian Simkin, Brandy Morehouse, Bryan Bangs, Bruce Nelson

Meeting called to order at 7:05 PM

327 Groton Rd., Area Variance

Applicant: Brandy Morehouse

Chair Fearn reads the public notice:

NOTICE that the Zoning Board of Appeals of the Town of Dryden will conduct a Public Hearing to consider the application of **Brandy Morehouse** for an **area variance** to build a garage in the front yard at **327 Groton Rd.**, known as Tax map # 23.-1-25.131. Town Zoning Law prohibits placement of an accessory structure in the front yard.

SAID HEARING will be held on **Nov. 6, 2018 at 7 pm** prevailing time at the Dryden Town Hall, 93 East Main St. Dryden NY, at which time all interested persons will be given an opportunity to be heard.

Individuals with visual, hearing or manual impairments and requiring assistance should contact the Town of Dryden at 607-844-8888 x 216 at least 48 hours prior to the time of the public hearing.

Fearn asked applicant if there was anything further to add?

Applicant: *The only thing is the location that we want would help cut down on noise from the main road and it's the only place that wouldn't affect where our well and septic is, so it's the easiest place.*

Fearn: are there any questions from the board? Have there been any comments from the neighbors? Anyone in the audience?

Burger: No comments, we have the review from the County Planning where they have no concerns.

ATTACH CO. Letter Next

Tompkins County
DEPARTMENT OF PLANNING AND SUSTAINABILITY

121 East Court Street
Ithaca, New York 14850

Katherine Borgella, AICP
Commissioner of Planning and Sustainability

Telephone (607) 274-5560

October 31, 2018

David Sprout, Code Enforcement Officer
Town of Dryden
93 East Main St.
Dryden, NY 13053

Re: Review Pursuant to §239 -l, -m and -n of the New York State General Municipal Law
Action: Area Variance for proposed garage located at 327 Groton Road, Town of Dryden Tax Parcel #23.-1-25.131, Brandy Morehouse, Owner/Appellant.

Dear Mr. Sprout:

This letter acknowledges your referral of the proposal identified above for review and comment by the Tompkins County Department of Planning & Sustainability pursuant to §239 -l, -m and -n of the New York State General Municipal Law. The Department has reviewed the proposal, as submitted, and has determined that it has no negative inter-community, or county-wide impacts.

Please inform us of your decision so that we can make it a part of the record.

Sincerely,



Katherine Borgella, AICP
Commissioner of Planning and Sustainability

Fearn: 7:10 pm motion to close the public part of the hearing and as a board will answer the 5 questions. Second: Graham

All in favor - Yes

A. IN CONSIDERING WHETHER AN UNDESIRABLE CHANGE WOULD BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY GRANTING OF THE AREA VARIANCE THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Minimal to no impact, it's hard to see due to the layout of the property and the situation of where the garage would be located.

Motion made by: **Fearn - Yes**

Second: **Ward- Yes**

All in favor - Yes

B. IN CONSIDERING WHETHER THE BENEFITS SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME OTHER METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Yes, but the burden on the applicant would be totally disproportioned to any conceivable benefit to the community or the neighborhood.

Motion made by: **Curtis - Yes**

Second: **Ward- Yes**

All in favor - Yes

C. IN CONSIDERING WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Its 500' back in a deep lot.

**The Zoning Board Chair will send the recommendations for the Planning Board to change the language to read that an accessory building be allowed in the front yard as long as it meets required setbacks*

Motion made by: **Curtis- Yes**

Second: **Ward - Yes**

All in favor - Yes

D. IN CONSIDERING WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

See "A" above

Motion made by: **Curtis - Yes**

Second: **Fearn- Yes**

All in favor - Yes

E. IN CONSIDERING WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Yes, and see "A, B, C, & D" above

Motion made by: **Graham- Yes**

Second: **Curtis Yes**

All in favor - Yes

Fearn: this area variance is SEQR exempt type II action part 617.5c- 10

Motion made by: **Fearn**

Second: **Curtis- Yes**

All in favor - Yes

Grant variance

Motion made by: **Fearn to Grant Variance as requested.**

Second: **Slater- Yes**

All in favor - Yes

Chair Fearn reads the public notice for next hearing:

NOTICE that the Zoning Board of Appeals of the Town of Dryden will conduct a Public Hearing to consider the application of **Mathew Haney** to **subdivide** property at **257 Virgil Road**, known as Tax map # 37.-1-33.1 and located in a Rural Agricultural (RA) Zoning District. The application is for Lot Frontage Relief for the purpose of subdivision. Applicant seeks to create 2 lots with 224 and 250 feet of frontage where 250 feet is required in this RA District.

SAID HEARING will be held on **Nov. 6, 2018 at 7:15 pm** prevailing time at the Dryden Town Hall, 93 East Main St. Dryden NY, at which time all interested persons will be given an opportunity to be heard.

Individuals with visual, hearing or manual impairments and requiring assistance should contact the Town of Dryden at 607-844-8888 x 216 at least 48 hours prior to the time of the public hearing.

Fearn asks if applicant is here?

