

Town of Constantia Board of Appeals

Meeting Minutes – August 31, 2023

Call to Order

Chairman Macari opened the meeting at 7:01pm

Attendees

Voting members in attendance included:

- Chairman Ken Macari
- Daniel Retajczyk
- Michael Doran
- Mark Somers

Guests in attendance included: Frank Tomaino, James Peck, Warren Bader, Daniel Gibbs, Patrick Dolan, Clare Haynes, Carol Haynes, Amy Connolly (Secretary), and one additional member of the public.

Board members absent: Susan Kimmel

Public Hearing- Haynes 99 Salt Rd

Chair Macari opened the public hearing at 7:02 pm.

Carol Haynes is requesting an area variance for the temporary placement of a mobile home as a second residence on her property at 99 Salt Rd in Constantia. AN area variance would be required

Applicant asks that the combined road frontage of adjoining lots which are both owned jointly with John Haynes is considered for this application. Mr. Macari states that this is not possible.

Board asks what the dimensions of the lot are. 250ft rd, 300 ft deep. Mr. Retajczyk checks dimensions (250ft road frontage by 300 ft deep) and calculates size of lot.

Minimum road frontage required is 120ft. Referencing section 505 of the Land Development Law. Lots have the required road frontage, if the secondary structure was placed so that the it could meet setbacks if the lot were to be subdivided into two lots in the future.

Applicant states that concrete was placed for mobile home the proper distance if the lot were to be subdivided in future.

Board members state that even with the road frontage meeting requirements, the area of the lot is still too small in area to meet requirements.

Mr. Macari states that the Board of Appeals does not have the authority to give a variance on Section 505.

Clare Haynes states that the Code Enforcement Officer from the Town indicated that they should apply to the Board of Appeals. The applicant originally applied for a permit for a shed, the building intended was a mobile home. Clare Haynes and Patrick Dolan argued about what each claims was previously said between applicant's family and Code Enforcement.

Mr. Macari restates that the Board of Appeals is unable to give a variance to Section 505.

Carol Haynes states that she has a letter from a neighbor in support of the project. She also states that there will be no development in the area in the foreseeable future.

Clare Haynes asks why they have had to come back if the Board of Appeals has already decided not to give a variance.

Mr. Macari and Mr. Retajczyk explain Mr. Retajczyk stated in a previous meeting that section 505 of the LDL might be a way for the application to move forward. With no exact dimensions at the previous meeting, members now see that the request would not be allowable according to the LDL.

Back and forth between Clare and Ken. Clare states that her direction from different Town Officials has been conflicting.

Mr. Macari states that in order to put a mobile home on the lot is to go to the Planning Board to ask for the possibility of the subdivision of the lot.

Mr. Doran states that if they were to go down this route, they would need to request a variance for each of the resulting lots.

Mr. Macari reiterates that the Board of Appeals does not have the power to give a variance to Section 505. Section 505 is an exception to the law already.

Mr. Retajczyk states that the hope of the Board at the previous meeting was that after the applicant returned home and was able to review documentation, they would find that the lot would comply with the allowances of section 505. Board members find that the dimensions of the lot would not meet the law.

Mr. Macari suggests that the applicant might go to the planning board and apply for the subdivision, then subsequently to apply for area variances for each lot from the Board of Appeals.

Mr. Macari states that he spoke with William Hammacher as well as two lawyers. The lawyers stated that granting a variance for hardship would not be legal.

Mr. Peck (Planning Board Chair) states that the difficulty of this process is that the permissions granted by either the Board of Appeals or the Planning Board stay with the property beyond the current ownership. If applicants come to the Planning Board, he highly recommend to have the paperwork drawn up by a qualified engineer and have it approved by the county to show that the septic system is possible. Stresses that laws and procedures are in place for public health and safety.

Mr. Macari states that he invited Mr. Bader to the meeting for his legal expertise and asks if he felt that any statements made were erroneous. Mr. Bader stated that everything was correct.

Mr. Macari asks the applicants if they would like to withdraw the application. Carol Haynes withdrew her application.

Carol Haynes and guest left the meeting.

MOTION TO CLOSE THE PUBLIC HEARING Mark Somers made a motion to close the public hearing at 7:53pm. Seconded by Daniel Retajczyk. Motion passed unanimously.

Discussion between Clare and Board members regarding communication from the Code Enforcement Officers.

Variance Request -Hoover

A new application has been received for a property on Panther Lake.

Board members agree to schedule a meeting on September 28th at 7pm.

Approval of Minutes

Mark Somers made a motion to approve minutes from the May 26th meeting. Seconded by Michael Doran. Motion passed with 3 voting Yes. Daniel Retajczyk abstained due to absence from May meeting.

Mark Somers made a motion to approve minutes from the minutes from the November 16th meeting. Seconded by Michael Doran. Motion passed with 3 voting Yes. Daniel Retajczyk abstained due to absence from November meeting.

Adjournment

Daniel Retajczyk moved that the meeting be adjourned, seconded by Mark Somers. Members voted unanimously to adjourn at 8:17pm.

Amy Connolly

Secretary
Town of Constantia Board of Appeals

Date of Approval