

Tivoli Village Zoning Board of Appeals

Minutes of Monthly Zoning Board of Appeals Meeting December 12, 2006

CALL TO ORDER/ DETERMINATION OF QUORUM

Meeting was opened at 7:03pm and a quorum determined present for the conduct of business.

Zoning Board of Appeals Attendees:

Hildegard Edling
Karen Cleaveland
Mike Leedy
Emily Majer
Susan Rogers (alternate)

Also Present:

James Simmons
Richard I. Cantor
Ken McCarthy
Bettina Mueller
Cinda Sparling
Dr. Anita Micossi
Robert Zises
Eileen Digan
Thomas Drahushuk
Leigh Palmer
Jonathan Trombly
Mary Chang
Kim Keel
Robert Petersen
Tom Cordier
Cassie Carbone

Absent:

Mike Braun

BUSINESS SESSION

1. Review of past meeting minutes:
 - a. November 27, 2006 Minutes were distributed to the Board members, but will not be reviewed and accepted until the January 2007 meeting.

2. Hildegard discussed the Accessory Apartment material that was distributed at the last meeting and said that she will submit suggestions to the Mayor.
3. Hildegard Edling handed out copies of a memo she sent to Mayor Marc Molinaro regarding a replacement for Mike Hayes.
4. Hildegard Edling asked to let the record state that Susan Rogers, an alternate, is substituting for Mike Braun at this meeting.

PUBLIC HEARING

1. James Simmons, 18 North Road –Rear. Application for an Area Variance. Presented by James Simmons. This meeting continues the Public Hearing from the November 27, 2006 Zoning Board Meeting.
 - a. Hildegard re-stated that the Application is for an Area Variance to allow less than the minimum 50' frontage for parcel access. Mr. Simmons is seeking parcel access off of Memorial Drive to make a building lot. 25.27' is the current frontage.
 - b. Hildegard discussed the site visit by the Zoning Board, and discussed the drainage issues on the site.
 - c. Mr. Simmons has been asked to complete a long Environmental Assessment Form (EAF) to be submitted in a few weeks.
 - d. Hildegard Edling passed out a page from the Greenway Guide about "Building in Context" (see attached).
 - i. Hildegard discussed the "Context and Compatibility" section of this handout. She noted that items 1 & 2 (Heights and Front Setbacks) are applicable for the Zoning Enforcement Officer, and that items #3-7 (Roof Shapes, slopes, and cornices; Rhythm of building spacing along street and overall scale; Proportions for facades and window openings; Materials, textures, and colors; and Site details) are applicable for the Architectural Review Board.
 - e. Hildegard noted that this lot is in the R1A district.
 - f. Hildegard discussed DePeyster Street and said that in her conversations with Chris Chale, Village attorney for the Zoning Board of Appeals, it was determined that the Village did not officially accept DePeyster Street and that it does not appear on the old Zoning map.
 - g. The Board reviewed Mr. Simmons deed –dated 1981. Mr. Simmons showed the Board three adjacent lots that were originally owned by the Simmons family and showed how the 18 North Road parcel was accessed in the past.
 - i. Hildegard asked Mr. Simmons if there are older deeds and Mr. Simmons responded that there are older deeds.
 1. Hildegard asked Mr. Simmons to bring in copies.
 - h. The issue of snowplowing was discussed as still being an issue because currently, snow is plowed to the end of Memorial Drive. The Board agreed that this is a problem the Village can likely solve.

