

**Minutes of the Town of Perinton
Zoning Board of Appeals
Meeting of April 28, 2014**

Zoning Board Members present

Thomas Young, Chairman
Vincent Arcarese
John N. Moose
Melissa L. Barrett
Seana Sartori
Robin Ward Ezell

Absent

Sam Space

Conservation Board Members present

Chris Fredette
Robert Salmon

Town Officials present

Robert Place, Town Attorney
John Beck, Zoning Officer

Absent

Lori Stid, Zoning Board Clerk

Mr. Young called the meeting to order at 7:30 pm, introduced the Board and staff present, and explained the procedures. Mr. Young states that the DPW had no comments on any of the applications being heard tonight.

1. T.Y. Lin International, as agent for Longwell Builders, LLC, owner of property located on the south side of East Jefferson Road (NYS Route 96) (tax account #179.09-2-24.1) west of Thornell Road, (proposed Basin View Subdivision), requesting a variance of the Town of Perinton Zoning Ordinance Section 208-32 (D)(1), to allow the front setback to be 25 feet instead of 50 feet for all 12 lots in the subdivision. Said property being located in a Residential B District.

Randy Bebout, T.Y. Lin International, presented the application to the Board as per letter of intent as shown below.

orig

March 14, 2014

Town of Perinton
1350 Turk Hill Road
Fairport, New York 14450

ATTN: Thomas Young
Zoning Board of Appeals, Chair



RE: Request for Area Variance
Basin View Subdivision
East Jefferson Road – NYS Route 96
Town of Perinton

Dear Mr. Young:

On behalf of Longwell Builders, LLC we are submitting the following information for application for an Area Variance:

- Check in the amount of \$50.00
- Original and (11) Copies of the Letter of Intent
- Original and (11) Copies and the Area Variance Application Form
- Original and (11) Copies of the Short Environmental Assessment Form
- (12) Copies of Site Plan and Grading Plan

We respectfully request to be placed on the agenda for the April 28, 2014 Zoning Board of Appeals meeting.

The project site is approximately 9.8 acres and is located on the south side of East Jefferson Road (NYS Route 96) west of Thornell Road in the Town of Perinton. The property is bordered by East Jefferson Road & the Erie Canal to the north, existing residential homes to the east and south and undeveloped land (former Russo gravel pit) to the west. The undeveloped land is owned by A.D. Longwell Builders and is located in the Town of Pittsford as the west line of the subject property is the Town of Pittsford / Perinton Town Line.

It is proposed to construct a twelve (12) lot single-family subdivision. We are requesting an area variance to allow a front building setback of 25 feet in lieu of the 50 feet required by the Zoning Code for B Residential zoned properties. The purpose of this request is to allow a larger setback to the rear of the homes from NYS Route 96 (Lots 1 – 4) and provide a larger setback from the L.D.D. areas (Lots 7 – 10).

Following are the supporting statements for the factors to consider in granting the variance:

- A. *Whether the variations requested are substantial in relation to the requirement set forth in the ordinance? The variance requested is not substantial in terms of the impact on the aesthetics of the development. The requested variance (25 ft.) allows for the proper balance between adequate front setback and sufficient separation from NYS Route 96 and the steeper sloped areas of the site.*

- B. *Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment to adjoining properties will be created, if the variance is granted?* The granting of the variance would not produce an undesirable change to the area or adjoining properties.
- C. *Whether the benefit sought by the applicant can be achieved by some reasonable, alternate method, other than a variance?* The project could be developed with the homes having a 50 feet front setback, though it would locate the homes closer to the Steep Slope areas and to NYS Route 96, which is undesirable in both cases. The proposed subdivision road is centered within the “developable” portion of the land.
- D. *Whether the alleged difficulty was self created?* The variance request could be considered self created being it’s the applicant’s preference to have a greater setback from NYS Route 96 though in regards to the site containing steep sloped areas, it is not.
- E. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?* The requested variance would not have an adverse impact on the neighborhood, either physical or environmental. It would be a benefit by providing a greater separation from the steep slope areas.

Should you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,
T.Y. Lin International Engineering, Architecture and Land Surveying, P.C.

This parcel sits up higher from Route 96, and the 25’ dimension is from the ROW to the base of the garage and the house sits back another 12’ from that. They are proposing deed restricted areas that the Planning Board has already reviewed.

