TOWN OF MAMAKATING
ZONING BOARD OF APPEALS MEETING
JANUARY 28, 2016

Roll Call: Matthew Mordas-Chairman; **Board Members:** George Rampe-Present, Catherine Dawkins-Present, Beverly Martin-Present, Kent Findley-Present.

Zoning Board Attorney: Steven Mogel

Chairman Mordas announced Beverly Martin is now a regular member and Kent Findley has been appointed to the Board as a regular member. The Chairman also stated that Steven Prall is no longer on the Board and thanked him for his many years of service to the Board.

Motion made by C. Dawkins to open the meeting; second by K. Findley; all in favor.

Paul Cavallo Public Hearing – Tax Map Section 34; Block 13; Lot 7 in the Neighborhood Residential Zone

Present: John Fuller, P. E.

Chairman Mordas asked Mr. Fuller to present the project to the Board and public. Public notices were done properly and turned into the Zoning Board Secretary.
Mr. Fuller, who is representing Mr. Cavallo, introduced himself and explained the nature of the variances that were being requested. The existing structure is a bungalow on the corner of Wilson Avenue which is an undeveloped road and Cottage Street. Mr.Cavallo would like to develop this into a full time residence with an addition and also converting the existing bungalow into a garage. As part of the application it involves removing part of the existing structure as well as the existing shed. This is a pre-existing lot that is approximately 50 ft. wide by a 100 ft. deep so the nature of the variances are typical of requests for variances for pre-existing conditions; there are six (6) in total. The lot area in the zoning requires 8,000 square feet and the lot is 5,000 square feet; the lot width for zoning requires 150 feet and the subject parcel is 100 ft. so a variance is requested for that. The front they are actually improving the existing front yard setback, however, it will still be somewhat less than what is required for the front yard setback. The rear yard will be in compliance. However, the side yard setback requires 10 feet and we have 9.7; both sides require 25 feet and we have 24.8 feet. All the aspects of the zoning will be in compliance; again there are six total variances that are being requests, all of which are pre-existing conditions that run with the property. Mr. Cavallo intends to convert this bungalow into a year round two story home; it will have a two car garage entering off of Wilson Avenue.
The property does have an existing drilled well and a brand new septic which is off to the side and is in compliance with Health Department regulations.
Chairman Mordas asked if there was any question from the public.
Robert Gelling of 41 Wilson Avenue asked what the total square footage would be of the renovation. Mr. Fuller responded is going to be 24 x 40 stating that 24 is the width of the existing cottage so they are maintaining that width. Mr. Gelling asked the distance of the back of the house and the rear property line is what? Mr. Fuller stated just over 30 ft. Mr. Gelling asked the distance from Wilson Avenue to the front of the garage is how much? Mr. Fuller stated they were actually increasing that because the existing porch would be removed so it would be increased. Mr. Gelling stated so it would be about 18 ft. Mr. Fuller responded "yes" 18 ft. Mr. Gelling stated so if you have a car that's let's say 22 ft. long, it wouldn't fit in the driveway.

Mr. Fuller stated if the car was not inside the garage and it's longer than 18 ft. Mr. Gelling responded most people don't always pull inside the garage so you would have to have a car that's smaller than 18 ft. Mr. Fuller responded that 18 ft. is a standard driveway.
Mr. Gelling asked if the building was going to front onto Cottage Street.
Mr. Fuller responded the actual final architectural design hasn't been finalized yet and yes it most likely will be Cottage Street.
Mr. Gelling asked the way it is now, is there accommodations or a walkway over the raised cesspool onto Wilson Ave. as opposed to accessing private property on Cottage St.
Mr. Fuller responded he's not sure about accessing property but there will be a walkway.
Mr. Gelling asked which way will the walkway go.
Mr. Fuller responded I'm not sure which way we have defined that, but simply there will be a walkway across this area. Right now all the existing septic's are below grade.
Mr. Gelling stated right now it's raised about 2 ft. to 34 inches above grade, so will you walk over the septic tank down the steps at "2" grade or.
Mr. Fuller responded the grade hasn't been established but there will be a walkway off of Cottage St. to the house.
Mr. Gelling stated well now Cottage St. is a little bit under contention because it's private property even though access has been granted, it's still like some concern and he's concerned because the County can't give you a definitive answer and neither can the Town, it's been contested in Court and it's been conceded that there is to be limited access granted and to put your front entrance onto Cottage St.
Mr. Fuller responded he's not sure about the dispute or the liability and asked Mr. Cavallo if he had any information regarding this.
Mr. Cavallo stated he has stipulations signed by the Judge and by the gentleman's family that owns this that they are allowed to use this property and everyone is allowed to use the road. They tried to stop people from using it, but it was established that it's a road under the subsection that it's a subdivision. He also has permission to improve 20 ft. wide by 100 ft. long which is the depth of his property the road to make it more passable and he was also given the right to take down some trees that were in the way of bringing in a second driveway in the back. This stipulation is all signed and sealed and was submitted to the Chairman for the record – from the Supreme Court, County of Sullivan, State of N. Y. in the dispute of Gelling vs. Cavallo.
C. Dawkins asked the primary road is not a paved road. Mr. Fuller responded it is not a developed road.
C. Dawkins it's not accessible for fire apparatus. Mr. Fuller responded it's not presently paved and not town maintained.
Mr. Gelling stated the Town does not maintain it because the Town does not own it, his brother owns it, it's a dirt trail 20 ft. wide. The County told them you can buy this piece of property, it's yours. He asked what the size of the house is. Mr. Fuller responded a single family dwelling and the septic is designed for this size. Mr. Fuller responded "yes."
Mr. Gelling asked about the square footage of the building and the percentage. Mr. Fuller explained the lot area coverage which was previously explained. Some of the concerns they have is the building proposed does not meet the character of the community; it will be a two story structure which is much larger than a lot of the surrounding structures. The lot sizes are small and they were not meant to accommodate big mansions up there, it's just big and it will not look part of the community. When he looks on his porch right now he can look at trees and a bungalow and that's the way it's been for about 80 some odd years and if this is granted he will be looking at the back of the house and nothing but construction.

