

**TOWN OF MAMAKATING
ZONING BOARD OF APPEALS MEETING
JUNE 23, 2016**

Present: Mathew Mordas-Chairman; Board Members: Cathy Dawkins-Present; Georgia Rampe-Present; Beverly Martin-Absent; Kent Findley-Present. Z

Zoning Board Attorney: Steven Mogel, Present

Meeting called to order at 7:10 p.m.

**Application of Michael Cerbo – Tax Map Section 72; Block 1; Lot 2.6 in the
Neighborhood Residential Zone.**

Present: Mr. Cerbo

Chairman Mordas asked for a brief explanation. Mr. Cerbo stated he purchased the house on April 29th of this year, which is located on Upper Road. There was a pre-fabricated garage placed on the property prior to his purchase closer to the street, which caused a violation and he is here this evening to request a variance on that. He stated it is the most reasonable spot to place a garage on the property, its level where it was placed because the house is on a hill. There is a pretty drastic hill where the house is. He keeps toys and lawn equipment in it, riding tractor, etc.

Counselor Mogel asked him what prompted him to request a variance, was he cited by the Building Dept.

Mr. Cerbo responded the Title Search came back with some violations, such as a deck and the addition and this garage was done without permits. There are other violations that he found out after he purchased it. He was not aware that this garage was against code and when he went to apply for the permit, it was rejected. Counselor Mogel asked him, so you did apply for a permit for this shed, do you plan on renovating it. Mr. Cerbo responded “no” it will stay as is, since it’s in working order, but you can’t really fit a car in it. It has a functioning garage door. He did still purchase the house with the violations. Counselor Mogel asked him, so you took it upon yourself to correct the violations; Mr. Cerbo responded in the affirmative.

K. Findley asked him when he purchased the house; Mr. Cerbo responded April 29th.

Counselor Mogel asked him if on the Title Search the shed showed up as a violation; Mr. Cerbo responded it showed up as “there was no permit” not that it was against code.

Counselor Mogel stated so the pre-fab shed is 115 ft. from the road and the house is 180 ft. from the road. The shed is 20 ft. from the property line. Counselor Mogel stated in this zone you have to be 10 ft. off the property line, so this is fine.

Chairman Mordas asked if the accessory structure was on skids or a cement slab. Mr. Cerbo responded it’s on gravel.

K. Findley asked he was not cited but was denied a permit; Mr. Cerbo responded “that’s correct.” K. Findley asked how far it was to the neighbor’s house; Mr. Cerbo responded. Counselor Mogel stated for purposes of SEQOR there is no further environmental evaluation of this application.

Chairman Mordas asked if it would be okay with Mr. Cerbo if a Board member could come by and view this property; he responded of course.

Chairman Mordas requested a motion to schedule the applicant for a public hearing for next month on July 28th; motion made by C. Dawkins; second by K. Findley. All in favor.

Application of Robert & Tracy Scheuering – Tax Map Section 7; Block 1; Lot 58.3 in the Mountain Greenbelt Zone

Present: Mr. & Mrs. Scheuering

Chairman Mordas asked the applicant's to explain why they were here. Mr. Scheuering stated they are here about a 12x16 wood frame shed that was pre-existing their occupancy of the home. They bought the home in February 2007 and as he understands it the shed was approved or was on plans twice prior to their purchase. In other words the Town knew about the shed existing or approved it. They bought the property not knowing it wasn't in compliance we are not in violation, we found out about it not being in compliance by accident, our real estate agent was doing some research about some other homes and come to find out about the shed on the property so we want to be in compliance because we are looking to sell our home so we want to have a clear title. The shed sits on gravel and some tracking underneath the gravel. Mr. Scheuering presented a copy of the subdivision map that showed his lot along with the shed in question; the Board asked questions about the house, shed, etc. shown on the map and the curve of the road. The scale and measurement on the map was also discussed. They did receive their Certificate of Occupancy; they wouldn't have bought the house with violations. Counselor Mogel stated the Planning Board should have in reviewing the subdivision application, they should have stated "oh there is a variance required" in 2005 and referred it to the ZBA. Counselor Mogel stated what they are doing is making the most sense by bringing it to the ZBA and it was approved as is and granted a C.O. as is so therefore must have been considered but. He then explained another recourse they could follow to get their title clear but it would be longer and more expensive. Counselor Mogel stated what the applicant is doing is the most straight forward and appropriate to take care of this.