Appears no one has shown up for this appeal.

Board decides to table this hearing instead of denying it, they don't feel comfortable hearing or acting on this as applicant is not here to answer questions. Board gives the applicant an opportunity to appeal at a future regularly scheduled ZBA meeting.

Motion made by: **Curtis- Yes**

Second: **Fearn - Yes**

All in favor - Yes

Curtis: brings up that he is having a hard time understanding where and how this administrative Subdivision even comes from. I've gone through the Town Law 276, The Board with Ray Burger discuss this as a group. They talk about SEQ, Lead Agency, and Subdivision.

The Planning Board has submitted recommendations for the ZBA on these Area Variances/Subdivisions.

Curtis motions to approve the Planning Board discussion points.

Second: Slater

All in favor: - yes

Attach PB

recommendations next...

ZBA Request for Planning Board recommendation – area variances

According to NYS Town Law 277 there is a requirement for the ZBA to get recommendations from the Planning Board. Both cases are looking for lot frontage relief and R Burger provided members with a copy of the Planning Department memo to the Zoning Board of Appeals for the matters to be heard on November 6, 2018.

2085 Dryden Road – This is a large 16-acre lot that contains the book auction house and extends from Route 13 out beyond the end of Scout Lane. It is zoned mixed use commercial on Route 13 and the majority of the southern portion is zoned neighborhood residential. There are small subdivisions on either side. The owner is seeking a frontage variance to subdivide and create two lots. The larger back lot would be accessed solely through Scout Lane.

Discussion/comment:

- Scout Lane ends abruptly; it could be converted to a turn-around.
- If more than a single residence was put on that lot, the requirement would be for a proper turn-around and making it a proper part of Scout Lane.
- Neighbors have likely been looking at this parcel as open space; can right of first refusal be offered to neighbors?
- Could there be a development with a common driveway?
- There is a wet area that could be offered as a conservation area.
- The frontage requirement is a mechanism for maintenance of semblance of open space in our town.
- This might be an opportunity for cluster housing.
- This is a request for massive relief.
- It is somewhat land locked.
- Scout Lane is a town road, built to town specifications and deeded to the town.
- An extension would need to be built to town specifications and if built, will need to be maintained by the town and so is an expense to the town.
- This is a neighborhood residential area and it is not inconsistent with the neighborhood.
- If a cluster subdivision was done the wet area could become a conservation area.
- Applicant could come to the Planning Board to discuss a development plan.

The Planning Board agreed to recommend that the Zoning Board of Appeals deny the application and that the applicant come to the Planning Board with a plan. The matter properly belongs before the Planning Board.

257 Virgil Road – Applicant would like to divide his property into two lots and is asking for 26' relief on the frontage requirement on one lot.

Discussion/comment:

- There could be a shared driveway.
 - This is large variance and sets a precedent.
 - It is an excessive amount of relief.
-

- The plan doesn't meet the criteria of road frontage.
- Don't see the hardship.
- Line of site in that area is not good.

The Planning Board recommends that the Zoning Board of Appeals deny the application because it is an excessive amount of relief.

Fearn reads the next legal notice 7:46 pm

NOTICE that the Zoning Board of Appeals of the Town of Dryden will conduct a Public Hearing to consider the application of **David Hall** to **subdivide** property at **2085 Dryden Road**, known as Tax map #46.-1-69.162 and located in Mixed-Use Commercial (MUC) and Neighborhood Residential (NR) Zoning Districts. The application is for Lot Frontage Relief for the Purpose of Subdivision. Applicant seeks to create one lot with 60 foot of frontage at the end of Scout Lane where 150 foot is required in this (NR) District. The second lot will have 343 feet of frontage on Dryden Rd., which complies with the 250' foot frontage requirement of the MUC District.

SAID HEARING will be held on **Nov. 6, 2018 at 7:30 pm** prevailing time at the Dryden Town Hall, 93 East Main St. Dryden NY, at which time all interested persons will be given an opportunity to be heard.

Individuals with visual, hearing or manual impairments and requiring assistance should contact the Town of Dryden at 607-844-8888 x 216 at least 48 hours prior to the time of the public hearing.

Fearn asks if applicant is here and if they have anything further to add?

Applicant adds that this lot is naturally divided by a wet area with back having acreage. The zoning of this property is actually zoned commercial in the front and the back is residential, with houses etc... So, going through the front to the backside would create a disturbance of that wet area. We'd like to have someone build a house in the back and have the ponds on either side perhaps for a horse or 2, its natural and a beautiful area.

Curtis: in the back is Scout Lane and it's a turnaround?

Slater: what is your purpose to have just one residential lot?

Applicant: the front is commercial and its up for sale and I'd like a lot in back with the wet lands to be residential. We don't have any plans now to do anything with it, we'd just like to get this divided and a new buyer can come in and do their plans. So, we'd like to sell both lots. And this would actually benefit the back neighbors because right now a commercial business could come in now and push through to the back that would be allowed. Where if we were to divide this now that would stop any commercial business from coming through. It would be one big lot with 13-14 acres.

