

TOWN OF DRYDEN
Zoning Board of Appeals
Aug. 13, 2019

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

Absent: Janis Graham

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

Residents: Joanne Fortune 4 Fox Hollow & Ahren Sadoff 3 Fox Hollow

Meeting called to order at 6:00 PM

155-59 Game Farm Road, Use Variance

Applicant: Rick Bayo

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 **Rich Bayo to change one nonconforming use to a similar nonconforming use pursuant to Town of Dryden Zoning Law Section 1601 C. The property is located at 155-159 Game Farm Road, tax parcel 67.-1-37.3 and is in a Neighborhood Residential District. The parcel presently has two mobile homes, which are not an allowed use in this district. The applicant wishes to replace them with two stick-built homes.**

SAID HEARING will be held on **August 13, 2019 at 6:00pm** 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 if applicant had anything further to add?

Applicant: I Bought the property last March, and before I bought, I asked the Town Planning Dept. what would be allowed and was told would be able to have the same size homes nothing bigger. Was not told about the 12-month clause. I'm not looking to add more people than what's already been there, just looking to make it look nicer. They haven't been rented out since March 2018. I could have rented them but didn't want to, had I'd known about the clause I would of rented them.

Resident Joanne Fortune: I'm here representing myself and my neighbors Kyra Stephanoff and Paul Steen from 8 Fox Hollow. They sent in letters. Our main concern is the water supply as we don't have good supply where at times, we have had none for days. And we feel this would put additional strain on the water supply. Letters to be added in the minutes.

ADD LETTERS

To all that are running the meeting:

My husband, Paul Steen and I, live at 8 Fox Hollow Road. We currently are traveling in Europe and cannot attend the meeting mentioned in the notice below. We both object to the building of two houses on the Game Farm property. We ask that this meeting be postponed until we return to our home on September 1. It is highly unfair to hold such a meeting while we are away. Our property abuts the Game Farm property and if my written objection in this email is insufficient, we request the chance to make our objection in person.

Please respond to this email so that I know it was received.

Thank you,
Kyra Stephanoff

kyra88fox@icloud.com

Aug. 9, 2019

August 12, 2019

To whom it may concern,

Regarding the parcel at 155-159 Game Farm Road and the recent application to the Town of Dryden Zoning Board of Appeals to change one non-conforming use (two single-wide mobile homes) to another non-conforming use (two stick built houses), we respectfully offer the following comments.

Background facts. The immediate neighborhood of 155-159 Game Farm Road includes six properties: 163 and 167 Game Farm and 3, 4, 7 and 8 Fox Hollow Road. Paul Steen (since 1983), jointly with Kyra Stephanoff (since 1989), is the owner/resident of 8 Fox Hollow. Owners/residents of 3 and 7 Fox Hollow Road have not changed since the mid-1970s. In fact, only one house on Fox Hollow has changed hands in the past 35 years. That was 7 Fox Hollow purchased by Rich Bayo around 2007. For many years, Cesear Ibarra owned the 155-159 Game Farm property. Members of the Ibarra family resided in the house at 159 for nearly 35 years. The two single-wide trailers were rented out. This property changed hands in the past two years. It is now owned as a *Limited Liability Company* by Rich Bayo.

No municipal water system reaches these six properties, which means that all residents depend on *drilled wells for their water*. Many of these properties share *the same underground water aquifer*. Our experience at 8 Fox Hollow illustrates the state of that aquifer. Our well is some 250 feet deep and it produces less than 1 gallon per minute. Events where our well runs dry temporarily have been more frequent over the past 20 years. When one of these events occurs, we are unable to draw water for a period – typically 24 hours or so – before the well recovers. The other six properties have experienced similar events. *Our water aquifer is shared. Our water aquifer is challenged.*

In the late 1990's timeframe, Mal Nesheim, then the owner of 7 Fox Hollow and supported by several of the above group of six owners, wrote the Dryden board about extending municipal water out Ellis Hollow Road. Little came of the effort. However, this illustrates the *precarious state of our aquifer*.

Water usage at one property can influence water availability at another. An event where a toilet was left running at 155-159 Game Farm led to a dry-well event at 8 Fox Hollow Road. In August 2010, the installation of supplementary water storage tanks at 7 Fox Hollow Road led to cloudy water at 8 Fox Hollow for two weeks, at least. Dry-well events at one property correlate with extra water usage at another property. *Our water supply is jointly shared and our water supply is limited.*

Precedent. During the 1980s, Ibarra applied to the Town of Dryden Zoning Board of Appeals to replace the two single-wide trailers with two double-wide trailers. The application was turned down based on the greater non-conformity of the request. A double-wide trailer can have twice as many residents as a single-wide. This application in effect requested a doubling of the existing non-conformity.

- 1) Whereas the present request for two stick-built houses will increase the non-conformity by many-fold, this must be recognized as a significant enhancement of the present zoning deviation,
- 2) whereas there is precedent for limiting the non-conformity at 155-159 Game Farm Road, this precedent should be respected,
- 3) whereas Mr Bayo is owner of 155-159 Game Farm Road through a Limited Liability Company, there is implied intent that the two stick built houses will be solely for commercial use. This counters the Ibarra use of the non-conformity and is a *head on attack of the current zoning ordinance*, [section 606. "Single-

Two- and Multi-Family dwellings are permitted to a maximum allowable density of 2 Dwelling Units per acre . . ." The request is for 3 dwellings on the property. What limits them to Family Dwellings?]

