



Town of Olive *Zoning Board of Appeals*

P.O. BOX 513, Shokan, New York 12481

Frederick Perry
Chairman

Members
Sandy Friedel
Brian O'Rourke
Chet Scofield
Gemma Young

MINUTES

April 4, 2024

1. Opening:

The Town of Olive Zoning Board of Appeals met on Thursday, April 4, 2024 to hold a regular meeting and Public Hearings for Susan and Lance Kolts, represented by Luca Farinelli. Chairman Perry brought the meeting to order at 7:00 p.m., at which time the Chairman led the Pledge of Allegiance to the flag.

2. Record of Attendance:

Fred Perry
Chet Scofield
Brian O'Rourke
Gemma Young

Absent
Sandy Friedel

3. Approval of Minutes:

On a Scofield/O'Rourke motion the Board dispensed the reading of the February 1, 2024 minutes, and accepted them as written.

4. Public Hearing:

4.1 Application 24-02 of Susan and Lance Kolts., represented by Luca Farinelli, for property located on Sheldon Hill Road, Olivebridge, NY 12461.

The hearing for Susan and Lance Kolts opened at 7:05 p.m. at which time Chairman Perry reviewed the rules for conducting a public hearing. The secretary read the legal notice appearing in the March 28, 2024 issue of the Daily Freeman announcing the applicants' appeal, "...for a variance of Article III, Section 155-7(g) of the zoning ordinance to change the required street frontage from 25' to 12' to allow for the construction of a single-family home on property that is currently undeveloped."

Present at the meeting is Luca Farinelli, representing the Kolts. The recording secretary, Janelle Perry, reported that letters were sent out to all of the adjoining property owners. It is noted that the ZBA has received no written comments regarding the variance request. It is noted that some of the adjoining property owners are in the audience.

Mr. Farinelli explained that he is currently in contract to purchase the property from Susan and Lance Kolts with the intent to build a single-family home. Luca Farinelli said that the property has over two hundred feet of road frontage on County Road 2, and twelve feet of frontage off of Sheldon Hill Road. He described that there is a gravel road off of Sheldon Hill Road to a clearing in the property approximately 275' long. Mr. Farinelli said that they would like to use the existing 12' wide access road to the clearing on the property and are seeking a variance to be able to obtain a building permit without the required 25' of road frontage. Luca Farinelli said that this clearing is the most logical site on the property to build.

Brian O'Rourke asked what the condition is of the existing road. Mr. Farinelli said that it is gravel, he doesn't know how old the road is but they intend to improve it by topping it with more gravel or shale. Brian O'Rourke asked if there was a way to widen the road to the required 25', it was noted that the access is only 12'. Gemma Young pointed out that the NYS Fire Code also states that access roads are to be 20' wide. Ms. Young wonders if the Zoning Board of Appeals has jurisdiction to negate the NYS Fire Code. Janelle Perry said that she did not know the answer to that question but she explained that she did reach out to the Town of Olive Fire Chief, Chris Winne, and asked him that question. He initially responded, "I do believe it will be a tight squeeze it will be doable this is providing there is no other obstructions at the end of the driveway and the culvert pipe is at the maximum length they can possibly get in there. Obstructions would include trees mailboxes, posts anything at the truck could hit and damage the vehicle. We need a wide-open path to make that swing." Janelle Perry went on to say that Chief Winne sent a second email stating that, "After reviewing the 2020 NYS Fire Code I'm not sure how the zoning board can change allowable access for fire apparatus on a driveway and entrance of 12'. Code NYS code says 20'." The clerk said that she has not asked the Town's land use attorney this question.

Brian O'Rourke asked Mr. Farinelli if he has asked either of the adjoining property owners if they would be willing to sell additional land to meet the 25' requirement. Luca Farinelli said that he had reached out to Cindy O'Connor and discussed this but he hasn't heard from the O'Connor's if they have made any decisions. Gemma Young asked about the other neighbor on the other side, Ron Boedigheimer. Both Mr. Boedigheimer and the O'Connor's are in the audience. Luca Farinelli said that he hadn't reached out to Mr. Boedigheimer because they hadn't found a telephone number.

The members reviewed the photograph of the roadway that was presented in the application, Gemma Young asked Mr. Farinelli if he knows where the actual property lines are. There appear to be large trees on the edges of the access and Ms. Young wonders if they are on the neighbor's property. Luca Farinelli said that he wasn't sure of the actual property line. Brian O'Connor is in the audience and stated that his property line is marked in the back with orange paint and he said it is at the roads edge. Gemma Young said it would be ideal to get to 25' on either side of access road, she doesn't feel that she wants to vary from the fire code.