In most communities all the houses front the same street so everybody looks the same way, it's a large imposing structure that doesn't belong and there may be 3 or 4 other structures of this size.
Mr. Gelling asked if changing it to a year round residence and using more water, will that take from his well because as a summer residence and a bungalow, they usually shut down around October.
Mr. Fuller responded there are a number of wells in the area that are being used year round and as no complaints have been lodged.
Mr. Gelling stated the wells are probably only about 125 ft. away from each other, it's just too large and there are other lots available, even on his own property he could put other than this.
Mr. Fuller responded they indicated in their application that there are similar structures of similar size in the area.
Mr. Gelling responded there are approximately 100 bungalows in this area and only to say there are probably five or six new structures of this size and he wouldn't call that staying within the character of the area.
Mr. Fuller stated this would be betterment to the community.
Mr. Gelling responded to better the community is one thing but to build something this large is another thing.
B. Martin asked about what they had said about cutting down trees and putting in a driveway, where is that. Mr. Cavallo responded that's where the last lot is and where there is a proposed driveway.
Mr. Gelling stated they can't do that.
Mr. Cavallo responded that's one of the stipulation's they are allowed to park there for ½ an hour and he would like to clarify something's: first of all the street is not 25 ft. it's 35 ft. wide and it's used for the community; it is able for a fire truck to get through and he does have the right to improve 25 ft. wide by a 100 ft. long which is probably wider than most of the streets that are developed already, even though they have more property they are not developed and as far as Mr. Gelling looking at the back of my house, he owns another house in between our houses which has been abandoned for the last 15 years or so since he moved over to the other house. The house he is talking about is falling and is in disarray and they do nothing to make it better and that happens to be a two story house because they raised a second story years ago when they lived in it; so they did this years ago putting a second floor on it and it was okay but not for anyone else. Mr. Cavallo stated he is not asking and as far as others, he has about 15 to 20 pictures with two story buildings within that area and one of them is on a smaller piece of property than his.
Chairman Mordas asked about the square footage of the house and design. Mr. Fuller responded they have some preliminary plans but as indicated they want to stay under the 25% as previously discussed so the footprint of the old garage is at 12.50 of which a little over 400 of that is the garage footprint so that leaves them a balance of about 100 square feet. Mr. Fuller stated it will be just under 1600 square feet; that is about 800 square feet for the footprint of the dwelling on two stories so that's about 1600 square feet; the garage is 400 square feet. Also, again the house has not been finalized.
Mr. Gelling stated he is a little confused and disappointed that there isn't a rendering of the proposed building.
Michael Gelling spoke stating that he owns property on Cottage Street in which he granted access where he can drive in and out; it's not a road for regular commuting. Now these properties that he has with this concerning the well, the well is within 50 ft. of the cesspool and within 75 ft., maybe less of the septic and his concern is, he thinks it's against code as he believes it should be at least 100 ft. away from each other and that he is going to contaminate the whole water table; that's his first concern.

