

TOWN OF NEWFANE ZONING BOARD OF APPEALS
2737 MAIN STREET, NEWFANE, NY 14108
September 19, 2023

MEMBERS PRESENT: Chairman Francis Gilson, Members Philip Baehr, Marcy Ferington, David Schmidt, Donna Lakes, and Tyler Finley

MEMBERS ABSENT: Colleen Schultz

OTHERS PRESENT: Jim Sansone, Town Attorney, Michael Klock, Building Inspector, and Connie Kyle, Secretary.

Prior to the meeting, Building Inspector, Mike Klock, gave the board a breakdown of why an area variance was requested. Mr. Matthews is in a designated flood way so this would encroach on the front set back. He will have to be a little closer for this to work.

The meeting was called to order at 7:00 p.m.

Chairman Gilson welcomed the public and introduced the Town Attorney James Sansone, The Newfane Building Inspector, Michael Klock and the Secretary, Connie Kyle and then introduced the board members.

Chairman Gilson stated that there were three cases being heard. If you wish to speak, please stand, state your name and address for the record.

Chairman Gilson read the first Notice of Public Hearing.

CHRIS MATTHEWS, residing at 7134 Wheeler Road, Town of Newfane, NY, has applied for an area variance under the Newfane Zoning Ordinance, upon premises known as 7134 Wheeler Road, Town of Newfane, NY, to construct a garage on premises, which will extend 18 feet in front of residence on the property, in violation of the current setback required by the Newfane Zoning Ordinance, which is 60 feet.

Mr. Matthews stated that he needed a variance to put a garage 18 feet in front of his house, which is 69 feet from the center line of the road. He also stated that the houses on either side of him were 58 feet from the road. Mike Klock stated that it was 66 feet from the right of way and the houses on either side were 42 feet from the right of way. Mr. Matthews stated that the structure will still fit in with the neighborhood because the houses on either side are closer to the road and that is why I need a variance.

Board member, Tyler Finley asked if the original garage was staying and if he was building from the front of the existing garage forward. Mr. Matthews stated he was not.

Board member, Donna Lakes said she had driven by the property and saw the creek and huge trees. Mr. Matthews said when they walked in the back yard, they knew that was the house they wanted. Chairman Gilson asked how far the lot line was from the side of the road. Mike Klock said it was 42 feet, well within the property line. Mr. Matthews then showed pictures to the board.

Attorney Jim Sansone said the houses on each side of this house were even closer to the right of way. Donna then asked if he would work with the Building Inspector as far as fire codes. Mr. Matthews said yes, he would.

Chairman Gilson then asked if there were any further questions and there were none. Chairman Gilson then stated they would poll the board. Philip Baehr made the motion and Donna Lakes seconded it. Chairman Gilson said those in favor say aye. All said aye.

Philip Baehr – grant variance
Marcy Ferington – grant variance
David Schmidt – grant variance
Donna Lakes – grant variance
Tyler Finley – grant variance
Fran Gilson – grant variance.

VARIANCE GRANTED

FRANK W. LOWN AND NORMA J. LOWN, residing at 6032 Wallace Avenue Newfane, NY, has applied for an area variance under the Newfane Zoning Ordinance, upon premises known as 6032 Wallace Avenue in the Town of Newfane, NY, to construct an 8' by 10' storage shed upon said premises, which will be 4 feet from the east side line and south line of premises, in violation of the current set back restrictions in said ordinance, which requires a minimum set back of 10 feet.

Mr. Lown told the board that he wanted to build an 8x10 storage shed upon his premises, in his backyard. Chairman Gilson asked how many feet off the property line would it be. Mr. Lown said it would be 4' off the property line. Chairman Gilson asked if that land was ever surveyed. There was a copy of that survey in the packet. Mr. Lown showed him the survey. Chairman Gilson asked the Building Inspector, Michael Klock, if he had any problem with it. Mike said that R-1 is 10 feet, and this is less than 10 feet. In an R-2, it is 5 feet. He is keeping with the neighborhood, and he asked for permission instead of just doing it.