4) and whereas the underground water aquifer that supplies 155-159 Game Farm Road is shared by 8 Fox Hollow and, likely, others of the six properties, the requested variance will have *immediate and potentially dire consequences* to the viability of living in these six neighborhood residences.

For all these reasons 1)-4), this application for a many fold increase in the non-conformity in a residentially zoned neighborhood should be respectfully declined.

Paul Steen & Kyra Stephanoff

8 Fox Hollow Road

Ithaca, NY

Ps. We regret that we are unable to attend the public hearing in person, owing to short notice and being out of the country.

Applicant: Bayo, as I have said I'm not looking to add anymore people to the house, I have already drilled for a new well. I used to live at 167 Game Farm Rd., and I did have water issues as well. I'd like to replace the mobile homes that are about 700 sq. ft. with small homes that are about 800'.

Board to applicant: Is there a unique feature about this property that would prohibit it from performing as a single-family home?

Applicant: The whole lay-out of the property is designed to have multiple homes, there is a wraparound asphalt driveway. Its probably been like this for 30 years.

Board: did you know the property was non-conforming when you bought it?

Applicant, I did not, I bought from a homeowner, but I called the Zoning Dept. and was told I was OK to have what I have there.

Board: so, you didn't know it was non-conforming, and non-conforming means you can't do anything, only with what exists there.

Resident: Ahren Sadoff, 3 Fox Hollow Rd. My question is, that these are already non-conforming, and Mr. Bayo wants to add 3 more non-conforming, so I guess I need to know what non-conforming means?

Board: a non-conforming use typically predates the zoning , so if someone builds something that is legal and the town comes in and changes the zoning , now its non-conforming, this protects the owner from the town coming in and tear down your house, its like being "Grandfathered" with conditions like the one on this property. If you discontinue the use for 12 months you are no longer allowed to continue the use, if you continue the use you can't enlarge it.

Applicant: I'd like to add that if I need to stay with the sq. footage that is there, I will work it out. I'm not looking to add just to improve.

Fearn: we will add the Count 239 letter to the minutes. Also notified was the Tompkins Co. highway dept. and they had no comment.

Fearn: would like to motion to close this part of the public hearing
Second: Curtis- Yes
All in favor - Yes

Curtis: states that it's on record that the use has been discontinued for 18-months now and moves to deny the variance request because it doesn't meet the conditions referred to in 1601c and based on fact that the use has been discounted for 1601d and that the Planning Dept. follow up with the applicant to terminate the use permanently as required by law.
Second: Slater- Yes
All in favor - Yes

Fearn: yes, that being the case that a non-conforming use has been discontinued for a period of 12 consecutive months such non-conforming use shall not be reestablished and any subsequent use of structure or land will be in conformance with the provisions of the law or district in which such structure or land is located.

Page 80

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

August 5, 2019

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

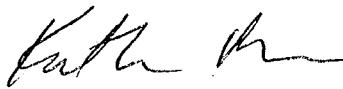
Re: Review Pursuant to §239 -l, -m and -n of the New York State General Municipal Law
Action: Area Variance for proposed garage in the front yard of 540 Bone Plain Road, Town of Dryden Tax Parcel # 21.-1-39.4, Timothy Sears, Owner/Appellant.

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 6:27 pm reads next legal

NOTICE that the Zoning Board of Appeals of the Town of Dryden will conduct a Public Hearing to consider the application of **Timothy Sears** for **variances to allow a garage in the front yard, within 34' of the ROW at 540 Bone Plain Road, Tax Parcel 21.-1-39.4.** Town Zoning Law prohibits placement of an accessory structure in front yards. Fifty feet is the required front yard setback.

SAID HEARING will be held on **Tuesday August 13, 2019 at 6:15pm** 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 to applicant do you have anything further you'd like to add?

Applicant: I have been 2 years trying to decide where the best place was for this garage. Garage is needed for some valuable vehicles.

Board: So, we are looking at 2 variances, one for setback relief and another for structure in front yard. As a board we must always determine 1st if there is another way to accomplish requested task without requiring a variance. I'm wondering why you can't attach this garage to the current building and turn it 90 degrees then you won't need any variances?

Applicant: I was planning on leaving a 6-8-foot space between so the roofline would not cause a leak somewhere. But I believe I can attach it and turn it around.

Fearn would like to motion to close this part of the public hearing

Second: **Curtis- Yes**

All in favor - Yes

Board: and applicant discuss plans back and forth how to make the changes without needing a variance.

Board: would lean toward denial knowing there are other ways to achieve the task. Board suggests leaving the hearing open for applicant to re-work garage placement and after if applicant finds he is short a couple of feet requiring a much less variance that would seem more feasible.

Motion made by: ***Curtis to continue this hearing for 60 days so applicant has time to re-work his plans with the zoning department to bring this up to compliance.***

Second: **Fearn- Yes**

All in favor - Yes

Fearn motion to adjourn

Second: **Slater -Yes**

All in favor - Yes

6:46 pm meeting adjourned