Brian O'Rourke asked what the width of a fire truck is, Mr. Farinelli said he believes it is about 8 1/2' wide. He said that he has done some research and found that the NYS Consolidated Town Law states that at least 15' for an access road to a property suffices for a fire truck. Mr. Farinelli said that he has looked into it and some fire chiefs in Ulster County have stated that 12' would be the minimum that they would require.

Mr. Farinelli was asked what it would entail to access the property from County Road 2. He said that it would be a costly endeavor and they would also need to clear a number of trees to get to a building site. He said it would create a significant disturbance which they don't wish to pursue. Mr. Farinelli said that they love the land as it is and wouldn't want to cut down a lot of the trees.

Chairman Perry opened the meeting up to the public and asked if there was anyone wishing to speak. Adjoining property owner, Brian O'Connor said that his intention is not to stop the Farinelli's from building there but he is not interested in selling any portion of his property. Mr. O'Connor understands that there is an issue with the access and utilities also need to get back to a building site, there wouldn't be room to put utility poles in so you would need to dig up the road and repair that before you can access the property. Brian O'Connor said that accessing the site with building materials and the fire truck issue would be tight. Brian O'Connor said that he also isn't sure if there is any Town highway rules for a driveway entrance having a flare which would take away of our proper. Brian O'Connor said that he isn't interested in cutting any trees unless they are overhanging into the 12' lane. Brian O'Connor said that he has talked with Ron Boedigheimer and he believes that he feels the same way. Mr. O'Connor said that he would be happy to help but stated again that he isn't interested in selling any property.

Mr. Farinelli said that he is an architect in the city and his intention is to build without changing the property too much. There is an old RV on the property and the house would be in that clearing and Luca Farinelli said that he would like to have the septic system there so that he doesn't disturb too much of the property. He said that they aren't planning anything large, they are currently a family of three and just moved out of a studio apartment in the city so they don't need a lot of space.

Brian O'Rourke asked Mr. O'Connor how much land he owns, Mr. O'Connor said it is a little over two acres, the property is about 300' deep. Brian O'Connor said that Mr. Boedigheimer's is deeper,

Gemma Young asked Mr. Farinelli if his purchase of this property is contingent on getting the variance and building permit. Luca Farinelli said that they are very close to the final purchase but it does depend on this as they are not in the position to just buy the land as a camp site. He said that they have made a deposit and had a title check done. Brian O'Rourke wonders how this lot was even created this way. There was a brief discussion on the history of the property and how the lots were created. Brian O'Connor said that he thinks it happened back in the 1980's.

Chairman Perry asked if there was anyone else in the audience that wanted to speak. Allison Irwin said that she isn't a neighbor but remarked that when she attends Planning Board meetings, they are always saying the road frontage needs to be 25'. Janelle Perry clarified that the Planning Board cannot create a lot that doesn't meet the town codes and the 25' of road frontage is a requirement in the code. Brian O'Connor wonders how far back this 12' access was created, it was before they moved there in 1982.

Chairman Perry referenced the map that was submitted and wonders if there is anyway to access the building site off of County Road 2. Luca Farinelli said that there isn't any way because it is very wet and the way the neighbors land is built up with a stone wall it keeps the water in that area.

Another adjoining property owner, Ron Boedigheimer was present and he remarked that he agreed with what Brian O'Connor had said and he is also concerned if the plan is to put a house where the camper is they would be right there on the corner of his property where his pool and house is. He said that he has lived there for 31 years and doesn't want to see the house and he isn't interested in selling any property. Mr. Boedigheimer said that it isn't anything personal, it wouldn't matter who it was. He likes his privacy and feels there are enough houses on Sheldon Hill Road right now. Mr. Boedigheimer said that he has been a member of the fire department for 17 years and has been on the board of directors for ten years and he feels that a 12' lane would be an issue for access.

Gemma Young asked if there are any other locations to place the house and pointed out another spot on the property. Mr. Farinelli said that that area is also wet, he said that he shares the need for privacy and appreciates that and would be more than willing to move further into the property.

Gemma Young suggested the idea of a land swap with Mr. Boedigheimer on the other side of the property which would help with the placement of the house to create privacy.

Allison Irwin asked if there would be any problem finding sufficient areas for a septic since it is so wet. Mr. Farinelli said that they have done three test holes and the results show that the property is favorable for an inground septic system.

Brian O'Rourke asked the neighbors if there would be any appeal for the land swap idea. Brian O'Connor said he would not be interested because it would be too close. Cindy O'Connor said that they also just purchased a small piece of property on the other side of their home so they wouldn't want to give up land. Gemma Young understands their situation since their parcel is smaller, she was thinking more about the property on the other side but she wasn't sure if the terrain would allow access from that side.