- i. Susan Rogers asked if the long EAF is required for this variance. Hildegard said that it is not required but is being done for drainage mitigation purposes.
- j. Public comment:
 - i. Richard I. Cantor of Teahan & Constantino Counsellors at Law, on behalf of Ken McCarthy and Bettina Mueller of 14 North Road.
 - 1. Mr. Cantor introduced himself and explained that he was present on behalf of his clients, to speak in opposition to the application for an Area Variance by Mr. Simmons.
 - 2. Mr. Cantor explained his key points and read aloud a letter to the Zoning Board. He also provided a written submission of the letter (see attached).
 - ii. Cinda Sparling, 20 North Road:
 - 1. Ms. Sparling explained that she and Robert Petersen own property adjacent to 18 North Road, and that they have a studio 50 inches from this property line. Ms. Sparling said that Mr. Petersen works primarily on paper, which makes his lifetime of artwork threatened by potential drainage issues.
 - 2. Ms. Sparling also added that this proposal threatens the integrity of the historical area and reiterated that this application does not conform to Village Code on frontage.
 - 3. Ms. Sparling closed by submitting a letter of opposition to the Zoning Board (see attached).
 - iii. Dr. Anita Micossi, 22 North Road:
 - 1. Dr. Micossi spoke about the visual impact of this proposed variance on the neighborhood and asked Mr. Simmons to withdraw his application until the new Bulk Regulations are adopted by the Village, out of respect for the neighbors.
 - 2. Dr. Micossi submitted a letter to the Board in opposition to the application (see attached).
 - iv. Robert Zises, 22 North Road:
 - 1. Mr. Zises submitted a letter of opposition to the Board and discussed its key points (see attached). He suggested that Mr. Simmons submit a Site Plan with this application, because without it he can only assume the worst scenario.
 - v. Eileen Digan, 12 Memorial Drive:
 - 1. Ms. Digan noted that her property does not abut the Simmons property, but that she lives near it.
 - 2. She said that drainage has been a problem since she moved in, and this request would not necessarily be adverse and might even be an opportunity to remedy the problem.
 - 3. Ms. Digan said that on Village character, this Village is 'eclectic' and that she believes it can work around a new property.

4. Ms. Digan said that as for Jim offering the property to neighbors, this would be fair only if offered at fair market value.
5. Ms. Digan closed by saying that she wants people to remain open to the idea of this application, and that as a Village, she believes we can work together to make everyone happy in this situation.
- vi. Thomas Drahushuk, 21 Lisa Lane:
 1. Mr. Drahushuk stated that his property is flooded much of the time. He explained the degree of flooding problems he already experiences, and his concern about further drainage issues from this application.
- vii. Leigh Palmer, 24 North Road:
 1. Mr. Palmer explained that his property does not abut the Simmons property, but that he does live near it.
 2. He said that it is hard to be excited about this application without having a site plan to look at.
 3. Mr. Palmer talked about the traditional feeling of the road as it exists currently with road frontage and privacy in the back yards, and said that a potential house on this property would affect that sense of privacy and street character.
- viii. Jonathan Trombly, 11 Pine Street:
 1. Mr. Trombly submitted a letter of opposition for this application (see attached).
- ix. Kim Keel, 16 Memorial Drive:
 1. Mr. Keel said that the Board needs to look at the hardship and who created it.
 2. He also noted that drainage is a big problem and suggested that neighbors ask the Village to look into mitigation efforts in terms of installing larger pipes, etc.
- x. Letters were submitted on behalf of Marian J. Davis, 16 North Road, and Ken McCarthy, 14 North Road (see attached).
- xi. Richard I. Cantor of Teahan & Constantino Counsellors at Law, on behalf of Ken McCarthy and Bettina Mueller of 14 North Road.
 1. Mr. Cantor added that it might be useful for Mr. Simmons to sit with his neighbors outside of this meeting to talk about having his neighbors potentially purchase this land from him for a fair market value.
- k. The Public Hearing was adjourned to Monday, January 22, 2007 at 7pm.
 1. The Zoning Board further discussed the possibility that this application may have come to the Board in error.

ADJOURNMENT

Since there was no further business to come before the Board, Mike Leedy made a motion to adjourn. Emily Majer seconded the motion, and all members present voted in favor. The meeting was adjourned at 8:15pm.

Respectfully Submitted,

Catherine Carbone
Planning/Zoning Secretary
For
Emily Majer
Secretary