Mr. Young states that they received comments from the Planning Board as follows:

The Planning Board recommends approval of the aforementioned variance request because the request is adequate for the application. Allowing the front setback to be 25’ will pull the homes away from the LDD and from Route 96 which will ultimately benefit the future homeowners. In addition, there will be less grading and disturbance to the site. Throughout the approval process, the Board has supported the overall plan with the requested setback.

Mr. Arcarese asked what the size of the homes will be. The applicant states they are about 2000 sf.

Mr. Moose inquired where the deed restricted portions are on the plans. The applicant pointed out on the plans and reviewed where the LDD is located.

Ms. Sartori feels that the reasons as described in the letter of intent are accurate.

Ms. Ezell asked if all of the houses will encroach into the 25’ area. The applicant states no. Lot 6 sits back further. Lots 1 through 4 and 12 thru 9 and lot 8 are definitely within the 25’. These are general footprints. Ms. Ezell inquired if a sidewalk would go in on Route 96, and the applicant states yes. There was a discussion on the driveway design that will allow for Town maintenance of the pond.

Mr. Young asked for questions or comments from the Conservation Board. Ms. Fredette states that the concerns of the Conservation Board have been addressed at Planning Board.

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

This applicant received preliminary subdivision approval on March 5, 2014; The CED Dept. has no concerns with this application, and recommends approval.

Mr. Young asked for questions or comments from Attorney Place, and there were none.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Young made a motion to grant a variance of the Town of Perinton Zoning Ordinance Section 208-32 (D)(1), to allow the front setback to be 25 feet instead of 50 feet for all 12 lots in the subdivision.

Allowing the front setback to be 25’ will pull the homes away from the LDD and from Route 96 which will ultimately benefit the future homeowners. In addition, there will be less grading and disturbance to the site. There will not be an undesirable change to the character of the neighborhood. The benefit cannot be achieved in any other manner. With the proposed plan as shown, the area variance is not substantial. It will be a benefit to the environmental conditions of the subdivision.

Ms. Sartori seconds the motion.

Motion carries 6 – 0.

2. Larry Cypher, owner of property located at 2466 Turk Hill Road, requesting the following variances of the Town of Perinton Zoning Ordinance Section 208-14 G: to allow a second accessory building (shed) on the property instead of one accessory building per property, to allow the proposed second accessory building to be 384 sq. ft. instead of 200 sq. ft., and further to allow the proposed second accessory building to be located in the front yard instead of the rear yard.

Said property being located in a Residential Sensitive District.

Mr. Cypher states that the property has no frontage to Turk Hill. The house is about 1000 feet off of the road. The drive comes between them and Lot 16. They own 3 acres. His wife has a staging business and currently rents a storage facility on Hogan Road and this will allow them to save some money and it will be easier for her to have this at the house. She will need access to the building with a vehicle. She stages homes when people are selling them. She has furniture, linens, etc, that she will take in and they store this until they need it. They are looking at gambrel barn style. They wish to set the shed in a clear spot in a wooded area. His original proposal was to have it near the existing shed and now he is proposing to put it back further. It will be built on skids and not be a permanent structure.

Ms. Ezell states that she saw the location staked out. Is that still the same location? The applicant states yes.

Mr. Young inquired if the applicant would have the color of the shed match the home or perhaps the other existing shed. The applicant states that the house is vinyl and that would be costly. The existing shed is bright red. He does not wish to have the new shed be the same color. He proposes dark brown with a white trim. This will blend in. The two sheds don't sit beside each other. The shed they are proposing to build is a long distance from the house.

Mr. Moose inquires what the neighbors think about the proposal. The applicant states that the neighbors (Holmes) are in attendance and they will see the shed as they drive out of their driveway. Mr. Ruckert asked for it to be in the location he is proposing.

Mr. Young asked for questions or comments from the Conservation Board. Mr. Salmon states that the Conservation Board issued comments as follows:

Conservation Board members have visited this site, and the owner has staked out shed location. It appears that the owner has avoided trees and slope. Also, the new shed will be somewhat screened by existing pine trees.

Mr. Young asked for questions or comments from CED. Mr. Beck states that a building permit to be issued within six months for the proposed shed and the existing shed that the applicant already has.

Mr. Young asked for questions or comments from the audience. A person in the audience (unintelligible) had no concerns regarding the application.