Board member, Donna Lakes, asked what kind of base the shed would have, and Mr. Lown replied that it would be plywood with no contact with the ground. Donna then replied that it would not be on a permanent base, so it was moveable. Mr. Lown said that was correct that it will be brought in by Tuff Sheds and built on site due to the blossoming cherry tree that would

prevent it from coming in pre-built. The Rehab Center said they could use their parking lot to bring it in.

Board member, Marcy Ferington, asked if Mr. Lown had spoken with his neighbors. He said he had not, however one neighbor has a wooden fence that has been there for 30 years and is falling down.

Chairman Gilson asked if there were any further questions and there were not. Chairman Gilson motioned to poll the board. Board member, Philip Baehr seconded it.

Tyler Finley – grant variance

David Schmidt – grant variance

Marcy Ferington – grant variance

Donna Lakes – grant variance

Philip Baehr – grant variance

Fran Gilson – grant variance.

VARIANCE GRANTED

ERIC PERCY, 3178 Walden Avenue, Depew, NY, 14043, has applied for an area variance under the Newfane Zoning Ordinance, upon premises known as 6520 Ridge Road, in the Town of Newfane, NY, while replacing existing mobile homes with new homes and all infrastructure, requesting relief from Sections 5-3, 9-6-1 and 9-8-2 of the Newfane Zoning Ordinance, reducing dwelling sizes from 5000 square feet, to 3,526 square feet, reducing front setbacks from 40 feet to 10.4 feet, reducing side setbacks from 10 feet/25 feet to 2 feet/4 feet, reducing rear setbacks from 30 feet to 17 feet, reducing building to building setbacks from 20 feet to 9.6 feet, and reducing minimum home sizes from 760 square feet to 560 square feet, all in violation of the above sections of the Newfane Zoning Ordinance.

Mike Klock, Building Inspector, and Mike Metzger, Civil Engineer, who is representing the property owners, (one was unfortunately at a school function for his son and the other was under the weather) spoke regarding the conversion from a Mobile Home Park to tiny homes which has been rezoned to R-2. As you have heard about this project for tiny homes, the sizes of the lots can have smaller setbacks with relief of the R-2 zoning. Mike Metzger explained the smallest family home will be 900 square feet.

James Sansone, Town Attorney, said to keep in mind there were mobile homes that were dilapidated before this project came in. It was not feasible to put mobile homes back in there due to Federal guidelines. That is why they are going to these tiny homes. Jim said that Mr. Metzger could answer any questions.

Michael Metzger, 8245 Sheridan Drive, Williamsville, NY said the existing property had 19 mobile homes and a stand-alone rental home. These homes were not in the best condition. My clients came in and bought the property and removed the uninhabitable structures. We have been working on this project for quite a while. We have been to board meetings, talked