John Ingram was present at the meeting, he remarked that the 12' strip would probably be ok if it wasn't for the various trees that can be a problem. He said that if you can get in there with a cement truck then you should be able to get in with a fire truck. Mr. Ingram said that it shouldn't be a problem getting a driveway in if the access is clear, he feels the utilities may be a bit of a hassle. John Ingram said that as you go up the hill you still might get a septic system to perk but it is all bluestone or granite. John Ingram feels that the 12' strip could be made to work if there isn't a problem with the trees. He said that if the access road is longer than it would be required that there be a pull-off so that two trucks can pass each other. That is not the situation in this case as the road is shorter. He said that there are extenuating circumstances that make it very awkward.

With no further audience discussion to be held on the application at this time the public hearing was closed at 7:50 p.m. on a Perry/Scofield motion.

5. Discussion:

Chairman Perry asked the members their thoughts. Brian O'Rourke is wondering how the property got this way, it is a very unfortunate mess. He feels that it might be doable if the trees can be trimmed to create a clear corridor.

Gemma Young and Chet Scofield remarked that you still have the NYS Fire Code issue. Ms. Young said that it is a legal question. She wonders if the board can even grant a variance if it is in violation of the fire code in New York state. Chairman Perry remarked that the Zoning Board of Appeals doesn't have to make a decision tonight, we can investigate this further, particularly the fire code. Chairman Perry said that he can confer with the town attorney on this matter.

John Ingram said that you don't need a 25' wide driveway. Chairman Perry said that he feels for the owner having 35+ acres of property and not being able to use it, but he isn't comfortable making a decision tonight. He asked Mr. Farinelli to be a bit more patient, he understands that the delay is difficult.

Gemma Young said that this may also be an issue with insurance if there were an issue and the fire truck couldn't get down the lane because there wasn't 20' of access. She said that this would be tragic and could be a problem for practical and safety reason.

Chairman Perry said that he will be walking the property himself to see the conditions. Luca Farinelli was asked if he has approached the town or county to see what requirement there are for a driveway

permit. Mr. Farinelli said that he hasn't done this personally but when he met with Mr. Ingram and Mr. Covello, Dominick Covello said that the Highway Superintendent didn't feel there would be an issue.

John Ingram read the section of the NYS Fire Code that states, "...accessible to fire department apparatus by way of an approved fire apparatus access road..." He said who grants the approval, it would be the Fire Code Official. John Ingram said that he is the Town of Olive's Fire Code Official, and suggested that we let him have the 12' of road frontage and let Mr. Farinelli figure out how he can get into the property with plenty of screening so Mr. Boedigheimer doesn't have to worry. Mr. Ingram said that he will look into this further when he gets into the office but he feels that these things are written by someone sitting in their office and it sounds good. John Ingram said that there are concerns and you need to make sure a fire truck can get into a property this property isn't an issue.

Gemma Young asked the applicant if there is a timing issue for a decision. Mr. Farinelli said that he had received a text asking if April 22nd would be ok for a closing. Chairman Perry advised Mr. Farinelli to put that date off as they Zoning Board will not be able to have a decision by that date. Luca Farinelli understands the Zoning Board of Appeals' position and he hopes that the decision is favorable as they have really fallen in love with the property.

Chairman Perry made a motion to table the decision on this application and consult with the land use attorney. Gemma Young seconded the motion and all the members agreed to the motion.

Janelle Perry reported to the Zoning Board members that she reached out to Mr. D'Altorio asking the status and received an email stating that, "We are currently pursuing an easement agreement with Debra that would not require us to have another follow up meeting with the ZBA. I was waiting until we had the easement agreement executed and filed with the county before I notified the ZBA of our new plan. (in case we do in fact need to have a follow up with the ZBA). We are currently experiencing a bit of a delay getting the revised survey map from our surveyors, but I will be sure to keep you apprised of our progress going forward." Janelle Perry reported that she has not heard from Ms. Romano.

Janelle Perry also reported that the Zoning Board of Appeals has been contacted by Drew Boggess asking that the Zoning Board of Appeals consider signing an agreement with the Ulster County Planning Board that would exempt the ZBA from having to refer certain actions to the UC Planning Board. She noted that the agreement has been signed by the Town of Olive Planning Board. Chairman Perry made a motion to accept and sign the agreement, Gemma Young seconded the motion, all other members agreed. At this time Chairman Perry signed the agreement.

6. Adjournment:

With no further business to discuss, the meeting was adjourned at 8:25 p.m. on a Perry/Scofield motion.

7. Next Meeting:

The next meeting of the Board will be held at 7:00 p.m. on Thursday, May 2, 2024 should there be business to discuss.