There are **3 neighbors** in the audience and they start asking applicant questions and for him to clarify his intentions. They understand him to say that he wants to keep the commercial lot in the front and keep the back residential. They all are discussing this. The outcome is the neighbors are happy with what applicant has told them, they don't want commercial in the back to disturb their value or beautiful homes that they value. They all leave the meeting happy.

Fearn: *ok moving along, we have heard comments from the audience, Ray are there any other comments.*

Burger: *we have none, no comment from the DOT, we got a reply from Highway Superintend saying that he has no issues with Scout Lane being used.*

Slater: *talks about Scout Lane and how its undeveloped to the applicant's property line and deeded to the Town, and the Town will not want to spend any money on finishing or maintaining this road addition. Board is looking at a survey that shows this Scout Lane they are talking about.*

Burger, the Board and the applicant *all talking about different scenarios at once, back and forth.*

Burger: *When you grant a variance you can add conditions, and if those conditions further the intent of the Zoning law, there doesn't have to be this grant of a variance for accessing this neighborhood residential back portion.*

Curtis: *I have never heard of making conditions that the Town has to fulfill, I've heard of making conditions that the applicant has to fulfill, and the applicant cannot re-zone this parcel.*

Burger: *a covenant that would restrict it to residential development.*

Ward: *but that's a covenant that's not ours, we can't issue a covenant.*

Curtis: *under strong direst I could imagine approving this subdivision with a strong recommendation to the Town that they review these procedures, or just simply running through the Planning Board like everyone else does, that's my suggestion. And then to make this subdivision make sense that they re-zone this little piece of land that is commercial and that the Town re-zone that piece to the Residential lot line, makes no sense to have 2 zoning districts on one parcel. This is what I recommend, we can't have the applicant do that.*

Burger: *can it be volunteered by the applicant to say residential development on that back piece only?*

Curtis: *The only way to do that is for the Town to re-zone that piece.*

Graham: *for me the idea would be to somehow insure that this subdivision that the part that is accessed through Scout Lane remains residential, this was the neighbors that spoke tonight, this was their concern as well.*

Burger: *or the Plat could have a note that says residential development only on this lot.*

Fearn: motions to close this part of the hearing 8:03 pm

Second: Graham-yes

All in favor: - yes

We have already deliberated and will move on to the findings.

Curtis: will abstain on the final vote because he feels the process is totally wrong. I believe the minor and major subdivision should go to the Planning Board, however I don't want to hold this project up.

A. IN CONSIDERING WHETHER AN UNDESIRABLE CHANGE WOULD BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD OR DETRIMENT TO NEARBY PROPERTIES WILL BE CREATED BY GRANTING OF THE AREA VARIANCE THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

There is not change

Motion made by: Slater - Yes
Second: Graham- Yes
All in favor - Yes

B. IN CONSIDERING WHETHER THE BENEFITS SOUGHT BY THE APPLICANT CAN BE ACHIEVED BY SOME OTHER METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

We don't know what the future plans for the parcel will be.

Motion made by: Curtis - Yes
Second: Slater- Yes
All in favor - Yes

C. IN CONSIDERING WHETHER THE REQUESTED AREA VARIANCE IS SUBSTANTIAL. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Yes, more than 50% about 88'

Motion made by: Slater- Yes
Second: Fearn - Yes
All in favor - Yes

D. IN CONSIDERING WHETHER THE PROPOSED VARIANCE WILL HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

At this point No, because we don't know what future plans will be, and the neighbors were here and are in support of the project.

Motion made by: Fearn - Yes
Second: Graham- Yes
All in favor - Yes

E. IN CONSIDERING WHETHER THE ALLEGED DIFFICULTY WAS SELF-CREATED. THE ZONING BOARD OF APPEALS FINDS AS FOLLOWS:

Yes, however the applicant is making the best of a bad situation.

Motion made by: **Curtis- Yes**
Second: **Fearn - Yes**
All in favor - Yes

Can't determine SEQR status at this time till the plot is determined and we refer SEQR to the Zoning Officer.

Motion made by: **Fearn**
Second: **Graham- Yes**
All in favor – 4 yes, 1 abstain (Curtis)

Motion 1: Curtis *I would strongly suggest a recommendation to the Town Board and the Planning Board to re-write the minor subdivision procedure to be more consistent with State Law by having all subdivisions go to the Planning Board.*

Motion made by: **Curtis**
Second: **Fearn- Yes**
All in favor – Yes

Motion 2: *Also recommend that the Zoning District line be moved to realign with the subdivision line between commercial and residential.*

Motion made by: **Curtis**
Second: **Fearn- Yes**
All in favor – Yes

Condition:

That the owner indemnify the Town from any cost associated with extending or maintain Scout Lane. Town will not do snow removal either.

Motion made by: **Curtis**
Second: **Slater- Yes**
All in favor – Yes

Fearn motions that they approve the 61.4 feet of road frontage condition upon receiving subdivision approval with motions 1&2 and condition.

The future owner of the property will be responsible for maintaining Scout Lane.

Motion made by: **Fearn**
Second: **Slater- Yes**
All in favor – 4 yes, 1 abstain (Curtis)