about how many would remain. Rental home and one mobile home will remain. They want to rebuild the entire park and rebrand it. There will be new sanitary sewer lines, brand new water lines, repave the road and at the request of the Planning Board, put in an emergency vehicle turn around which currently does not exist. As far as the homes are concerned, they are stick built wooden structures that are on a foundation, built off-site and brought to the site, initially having shells built and bringing them in. More recently after speaking with the manufacturer, have them with the dry wall already done and finished so they could just bring them in and secure them. The one remaining trailer was renovated inside, has new siding and a new roof. As Mike Klock mentioned, it really is not a mobile home park anymore. Unlike many towns, you have a mobile home park zoning classification which is what the zoning classification is for this property right now. It can't remain that way. Even though the homes are being built off site and brought into the property, they do not meet the HUD classification or description of a mobile home. They will fall under the NYS Building Code just like any other home that is stick built on the property, unlike the mobile homes that fall under HUD regulations for construction. We also met with the Niagara County Health Department and explained what we were doing. That's where the revelation came that these could no longer be considered mobile homes so as a result this could not be zoned Mobile Home Park anymore which is why after sitting down with Mike Klock, Building Inspector and James Sansone, Town Attorney it seemed like the best fit was rezoning to R-2 classification. That is why we are requesting from the town along with the PRD designation. The pathway to the conclusion would be 1) Environmental Review 2) Rezoning 3) Area Variances which we are requesting from you and then lastly, Site Plan Approval from the Planning Board. We met with the Planning Board informally. They gave us some feedback with some positive changes to the Plan and that is the Plan you see before you. Now, just to bring us all up to speed, last week the town board held a public hearing, took comments, closed the public hearing, and issued a negative declaration of a SEQR which covers every aspect of the project from Rezoning to Variances to Site Plan and did rezone the property to R-2, which brings us here. We have been before the Niagara County Planning Board. There is an agreement between the Town of Newfane and the Niagara County Planning Board that they don't act on variances, but they did give us unanimous approval for rezoning, which the Town Board took into consideration. The old park was grandfathered in because it was so old it pre-dated the zoning ordinance. If they wanted to do a Mobile Home Park today, there would be a slew of violations. There was a home that was 2 feet in front of the right of way, one home was actually over the property line. What we are looking for, while some might consider them to be excessive, they are really just cleaning up where there were violations in place. We are not proposing to reconfigure anything or add more units, we want the same number of units that were there before. We don't want to call them lots because this is not going to be a subdivision. These homes will all be on one property. It will be one parcel, one and a half acres that will be owned by my clients. They will own all the structures on the property which will be rental property. A list has started already of people who have heard of the project and are very interested in living there. This new plan is less intrusive than some of the homes before. We have a series of requirements; 1) within zoning class minimum lot size per dwelling is 5,000 square feet, the smallest of which is 3526 square feet instead of 5,000 another one would be minimum home size within zoning class 750 square feet as per zoning as per zoning ordinance. Mike Klock said correction, there was an error in the zoning code when it was updated. It was

900 square feet. That is an error in print that's been carried on and never got corrected. These homes will be of varying sizes but the smallest of which will be as low as 560 square feet. My client has indicated that the majority of them will probably be in the 700-750 square feet but since we have one that is as small as 560' that is what we are asking for, to make sure we are covered. You will find that the benefit to the applicant far outweighs any detriment to the health, safety, and welfare of the community. It will be improved by granting us the variance that we have to have in order for this to work. First and foremost, it cleans up an existing mess already there, and enhances the tax base. This property will be worth more and it opens up more housing opportunities. As I mentioned, we have the beginning of a list of people who are very interested. These are local residents who live within the town that would like to live there. And it provides a more environmentally friendly habitat. Should we be able to move forward with this project, we are going to replace the aging and decrepit sanitary sewer lines that are there, and which are probably leaking. We are putting in brand new tight sanitary sewer lines. These homes are very efficient from a utility standpoint, much more so than the ones that were there. It will be more environmentally friendly and last but not least, it will improve the aesthetics. Are there any questions?

Chairman Gilson then asked if there were any questions from the audience.

Larry Dormer, 6072 Exchange Street: You said these are going to be prefab. Will they be on a concrete pad? Will they be elevated on superblock so you can connect your utilities? Mike Metzger said his client would be working it out with the Building Inspector, but they would be anchored. James Sansone, Town Attorney, said they will comply with all the codes. He told Mr. Dormer that most of that is going to be covered in the site plan which has nothing to do with the Zoning Board.

Mike Metzger said that each one of the driveways will have space for two cars plus they are adding extra spaces, which are not there now, for overflow should someone have visitors.

Chairman Gilson asked if there were any more questions or if the Board had any questions.

Donna Lakes said now you are assuring that the Planning Board is going to take care of all the safety features. You indicated that one of the dwellings is going to be approximately 9 feet from the other so that's not our concern. The Planning Board will take care of it. James Sansone said right, they are going to review the site plan with us. Donna said that's fine, I have no further questions. James said by the way, the site plan also has to go to the town.

David Schmidt said didn't you say you've already gone to the Niagara County Planning Board. Mike Metzger said they have gone to the Niagara County Planning Board for rezoning, but we need to go back with the site plan. The rezoning is what they unanimously approved. They were very happy with the project. As Mike Klock mentioned to me, he is hoping this becomes a model for similar facilities whether in the town or elsewhere.

