

TOWN OF NEWFANE ZONING BOARD OF APPEALS

2737 MAIN STREET NEWFANE, NY 14108

July 16, 2024

MEMBERS PRESENT: Chairman Troy Barnes, Jeremy Irwin, Charles Maynard, Marcy Ferington, Tyler Finley, Bill Koller

MEMBERS ABSENT: Zach Hanczarowski,

OTHERS PRESENT: Sue Neidlinger, David Schmidt, Peter Russell, Larry Dormer, Mr. Bottom, David Hedley Jr., Alekzander Waugaman

Meeting began at 7:03 pm

Troy introduced the board as well as Jim Sansone, David Schmidt and Robin Bower.

Troy read allowed the 2 said variances.

RICHARD BOTTOM, residing at 2990 Coomer Road Newfane, NY, has applied for an area variance under the Newfane Zoning Ordinance, upon premises known as 5473 Wilson-Burt Road, in the Town of Newfane, NY, to construct a single story residence and a 24' by 30' post frame accessory building upon said premises, the residence of which will be 25 feet from the south line of the Wilson-Burt Road, and the post frame accessory building of which will be 25' from the west line of Coomer Road, all in violation of the current set back restriction set forth in said ordinance, which requires a minimum set back of 50 feet.

DAVID HEDLEY, residing at 1965 Lockport-Olcott Road, Burt, NY, has applied for an area variance under the Newfane Zoning Ordinance, upon premises known as 1662 Lockport-Olcott Road, in the Town of Newfane, NY, to construct a 42' by 80' single family residence with attached garage upon said premises. Said garage will be placed 20' from the west line of Lockport-Olcott Road within the front yard setback, in violation of the current set back restriction set forth in said ordinance, which requires a minimum set back of 50 feet.

Troy also stated by name and address of the residences contacted within that 300' radius for said property variance.

Mr. Richard Bottom approached the podium to explain his situation. Mr. Bottom stated he wanted to scale his house down and build a smaller home on said property.

Troy asked the board for any questions. Chuck Maynard asked if this would be his personal residence? Mr. Bottom said yes. Jim Sansone asked what the existing structure was. Mr. Bottom responded that it is just a shop. Jim Sansone asked what were his plans for the accessory structure he plans to build? Mr. Bottom said just a barn. Chuck Maynard stated the existing structure was once a business perhaps in the past by his father and is it now a business Mr. Bottom replied no. Marcy Ferington asked what his intent was for the accessory structure he intends to build. Mr. Bottom stated a pole barn. Tyler asked if he would have a driveway in the back? Mr. Bottom said yes. It will be lined up with the current structure. Troy asked it was free and clear and if there was a right of way on the road

behind the existing building and is there anything stored there? Mr. Bottom answered that it was a right away and sometimes wood is stored there. David Schmidt said it was a county road and at this point the county is deciding what to do with it because it has been long enough. David also has spoken with the Water Department and the Highway Department. Troy asked if he could have done anything else to the accessory structure to prevent a variance. He was wondering why it is where it is when he can spin it 90 degrees and put behind the existing structure to avoid the variance. Mr. Bottom said that where they thought it would be the best space. Tyler commented that there are doors on the back of the existing structure? Mr. Bottom said yes. Tyler commented okay so you didn't want to block those? Tyler said that you want to be able to drive down the right side of existing structure to get to the back. Mr. Bottom said yes you can drive all the way around. Marcy asked what was the size of the doors on the back of the existing building? Mr. Bottom said 10x10. Marcy asked is it one set or two. Mr. Bottom replied, 1 set. Troy and board members were discussing back and forth the variances. Troy wanted to know how far the house is from the existing structure will be. Mr. Bottom said it depended on how he was allowed to. Chuck Maynard said about 30 ft. Troy asked if the Superintendent saw this. The reply was yes by David. David said that he is also aware of the Old Wilson Burt Road portion. David Said yes. Troy asked if he was concerned with the stop sign line of site. David said No. Tyler asked if there was a fire hydrant near your property. Mr. Bottom said yes, on the Wilson Burt Side, East side of shop. Tyler commented on how many trees were on the property already, and either way he would have to have some removed for the house to be built. Bill Koller asked if there were trees currently where the pole barn is going? Mr. Bottom said no. Troy then opens up the questions to the audience. Chuck asked if there were any utilities existing on the backside of the existing structure. Mr. Bottom said no. The board talked amongst themselves about the accessory structure and they were trying to move the accessory barn to avoid a 3rd variance, but it seemed impossible. Jeremy Irwin asked if he moved his house more towards the West would he be open to put the pole barn in between the two buildings, or do you not want it there? Mr. bottom said he wants it in the back. Jeremy state if he moved it, he would be within the 25' of the Wilson Burt Road and the Comer Road variance. Board member asked if there is a concrete pad back there? Mr. Bottom said yes, a 10x15' pad. Jeremy was talking about how he could move the building around to meet the 25' set back etc. and with the cement pads already existing back there it compromises the ability to move the accessory structure. Inevitably the structure can only go where Mr. Bottom wants it to go. The board discussed amongst themselves about all the options to avoid some variances. Other properties on the roads have structures that are within that 25'. Bill Koller asked that if there were existing trees 25' off Coomer. Mr. Bottom said yes. Bill Said the existing trees do not interfere with the line of sight, so the building should not interfere. The board spoke about how the trees inevitably will block the building and you wouldn't see it anyways. Troy asked for a motion to poll the board. Marcy made that motion and Chuck second it. Troy asked all those in favor of the motion. 6- AYE, 0 -Opposed, 1 -Absent. Motion carried.

