

Town of Bristol
Zoning Board of Appeals

June 14, 2016
Minutes

Members Present: Chairman Marty Snyder, Steve Smiley, Jen Sanford, John Krebbeks, Donna Beretta and Sandra Riker, Secretary, and Bill Kenyon

Others Present: Wendy Meagher, Jason and Rose Richman, Josh Phillips, and Fran Morgante

Minutes: The minutes from April 12, 2016 were approved as corrected with a motion by Steve Smiley and a second by Jennifer Sanford. All Board members agreed.

Richman Area Variance:

The Chairman opened by saying this is a continuation of the Richman Area Variance public hearing.

Jason Richman made the following points to the Board:

- He felt that they were misdirected in how to calculate the height of the home from ground level to the highest point of the roof
- They will like to keep the roofline as it is drawn by the architect
- Retaining the pitch of the roof reflecting a French design
- Second floor is only 8' high and the first floor slightly taller than that with an open floor plan that provides an expansive feeling
- Their parcel is 50 plus acres and it will be kept as a private residence
- Their variance request is only 10%
- Their home will be an asset to the community
- Home will not be visible to contiguous neighbors

Fran Morgante said she had a personal concern that any alteration to the steep slopes in that parcel will create runoff on to her property as well as the additional height to the roof. She wanted to know if the runoff calculations have been addressed. The Chair said this was an issue that the Planning Board will address with their review of the Site Plan. Wendy Meagher, engineer said the runoff is calculated by the amount of impervious surface being covered and the slope of the roof will not affect the runoff calculations. She said the home is not in the steep slopes portion of the parcel. Meagher Engineering will be submitting a steep slope application with the hydro calculations for the Planning Board site plan review after the height variance has been granted. The applicant and the Engineers are hoping the ZBA will come back with an approval of the project as it is being submitted.

The Board expressed a concern the only reason for this variance request is aesthetics and would like to hear if there might be a more compelling reason for the granting of the variance.

Meagher explained that one and a half feet (1 1/2') of the Variance request is due to the steep slope of the parcel and the grading necessary to accommodate the placement of the home and the septic system maintaining a 1 to 5 grade ratio per Town Code. The other 1 1/2' is a result of the aesthetics of the roofline.

Town Attorney Kenyon reminded the Board that the balancing test of the variance is: Does the benefit to the applicant outweigh the detriment to the community.

Mr. Richman pointed out to the Board Article 12 Section IV, B reads: "The height limitation of this local law shall not apply to the erection of a parapet wall or cornice for ornament extending above the height limitations by not more than five (5) feet."

The Chairman raised a concern with the writing of Article 5-Construction Provisions, Section V: "Except as hereinafter provided, no building shall hereafter be erected or altered to exceed the height (30'), to be of lesser size, to accommodate or house a greater number of families (2), to occupy a greater percentage of lot area (5%), or to have narrower or smaller rear yards, or side yards than is specified herein for the Use District in which such building is located." Bill Kenyon said he does not care for the way this was written, it is a series of independent phrases and does not necessarily relate to the height restriction. The Chair asked if the Construction provisions prevent the ZBA from granting a variance. Kenyon replied that zoning are bulk regulations that can be weighed or altered by a variance.

The Secretary provided the Board with the OCPB review and recommendation for this variance. It stated the OCPB comment was they would make no final recommendation to deny or approve. The Chair then closed the Richman Height Variance public hearing.

The Secretary commented that the Town Board is in the process of having the Planning Board look at changing the height variance to have it more in line with surrounding municipalities' regulations. The 30' restriction has been in effect since the beginning of zoning in 1972 and does not reflect the changes in architecture of single family homes that have occurred over the years. John Krebbeks made the comment that has new homes are being designed to be larger that would cause the ridgeline of the home to be higher. The Code Officer who is also a member of the Fire Department has expressed no concerns with the height of the building being an issue for Fire Safety.

The Board then reviewed all the criteria for an area variance and the following resolution and SEQRA decision were made:

Whereas, the Ontario County Planning Board reviewed this application along with site plan on February 10, 2016 as an AR-1 and returned them to the Town with no decision or recommendations made, and

Whereas, The Zoning Board of Appeals did meet on March 8, 2016 to consider a height variance request of 5' 4" above the approved 30' allowed by the Zoning

Regulations of the Town of Bristol and ask that the applicant consider a lesser height variance, and

Whereas, The Richman family presented a revised application on April 12, 2016 with a reduced height variance of 3'3" above the allowed 30' , and

Whereas, the Richman family asked to have the May meeting with the ZBA tabled to consider additional changes to the Variance Request, and

Whereas, at the June 14, 2016 meeting of the ZBA the Richmans advised the Board they wish to continue with the height variance of 3'3" to be considered by the ZBA, and

Whereas, a public hearing was opened on March 8th and continued at all additional meetings, and

Whereas, the public had a chance to ask questions and receive answers at the above meetings, and

Whereas, at the June 14th meeting the ZBA after closing the public hearing reviewed the findings of the 5 criteria necessary for an Area Variance, and

Whereas, all five members of the ZBA agreed the character of the neighborhood would not be changed by granting the Area Variance, and

Whereas, the benefit sought by the applicant could be achieved by some method which would be feasible for the applicant to pursue and not require a variance four (4) Board members voted no and one Board member said yes, and

Whereas, the requested area variance is substantial four (4) Board members voted no and one (1) voted yes, and

Whereas, the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district all (5) five Board members voted no, and **Whereas**, the alleged difficulty is self-created all (5) five Board members voted yes,

Therefore a motion was made by Steve Smiley with a second by Donna Beretta that the Height Variance Request of 3'3" be granted to Rose and Jason Richman for their new home on Evert Road on tax map parcel # 137.00-2-52.000. The Board voted as follows: Donna yes, John yes, Marty no, Jen yes, and Steve no. The resolution was duly adopted.