Mr. Moose made a motion to grant the following variances of the Town of Perinton Zoning Ordinance Section 208-14 G: to allow a second accessory building (shed) on the property instead of one accessory building per property, to allow the proposed second accessory building to be 384 sq. ft. instead of 200 sq. ft., and further to allow the proposed second accessory building to be located in the front yard instead of the rear yard, subject to the following conditions:

1. Applicant to obtain building permit for existing shed and for proposed shed on the property within 6 months from meeting date. If you do not obtain your building permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.
2. Proposed shed color is to match either the existing shed (red) or may be dark brown with a white trim, or is to match the color of the existing home.

This applicant has a large parcel and is heavily screened. The structure is off of the road quite a distance. The neighbors (Holmes) are here tonight in support of the application. There should not be any undesirable changes to the character of the neighborhood or nearby properties. This is not a substantial request due to the size of the lot. There will not be any adverse physical or environmental effects caused by granting the variance. It is self-created, but there is a need for storage.

Mr. Arcarese seconds the motion.

Motion carries 6 – 0.

3. Paul Zachman, owner of property located at 604 Pittsford-Victor Road (tax id #179.09-2-1), (proposed Canal House), requesting the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-42 B(2), to allow the lot width to be 82.35 feet instead of 300 feet and the lot area to be 5988 sq. ft. instead of 60,000 sq. ft.

2. Section 208-42 D, to allow the front setback to be 23.9 feet instead of 85 feet, and to allow the side setback for a step and landing to be 1 foot, and to allow the side setback for a proposed addition to be 5 feet both instead of 30 feet, and further to allow the rear setback for a proposed porch to be 1 foot instead of 30 feet.
3. Section 208-E (2), to allow the lot green space area to be 31% instead of 35 %.
4. 208-42 H to allow the front landscaping buffer to be 2 feet instead of 50 feet.
5. Section 208-16 B (1), to allow 5 parking spaces instead of 25 parking spaces.
6. Section 208-16 A (1), to allow the two-way drive travel aisle to be 20 feet in width instead of 24 feet. Said property located in a Commercial District.

Mr. Zachman presented the application to the Board, as per letter of intent as shown below:

Letter of intent For multiple Area Variance Request March 24th, 2014

Property:

604 Pittsford Victor Road
Pittsford, NY 14534

Attention:

Town of Perinton Zoning Board of Appeals

I am proposing to convert an existing single family residential property to an office/gallery/canal amenity rental commercial use. The subject property is a very small parcel located just west of the Canal Walk commercial development, both properties located along the canal.

The property in it's exiting state presents several pre-existing non-conforming setback issues including front setback, west side setback, rear setback, lot area, and lot width. In addition, the proposed development and conversion of the property to commercial use involves site work that would require additional Area Variances to include: Green space, front landscaping buffer, minimum drive isle width, and parking requirements. I have attached a variance analysis provided to me by John Beck, Zoning Officer Deputy Director. His analysis concurs with the variance analysis table outlined in the site plan.

The site was designed in such a way as to minimize negative impacts to the site and yet provide a minimum of functional requirements needed to operate the property for it's intended uses. The pre-existing non-conforming west side and rear setback encroachments have been slightly increased, however these two property lines are adjacent to NYS Canal Corp property and their are no nearby adjacent structures on the Canal Corp. property that will be effected, and the prospect for future adjacent structures is non-existent. Permits for work involving retaining walls, steps, and a deck have been approved by the Canal Corp.

The 20' wide drive isle and driveway entrance represent a residential scale more appropriate for the size and use intensity of the property. The NYS DOT has approved the proposed driveway width and has issues a work permit for such.

The pre-existing non-conforming front set back has been reduced by 4' by removing the existing 8' deep front porch and replacing it with an architecturally more appropriate 4' deep front entry stoop.

Review of the required Area Variances under the existing commercial zoning code reveal several substantial variances, however when compared to the proposed mixed use code requirements anticipated to be adopted this year, the substance of the requested variances is reduced significantly and this proposed plan meets, to the best of our ability given the physical constraints of the property, the intent of the forthcoming mixed use code

changes. Please see the attached CED comments handed up to the Planning Board for the benefit of their preliminary and final site plan review conducted in March.

The proposed development of this property was granted approval by the Historic Architectural Commission (HAC) on January 15th 2014, subject to Planning and Zoning approval.

The proposed development was granted preliminary site plan and final site plan approval by the Planning Board on March 5th 2014, subject to conditions (see attached letter) and Zoning Board Approval.

As of this Zoning Board meeting time, required permits will be issued from the NYS Canal Corp and the NYSDOT for specific site plan amenities involving those agencies.