Bill Koller- He approves variances on basis that other properties on Coomer Road have structures within the 25' of the road.

Charles Maynard- Approves variance. Other existing structures encroach into that area. It will not affect the line of sight for the stop sign and the odd shape of the land makes it hard for the owner to do anything else.

Marcy Ferington- Approves variance. She states that it will increase the value of the property by adding the house. It will also make the area look better.

Tyler Finley- Approves variance It makes the area desirable.

Jeremy Irwin- Approves variance for all the reasons stated by the previous board members.

Troy Barnes- Approves variances because all other houses in each direction have existing structures within 25 feet of the right of way. Doesn't go against existing neighborhood and will enhance the area as Marcy stated.

Troy asked for a motion to grant variances including 25' setbacks for Coomer Rd, Wilson Burt Road and the abandoned Old Wilson Burt Road. Motion made by board member and second by Chuck. All those in favor-6, Opposed-0, 1- Absent.

Motion carried. Variance granted

David Schmidt at the beginning of this discussion stated Davd Hedley Jr. was the owner of the property and is selling the property. David Hedley Jr. is seeking a variance for his property to build a home. He was here because he owns said property. However, he had an offer in the works and the new owners would be the one building the said house on the property. Since the variance request was filed and prior to meeting the prospective buyers opted out of the deal because of restrictions. Dave is now her for himself for the variance to be able to sell the property to a buyer and can provide the variance details as well. Dave said his biggest restriction is the DEC one in back of his property which is 100' off the back. That restriction pushes the house closer to the road which encroaches on the 50' set back. Dave is asking for 20' set back. He stated he wanted to be able to sell the property and someone could build a house on it. The board started to ask questions. Chuck Maynard asked if the existing plan was still in effect? Daves reply was as of right now No. Dave said he wants the variance so in the future when he sells the property, he can tell the prospective owner(s) that they do have a variance and can build a home. Chuck asked if he filled out an application with the DEC? Dave said he has not. He was trying to avoid the DEC and take an easiest route first. Troy said talking to the DEC they will tell you that you certainly can get a variance but it can be more involved than that. Troy then asked Mr. Sansone if this was the right way to go about this. Grant a variance without a structure. Mr. Sansone said it is all new to him because he was under the impression this was a done deal in regarding to the sale of property and building a house. David Schmidt asked Dave Hedley why don't they want to go through with this. Hedley said because of the DEC set-back and the variance from the town. Mr. Sansone stated that Hedley is premature with his application. Hedley Stated however if he has the variance and someone wants to buy the property, he can reassure the buyer that they are clear to build within the stipulations with the town variance and the DEC setback. Jeremey Irwin questioned that couldn't this situation be similar to someone wanting to build a subdivision and has the clearance prior to anyone buying a lot to build their own home on? Chuck asked from the prints that were passed out, how far is the back of the home verses the DEC set back? Hedley replied that he did not know. David Schmidt said it was very close. Chuck remarked that the garage they had on blueprint was large enough to store a camper or a boat. Troy said that anyone could easily build a house there without the garage or an average size garage. It is easily a 3000 sq ft footprint with the garage. Chuck said average 2 car garage are about 24' wide. This is 40'. Troy mentioned that 20' would work in the neighborhood, he doesn't believe anyone is farther back than that. Jeremy said to make a restriction on variance that the garage doors are on the side and the driveway has to come around. There is enough room for that because you can only build on one half or the other, 20 ft is not enough to park a pick-up truck. Chuck, Troy and Jeremy spoke back and forth amongst themselves about the size of house that would work there and the size of garage someone could build. Chuck would like the property developed he lives in the area and drives by the property every day. He feels this hearing is premature now that the sale was called off due to restrictions. Jim Sansone said that you can make a contract that has is subjected to getting the variance. Troy asked for