Philip Baehr said as far as occupancy, do we have anything in our code that says so many square feet per head? Mike Klock said per head. No. Philip said so the smallest home at 560 square feet could have 10 people in it. Mike said it is no different than an apartment. We look at codes as 1 bedroom, or 2 bedrooms etc. Five hundred square feet is minimal for multiple units. I can't put limitations on those bedrooms on a residential site. I can't do that. It's not in the code saying you can only have two people per bedroom in a residential setting. Mike Metzger said the homes will have a mixture of 1 and 2 bedrooms. Philip said he was trying to picture 560 square feet. That's not much room. Chairman Gilson stated that not as big as a 2-car garage. Philip then stated that one of the trailers down by Niagara Implement is 14x16. Mike Klock said his son's house they were told was 600 square feet on the bottom floor. But there was an attic which was later converted. So, it was a 1-bedroom home, with a bathroom, kitchen and living room. When measured it was 24x24, which is only 576 square feet. We've got a couple of those types of homes in the town. Mike Metzger said it was similar to where his mom lives. They put an in-law apartment on his brother's house. She doesn't want to be in the way, so she stays in her apartment. It is 600 square feet and its enough space for her. It's a matter of a lifestyle choice. This isn't going to be for everyone, but a certain segment of the population does want to live here. It will be nice because it will be more cost-effective. It will allow people to live independently where they may not have had the opportunity otherwise.

Chairman Gilson asked if in the construction of these places, are all the units going to be approximately the same. Mike Metzger answered that there will be some minor variations but a lot of them will be very similar. Then Chairman Gilson asked if the roofs were going to be asphalt or metal. Mike said he wished Bart Adams was here. He could have answered that question. Mike wasn't sure. Chairman Gilson said the reason he was asking that question was because you see more and more metal roofs. This represents a problem for the fire companies. They can't get on the metal roofs, and they can't get underneath them to put the fire out. Mike said he couldn't honestly answer that question, but he said whatever goes on there will be in full

Compliance of the NYS Building Code and the NYS Fire Code. Jim Sansone said that was basically a Planning Board issue anyway. This has nothing to do with Zoning. Chairman Gilson said but Jim, they are putting up buildings here. Mike Klock then said we are only talking about relief of setbacks. We are not talking about the structures themselves.

Marcy Ferington asked how far off Ridge Road are you. Mike Metzger said of the pavement itself or the right of way. Marcy said she knew where this is and she just wondered how far off the road would the first existing house be. Mike said again, the one that was there, was right on the right of way. The closest one will be a little over 10' away of the right of way and to the pavement edge it will be close to 40'. Marcy mentioned that the trees hid the Mobile Homes and asked if they were still there. She said it's not a zoning question but just a concern. Not that I want you to hide it because it will be very nice, but for safety issues. Ridge Road is a very busy road and it's kind of like a barrier. Mike said he believed with all the cleaning up his clients had done, if they had intended to take any trees down, they would already have. I do understand your questioning about the setback.

Larry Dormer asked if there were plans for storm drainage to which Mike replied that they have not experienced any drainage issues now, so they are not planning to change the system. Larry said OK. Chairman Gilson asked if it was a flood zone to which Mike answered it was not.

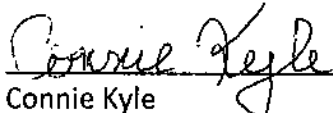
Chairman Gilson asked if there were any further questions. There were not, so he said it was time to make a motion to poll the Board. Donna Lakes made the motion and Marcy Ferington seconded it. Chairman Gilson said all in favor say aye. Everyone said aye. All opposed -- none.

- Tyler Finley – grant the variance.
- Donna Lakes – grant the variance.
- Marcy Ferington - grant the variance.
- David Schmidt - grant the variance.
- Philip Baehr - grant the variance.
- Fran Gilson - grant the variance.

VARIANCE GRANTED

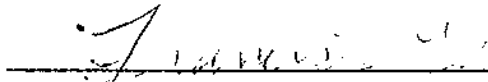
Chairman Gilson adjourned the meeting was adjourned at 7:46.

Respectfully submitted by:



Connie Kyle
Zoning Board Secretary

10/17/23
Date



Approved by Chairman Francis Gilson

10/17/2023
Date