SEQRA was reviewed by the ZBA Board and all questions to part II were answered with no or small impact. It was determined that there would be no significant or adverse environmental impacts if this height variance were granted.

A motion was made by Jen Sanford with a second by Donna Beretta that a Negative Declaration be declared for this application. The Board polled as follows: Donna yes, John yes, Marty yes, Jen yes, and Steve yes.

Phillips Height Variance:

Josh Phillips provided the Board with an overview of his application:

- Put in purchase offer on land on Montayne Road in 1/16
- Purchased blue prints from Greater Living Rochester 2/16
- Gathered bids from sub contractors for material and labor
- Applied for construction draw loan with CNB 3/16
- Turned in septic plan to DOH 4/16
- Sold home on Middle Cheshire Road & moved family to apt. at Centerpointe 5/16
- Provided Code Officer with 2 sets of prints, septic & site design and the NYS Res Checks 5/16
- Closed on house on Montayne Road 5/16
- Closed construction draw loan & completed 1st draw
- Found out that blue prints for house height is 34'9" from CEO and regs for town allow 30'
- Received approval from DOH for septic plans on 6/16
- Submitted area variance request for height of house on 6/14/16

Phillips went on to say he realized that under the criteria for an area variance one of the questions is if this problem is self-created and he feels it is but would very much like to go ahead with the variance application to continue the process. He is aware now that the town of Bristol height requirement is 30' but having done some research he has found that the towns surrounding us have raised that limit to 35' to accommodate the type of architecture that is being done now with the larger homes being built. He feels that the 30' height is restrictive and has shown through his research this appears to be a factor in deterring people from moving to Bristol. He has obtained signatures from 15 of his future neighbors saying they do not object to the additional 4'9" height for the home.

Public Hearing was opened by the Chairman. Fran Morgante asked if the building plans purchased were standard off the shelf drawings or if Phillips had an architect draw them. Phillips said they were off the shelf drawings.

The Board asked if the additional height is usable space and Phillips said no. The first floor is 9' tall and the second is 8'. The gabled roofline is what is increasing the height of the home. Measurement of the top peak is 34'9", there is a 12/12 pitch in the attic, the second roofline is at 32', and the garage is considerable lower. John Krebbeks made the comment that any change to the roofline would be miniscule as the parcel is flat. To make a change to those plans now would cause considerable hardship. The public hearing was closed.

Comment was made that the Town Board will be asking the Planning Board to look at possible change in the height requirement in an effort to make our zoning more user friendly. With regard to fire protection the Secretary said there is been no additional information provided from the Code Office that this would create a problem. There will be engineered trusses and floor joists used to build the home that are of light weight construction and the fire department has a way to indicate that they are being used so they follow the appropriate procedures when entering the building if there is a fire.

John Krebbeks made the comment that it should be considered that as larger homes are being built this will cause an increase in height to the ridgeline of a home.

The following motion was made by Donna Beretta with a second by John Krebbeks and the SEQRA review was declared a negative declaration with a motion made by Jen Sanford with a second by Steve Smiley.

Whereas, on June 1, 2016 Josh Phillips filed an Area Variance application with the ZBA Secretary for a height variance request of 4'9" above the 30' allowed by the Zoning Regulations of the Town of Bristol, and

Whereas, a public hearing was held on June 14, 2016 by the ZBA to review the height variance request, and

Whereas, the public had a chance to ask questions and receive answers at the above meeting, and

Whereas, at the June 14th meeting the ZBA after closing the public hearing reviewed the findings of the 5 criteria necessary for an Area Variance, and

Whereas, all five members of the ZBA agreed the character of the neighborhood would not be changed by granting the Area Variance, and

Whereas, the benefit sought by the applicant could be achieved by some method which would be feasible for the applicant to pursue and not require a variance four (4) Board members voted no and one Board member said yes, and

Whereas, the requested area variance is substantial four (4) Board members voted no and one (1) voted yes, and

Whereas, the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district all (5) five Board members voted no, and

Whereas, the alleged difficulty is self-created all (5) five Board members voted yes,

Therefore a motion was made by Donna Beretta with a second by John Krebbeks that the Height Variance request of 4'9" be granted to Josh Phillips to allow the height of his new home to be 34'9" at the highest point. The home will be built at 6318 Montayne Road in the Town of Bristol under tax map #124.00-2-8.120. The Bpard polled as follows: Steve yes, Jen yes, Marty no, John yes, and Donna yes. The motion was duly adopted.

SEQRA was reviewed by the ZBA Board and all questions to part II were answered with no or small impact. It was determined that there would be no significant or adverse environmental impacts if this height variance were granted.

A motion was made by Jen Sanford with a second by Steve Smiley that a Negative Declaration be declared for this application. The Board polled as follows: Donna yes, John yes, Marty yes, Jen yes, and Steve yes.

A motion was made by Jen Sanford with a second by Donna Beretta to adjourn the meeting.

Respectfully submitted,

Sandra Riker

Town of Bristol

Zoning Board of Appeals

Secretary

The minutes of June 14, 2016 were accepted as written with a motion by Jen Sanford with a second by John Krebbeks at the October 18, 2016 meeting. All Board members present agreed. Donna Beretta had been excused from the