I look forward to presenting the planned proposed conversion of this residential property to commercial use and am confident that the proposed changes and granting of the variances required will enable changes to go forward that will add significant positive contributions to the district in general.

Thank you,

Paul Zachman
Owner
604 Pittsford Victor Road
Pittsford, NY 14534

This property is part of a proposal that the Town currently has before the Town Board for a rezoning to mixed use, and the variances are less extreme under this new zoning. The Code has not yet been adopted by the Town.

Mr. Young states that the Planning Board issued comments as follows:

The Planning Board recommends approval of the aforementioned variance request because the request is adequate for the application.

1), 2) 3), 4), 5), and 6)

The Board recommends approval of all the aforementioned requested variances because they are pre-existing non-conforming "housekeeping" variances. This is a good site plan because it refurbishes an otherwise aging building in the Basin and keeps the architectural integrity of the Basin. Many other properties in the Basin already have these types of variances to accommodate their redevelopment.

Mr. Young and Mr. Arcarese feel that the presentation was very thorough and they have no questions.

Mr. Moose supports the proposal and feels this will fit in nicely in the Basin.

Ms Sartori and Ms. Barrett support the proposal and have no questions.

Ms. Ezell supports the proposal.

Mr. Young asked for questions or comments from the Conservation Board. Ms. Fredette had questions regarding the Army Corp permit. Ms. Fredette questioned where they would store the kayaks. The applicant shows the proposed location on the plan. The Canal Corp will issue a permit for that. Ms. Fredette had questions about the Crescent Trail access. Mr. Place states that should be a condition of approval.

Mr. Young asked for questions or comments from CED. Mr. Beck states that CED issued comments as follows:

(1) This application received preliminary and final site plan approval on March 5, 2014.

(2) The CED Dept. has no concerns with this application, and recommends approval of this application.

Mr. Young asked for questions or comments from Attorney Place. Mr. Place requests that the Board impose a condition that the applicant does nothing to block or interfere with public use of the trail/ pathway along the canal bank. A SEQR determination is required.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Arcarese made a motion to grant a Negative Declaration of SEQRA.

The proposed will not prevent the orderly use of adjacent properties or properties in adjacent use districts. The public health, safety and general welfare of the Town will not be adversely affected by the proposed use in its location. The use is in general harmony with and will promote the general purposes of the intent of the most recent Town Comprehensive Plan. The proposed use will not interfere with the general character of the neighborhood. The physical characteristics and topography of the site make it suitable for the proposed use.

Mr. Moose seconds the motion.

Motion carries 6 – 0.

Mr. Arcarese made a motion to grant the following variances of the Town of Perinton Zoning Ordinance:

1. Section 208-42 B(2), to allow the lot width to be 82.35 feet instead of 300 feet and the lot area to be 5988 sq. ft. instead of 60,000 sq. ft.;
2. Section 208-42 D, to allow the front setback to be 23.9 feet instead of 85 feet, and to allow the side setback for a step and landing to be 1 foot, and to allow the side setback for a proposed addition to be 5 feet both instead of 30 feet, and further to allow the rear setback for a proposed porch to be 1 foot instead of 30 feet;
3. Section 208-E (2), to allow the lot green space area to be 31% instead of 35 %;
4. 208-42 H to allow the front landscaping buffer to be 2 feet instead of 50 feet;
5. Section 208-16 B (1), to allow 5 parking spaces instead of 25 parking spaces;
6. Section 208-16 A (1), to allow the two-way drive travel aisle to be 20 feet in width instead of 24 feet,

all subject to the following condition:

The applicant may do nothing to block or interfere with public use of the trail/ pathway along the canal bank.

This is an undersized, pre-existing lot. The variances being requested are pre-existing non-conforming "housekeeping" variances. This is a good site plan because it refurbishes an otherwise aging building in the Basin and keeps the architectural integrity of the Basin. Many other properties in the Basin already have these types of variances to accommodate their redevelopment. There will not be an undesirable change to the character of the neighborhood or nearby properties. There will not be any adverse physical or environmental effects. This will enhance the property.

Mr. Moose seconds the motion.

Motion carries 6 - 0

4. David Prince as agent for Daryl Martin, owner of property located at 7216 Pittsford Palmyra Road (Bobcat of the Finger Lakes), requesting the following variances of the Town of Perinton Sign Code:

1. Section 174-9D, to allow a ground mounted monument sign (second sign) on the property in addition to the existing building mounted sign instead of one sign, and to allow said sign to be 5'8" in height instead of 5 feet.
2. Section 174-10 (A), to allow a proposed monument sign to set 21 feet from the front property line instead of 25 feet.