clarification on procedure to obtain a hearing. Marcy stated that if they approve this it may or not happen and could be completely different (house plan). Jeremy said there could be parameters set to the property for the next homeowner. (Variance set-backs, DEC regulations). Dave is looking to have that variance so he has a better chance of selling the property. Jeremy explained it that there could be a few to many "hoops" to jump through to even get the ok to build a house and that may discourage a buyer from the very beginning. Jim said a variance could be granted with the footprint of the blueprint in question. Troy, Jeremy and Jim talked back and forth about the DEC 100' for the back of the property and what the zoning board would have to deal with the variance to the front of the property. Bill Koller asked Dave if the blueprint handed out at the meeting if this was the plan the previous buyers were planning on building? Dave replied "yes". Jeremy asked when did the prospective buyers back out? Dave replied Monday, 7/15/2024. Jeremy was pointing out that if they would have backed out on July 17, 2024 the variance would have already been voted on. Jim asked if the variance was passed could he get the prospective buyers back? Dave replied "possibly". Troy asked Mr. Sansone if we granted it ultimately, he could alter the plan, as long as he stays within the variance. Mr. Sansone said to go with it. The board members discussed the stipulations for variance. They also discussed the driveway variance Troy asked if anyone else had any questions besides the driveway? Bill asked Dave how close to the road are your neighbors to the North and South of you? Troy said everyone is at least within 20' to 10' to the right of way. Jeremy spoke of the 100' DEC easement. Troy asked the public for any comments Alekzander Waugaman from 1666 Lockport Olcott Road spoke, he is on the South side of said property. His house is no longer than the length of his truck from the road. He stated there would be no hinderance of sight with a home or garage being built on that property. Byes popcorn already hinders that. Alex said the property goes unused because if the variance isn't granted. He would like to see something built there instead of it sitting empty. David Schmidt had the owner of the property to the north of said property call him and tell him he is happy to see something happening to the property. Jeremy Irwin said a previous prospective owner of said property in the past had plans to build and then out of nowhere it didn't happen, but no one knew why.

Troy asked for any further questions or comments. Troy asked for a motion to poll the board. Marcy made motion. Jeremy second the motion. All those in favor of the motion... **6- Aye, 0- Opposed**
1-Absent

Bill Koller said since the property sits vacant and is unable to sell due to the non- variance to grant variance based on the building of a home does not change the neighborhood.
Chuck said to grant variance it doesn't change the neighborhood at all and anything done to that property would be better.

Marcy grants variance with the stipulation of the driveway not in the font of the house encroaching with the traffic of Byes, perhaps it can go on the side. She would like to something there as well.

Tyler grants the variance also because it is an unused lot and it does not change the character of the neighborhood.

Jeremy grants the variance because something needs to be built there.

Troy grants the variance based on what his fellow board members already has stated. Most of the structures in the neighborhood are within 20' of the right away. It would fit the neighborhood.

The variance has been granted with the 20' set back with the stipulation that you will have the driveway on the side unless you need the 50' set back.

All those in favor 6- Aye, 0- Nays 1- Absent. Variance granted.

Meeting adjourned at 7:45 p.m.

Respectfully submitted,



Robin R Bower
Zoning Board Secretary



Troy Barnes
Zoning Board Chairman