Chairman Mordas asked if the applicants could get the dimension of the shed to the road and the house to the road. Board members discussed several distances.

Counselor Mogel stated if the Board wants to interpret this map based on their own observation and say that you are disagreeing with the determination of the Building Department and you are going to overturn the decision of the Building Department that the accessory structure is not closer than the street wall of the primary structure then you can do so; or you could write a variance. Either way you have to have a public hearing.

Mr. Schuering has not been out to see the property yet.

Motion made by C. Dawkins to schedule the applicant for a public hearing for July 28th; second by G. Rampe. All in favor.

Application of Matthew Bremer – Tax Map Sections 8; Block 1; Lot 9 and Section 8; Block 3; Lot 1

Present: M. Bremer

The Chairman asked M. Bremer to explain what he would like to do. Mr. Bremer stated about a year and a half ago the NY Methodist Church put the property up for sale and this "peeked" his interest. He is an architect by trade and he would like to turn this into a single family residence. The church property cannot sustain a well and septic so he has retained Gottlieb Engineering for that endeavor. A piece of property across the road from the church property that contains a billboard for Shadowland, Inc. of

Ellenville was discovered and would be able to accommodate the well and septic. His engineer spoke to the Highway Superintendent who has no problem with this going underneath the road as long as a bond is presented along with the proper maintenance documents. The church structure is almost 200 years old. Shadowland Inc. is willing to sell the property as long as the billboard can remain.

Mr. Bremer stated the church building is in very good shape. He is here to ask the secondary site, which is the billboard site as he understands would require a use variance and he does understand is very rarely granted but he would like to think that this is exactly the unique case that begs the possibility for granting a use variance but this seems like the only feasibility options for preserving the church. It has no real use if we can't get a septic and then he believes if the use variance is granted, then there would be an area variance needed for the billboard because they are not allowed in that zone. He doesn't quite understand all of this but in the history of this building is listed as one of the really historic structures which to him were very useful and he wants to preserve it, restore it and transform it some into a use that will be used. The sister structure the Community Center are really great; he passed out a rendering of the church and of some of the projects his firm has done. He stated the billboard has to stay for Shadowland Inc. since it is a form of advertising for them which they depend on.

Mr. Bremer stated there are 3 prominent points he would like to make:

- 1) Preservation
- 2) Architectural Landmark
- 3) Economic-he is willing to put a lot into this project and it will become a tax revenue.

The Board asked him if he has purchased the property; he responded that there is a contingent contract. The acreage for both parcels concerned is about a third of an acre and a quarter of an acre. Chairman Mordas asked if the road frontage was about 120 ft.; Mr. Bremer responded he believes it is.

M. Mordas asked about the septic; he was told by Mr. Bremer's representative for Gottlieb Engineering, Tim Gottlieb that it would be an Elgin System. M. Mordas asked how far away the "Lucas" septic system was; response was "they did not know". Mr. Gottlieb stated they could not maintain the proper distance for the well and septic.

C. Dawkins asked about buying only what you needed from the lot with the billboard; response was you can't create an undersized lot.

Counselor Mogel stated that the standard for a Use Variance is very high, you have to show and you might be able to show incredible economic data that there is no other economic viable use for that property other than what you are proposing. He spoke about other "variables" they may be able to look into pertaining to the septic on a separate parcel.

Counselor Mogel explained the Use Variance and how it came about and setting a precedent. Mr. Bremer responded by saying that isn't it setting a precedent when you deny a project like this.

Counselor Mogel stated ideally you would want a real estate appraiser to come in and compile a report for this property.

Mr. Gottlieb stated if the church reopened and applied to the Health Department they would probably get a waiver for a septic system because the septic would only be used on a very infrequent basis.

Counselor Mogel stated a use variance is sort of like a "last resort" and that may be like what you have to show here, this will be the last opportunity to utilize this property. This is a lot for the Board to look at and take into consideration.

The Board suggested the Mr. Bremer speak to Shadowland, Inc. to see if they would be willing to move the billboard to another location if he could find one.

Counselor Mogel explained the public hearing process to the applicant.
Motion made by G. Rampe to schedule the applicant for a public hearing; second by K. Findley. All in favor.

Motion made by M. Mordas to close the meeting; second by C. Dawkins. All in favor.

Respectfully submitted,

Linda Franck,
Zoning Board Secretary