The second is putting up this structure that's going to use up most of the area, 5,000 square feet, two story and other things, they should have more property and he's making it a year round house with more usage of water and he's concerned with that and also about putting a driveway in the back. He's spoken to Mr. Cavallo a few times and his plans are constantly changing so he doesn't know how the Zoning Board can allow a variance without final plans or a picture of what is being proposed. How this impacts his plans to develop his property and those are his issues and the fact that he is putting up a large house which takes up about 60% more area. The Town Code is 8,000 square feet and he's below that.
Mr. Cavallo stated the septic was designed by an engineer and has a C.O., the well is up from the septic which is all part of it and as far of the property he's talking about, he doesn't touch his abandoned house a "brief" disagreement took place between Mr. Gelling and Mr. Cavallo about the condition of Mr. Gelling's house.
Chairman Mordas asked if there were any more questions from the Board.
K. Findley asked Mr. Gelling how big his lot was. Mr. Gelling responded 50x100.
G. Rampe asked about the setbacks, it should be 30; Mr. Fuller stated both lot height and lot coverage is with in zoning. The garage is 24 ft. and total depth is 50 ft. deep.

Chairman Mordas asked if there were any further questions from the Board; there were none. The Board felt satisfied that they could vote this evening.
Motion made by K. Findley to close the public hearing; second by C. Dawkins. All in favor.

The Chairman stated there are quite a few variances

1. Lot Depth this is a pre-existing which requires a variance of 50 ft. (Requires 150 ft.)
   K. Findley-yes; C. Dawkins-no; G. Rampe-yes; B. Martin-no; M. Mordas-yes. **Lot Depth Passes**

2. Front Yard this is pre-existing which requires a variance of 12 ft. K. Findley – yes; C.Dawkins – yes; G. Rampe – yes; B. Martin – yes; M. Mordas-yes **Front Yard Variance Passes** (Requires 30 ft.) **(M. Mordas changed his vote to a no).**
3. Side Yard is a pre-existing condition which requires a variance of .3 ft. (Requires 10 ft. they have 9.7 ft.) K. Findley – no; C. Dawkins-no; G. Rampe-no; B. Martin-no; M. Mordas-yes –
   Side Yard Variance - Fails

4. Both Side Yards total of 24.8 ft. – needs 25 ft.; variance needed is .2 ft.
   K. Findley-no; C. Dawkins-no; G. Rampe-no; B. Martin-no; M. Mordas-yes. **Both Side Yard Variance – Fails**

5. Lot Area – has existing 5,000 sq. ft. and needs 8,000 sq. ft. – variance needed is 3,000 sq. ft.
   K. Findley-yes; C. Dawkins-no; G. Rampe-no; B. Martin-no; M. Mordas-no. **Lot Area Variance Fails.**

Counselor Mogel suggested to the Chairman to go over the criteria for each of the variances.

Chairman Mordas read the following determination in making their determination as to the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and public welfare of the neighborhood or community by such grant. The Board shall consider:

1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
K. Findley responded he believes the lot is to narrow and voted not on these changes but doesn't feel that it changes the character of the neighborhood. He also feels that access needs to be open for emergency vehicles.
C. Dawkins voted no on all the variances except for the front yard. She feels these lots are small and have a certain character and it would be changing that and the density. She feels this is an unfortunate situation, the houses that were built are small but they have a certain character and history associated with them.
G. Rampe stated she voted yes for some of the variances but not for side yards or lot area mainly because she thinks it's too large of a structure on too small of a parcel. She feels he could make the square footage smaller.
B. Martin stated she voted no on everything but the front yard because she feels this bungalow that is on the property can be improved upon and still made desirable and she doesn't feel a two story structure is within the character of the community.
M. Mordas stated he would like to change the way he voted the way he voted on the front yard which was a yes to a no. He also stated that he feels the structure is too big a project for such a small lot; he doesn't want to discourage people from improving their property or to say it's a bad approach, it's just a little too big and yes he believes it would be a change to the community.

2) Whether the benefit south by the applicant can be achieved by some other method, feasible for applicant to pursue, other than an area variance.
K. Findley – No – the lot is the lot it can't ever change, they met the 25%; C. Dawkins – Yes –some of the variables/dimensions could be changed; G. Rampe-No –the lot is the same; B. Martin – Yes-they could make some changes and try not to need so many variances; M. Mordas – No – they will need a lot of variances.
3) Whether the requested area variance is substantial.
K. Findley – Yes; C. Dawkins – Yes; G. Rampe – Yes; B. Martin – Yes; M. Mordas – Yes.
4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
K. Findley-Yes; C. Dawkins – Yes; G. Rampe – Yes; B. Martin – Yes; M. Mordas – Yes.
5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but not necessarily preclude the granting of such variance.
K. Findley-No; C. Dawkins-Yes; G. Rampe -Yes; B. Martin-Yes; M. Mordas – Yes.

Chairman Mordas stated out of the six requested variances two were approved – Lot Depth and the Front Yard.
The variances that were denied were: Lot Area, Side Yard and Both Side Yard.

Motion made by G. Rampe to close the meeting second by B. Martin. All in favor.

Respectfully submitted,

Linda Franck,
Zoning Board Secretary