Said property being located in a Commercial District.

The applicant presents the sign application to the Board. They have selected the smallest sign available to them from the corporate catalogue. The New Holland "lollipop" sign will be coming down, as well as the New Holland sign on the building. They have received Planning Board approval on 4/16/14 with conditions:

1. New Holland "lollipop" sign is to be removed from the site.
2. New Holland building mounted sign be removed from the east side of the building.
3. DJM Equipment Inc sign on the building may remain.
4. The ground mounted sign shall be externally illuminated with spotlights from the ground up.
5. The base of the ground mounted sign shall be gray stone.
6. Applicant is to obtain the three variances being requested from the ZBA (scheduled for 4/28/14).
7. Applicant to obtain a sign permit within 6 months and no later than October 16, 2014 and prior to sign being erected.

Mr. Young states that the Planning Board issued comments as follows:

The Planning Board recommends approval of the aforementioned variance request because the request is adequate for the application.

- 1) **Currently there are 2 ea signs on the property (1 ea lollipop sign and 1 ea building mounted sign) and have been there for many years. The sign on the building blends into the brick and is not noticeable**

from Route 31. The current lollipop sign will be removed and replaced with a more attractive monument sign (with a masonry base). The height of the requested sign has been determined by a corporate catalogue and the applicant selected the smallest sign available.

- 2) The proposed setback and location will be set further back than the existing sign, so the request will be an improvement to the existing conditions. In addition, the location works better for the traffic flow within the site and avoids the current telephone on pole on the property.**

Mr. Young asked for questions or comments from the Conservation Board, and there were none. Mr. Salmon asked how it is lit, and the applicant states that it will be externally illuminated with spotlights from the ground up.

Mr. Young asked for questions or comments from CED. Mr. Beck states that the Planning Board has approved this sign on 4/16/14. He states that CED issued comments as follows:

- (1) The CED Dept. recommends approval of this application with the following conditions:
 - a. The existing "lollipop" New Holland sign to be removed.
 - b. The existing building mounted New Holland sign to be removed.
 - c. The proposed ground mounted sign to be externally illuminated, and the base to be gray stone.
 - d. A sign permit to be issued within six months.

Mr. Young asked for questions or comments from Attorney Place. Mr. Place states that a SEQR determination is required.

Mr. Young asked for questions or comments from the audience, and there were none.

Mr. Young made a motion to grant a Negative Declaration of SEQR.

As proposed, this will not create a hazard to the health, safety, or general welfare. It will not be detrimental to the flow of traffic in the vicinity, nor will it alter the essential character of the neighborhood. This signage will be an improvement to what currently exists.

Ms. Ezell seconds the motion.

Motion carries 6 – 0.

Mr. Young made a motion to grant the following variances of the Town of Perinton Sign Code:

1. Section 174-9D, to allow a ground mounted monument sign (second sign) on the property in addition to the existing building mounted sign instead of one sign, and to allow said sign to be 5'8" in height instead of 5 feet;
2. Section 174-10 (A), to allow a proposed monument sign to set 21 feet from the front property line instead of 25 feet;

all subject to the following conditions:

1. The existing "lollipop" New Holland sign to be removed.
2. The existing building mounted New Holland sign to be removed.
3. The proposed ground mounted sign to be externally illuminated, and the base to be gray stone.
4. A sign permit to be issued within six months from meeting date. If you do not obtain your sign permit prior to this date, the variance is null and void. If you decide that you are no longer going through with the proposal that required the variance on the property, please notify the Town (Zoning Board of Appeals Clerk) in writing of your decision, and we will mark the variance null & void.

There will not be an undesirable change to the character of the neighborhood or be a detriment to nearby properties. It will be an enhancement to the property. The benefit cannot be achieved in any other manner. The applicant is making the minimal request they can to achieve the result being sought. The Planning Board supports the request. There will not be any adverse effect to the physical or environmental concerns of the neighborhood.

Ms. Ezell seconds the motion.

Motion carries 6 – 0.

Discussion: - Minutes 3/24/14

Mr. Young made a motion to approve the minutes of 3/24/14 as submitted.

Mr. Arcarese seconds the motion.

Motion carries 5 – 0, with one abstention of Ms. Ezell, due to absence.

There being no further business before the Board, the meeting adjourned at 8:27 PM.

Respectfully Submitted,

Lori L. Stid, Clerk