

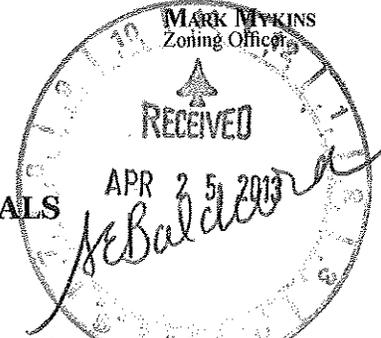
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JOSEPH O'BRIEN
Zoning Board Chairman

MICHELLE DINGMAN
Zoning Clerk

MARK MYKINS
Zoning Officer

WILTON ZONING BOARD OF APPEALS
THURSDAY, March 28, 2013



A meeting of the Wilton Zoning Board of Appeals was held on Thursday, March 28, 2013, at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Chairman Joseph O'Brien at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Michael Worth, Rocco Angerami, Dean Kolligan, Christopher Ramsdill, Tony McCracken and Robert Barrett. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

MINUTES: The minutes of the last meeting, held on February 28, 2013, were approved, as submitted, on a motion made by Mr. Kolligan, seconded by Mr. Angerami. All board members were in favor.

CORRESPONDENCE: None other than that relating to current applications before the board.

OLD BUSINESS:

APPEAL NO. 01-07 Mark Harrison, 180 Meadowbrook Road, Saratoga Springs, New York 12866. Request for the renewal of a Special Permit pursuant to Section 129-176 (I) of the Zoning Ordinance, for the operation of an auto repair and inspection facility; property located at 665 Route 9, Tax Map No. 140.-3-14, originally zoned CR-1, now zoned H-1. Appeal originally granted on March 28, 2001 for a period of two years and renewed several times.

Mr. Angerami stated he was contacted by the applicant and the applicant asked to table. No one appeared before the board to represent Mr. Harrison

Mr. Kolligan made a motion to table Appeal No. 01-07 at the request of the applicant until the April meeting. Mr. Angerami seconded the motion. All board members voted in favor. Motion carried

APPEAL NO. 11-07 Claudio Barrera, 252 Gurn Springs Road, Gansevoort, New York 12831. Request for a Special Permit pursuant to Schedule B and Section 129-176V of the Zoning Ordinance for a private stable; property located at 252 Gurn Springs Road, Tax Map No. 116.-1-2.13, zoned R-2, in the Town of Wilton.

Ms. Barrera appeared before the board for renewal of the special permit. Mr. Angerami asked if there were any concerns. Mr. Mykins said there were no issues. Mr. Worth made a motion to renew Appeal No.11-07 for a private stable for another two years. Mr. McCracken seconded the motion. All board members voted in favor. Motion carried.

NEW BUSINESS:

APPEAL NO. 13-06 Altamont Park Apts., Inc., David Canfield, P.O. Box 5107, Clifton Park, New York 12065 for the property located at Margaret Drive, Gansevoort, New York 12831. Request for an Area Variance pursuant to Schedule A, R-1 Residential of the Zoning Ordinance for a proposed 2-lot subdivision; at above said property, Tax Map No. 128.5-1-12, zoned R-1, in the Town of Wilton.

Mr. John Allen, Esq. and David Canfield appeared before the board. Mr. Allen said the applicant is seeking an area variance for what is required of a corner lot. The original subdivision was completed in 1973. The green area shown on the map was reserved and used as a leach field for the existing apartments which was removed in 2004 eight or nine years ago. That applicant is seeking a variance solely because the property is considered a corner lot because it has frontage on two roads with a provision in the Town Code which requires 150ft. of frontage on each road. The applicant does not meet the 150ft. frontage along Gailor Road. Mr. Allen said he does not know why this property was laid out in this configuration, but was prior to the present owner. Mr. Allen said each lot has the required 20,000sq. ft. and meet all other requirements. Mr. Allen said clearly the position of the house facing Margaret Drive is not using this part of the property for anything, (pointing to the 50' wide area going to the Gailor Road) only as a part of the area requirement as part of the area. Mr. Allen said there are three lots in the subdivision, lot 18 which Mr. Canfield had built on are actually corner lots as defined in the town code and do not meet the 150ft. requirement along both streets and are preexisting and do not think this is out of character and is of the same use of the properties in the neighborhood. Mr. Canfield has built on the three lots which face Gailor Road other than one lot which is a corner which faces Donna and Gailor Road and the other lot that is directly across the street from this property. Mr. Canfield is proposing to build homes comparable to what has been previously built on those lots. Mr. Allen said the Planning Board had a favorable recommendation to the Zoning Board and asked that the area variance be granted and return to the planning board for the subdivision.

Mr. Worth asked if the neighbor on the side were to purchase the property, the lot would not meet the square footage. Mr. Allen said correct and did look into whether it would be feasible given the use made of this property be some kind of swap given the location of the property.

Diane Roy, 10 Margaret Drive has been a resident for a long time and has recently moved out due to problems associated with Altamont Apts., Inc. and the leach field. Mr. Canfield said he connected to sanitary sewer in 2004. Ms. Roy measured the property which totaled 210ft. essentially making two 100ft. lots. Ms. Roy said the surrounding properties are all single level ranches with two split levels. Ms. Roy said the property has 168ft. for two pieces of property. Ms. Roy said the "peninsula" is necessary for this to meet the criteria for separation for splitting, even though physically it will look like a house on 20,000sq.ft. and 12,000sq.ft. Ms. Roy said, "These homes are not little ranches they are really kind of large homes on little postage stamps," Ms. Roy is concerned with new homes that were built on flatlands and had a lot of fill brought in. Ms. Roy said the homes were built on mounds of earth and is concerned with run-off, seasonal wetness and pooling of water. Ms. Roy said it does not seem reasonable for one person to increase the value of their land while decreasing the value of adjacent land. Ms. Roy said this piece of property was a leach field with a lot of bulldozing done. Ms. Roy checked the points and found the marker; the banks have over reached onto her property and she has concerns of all that water onto her property because she does not know how high, how much water run-off onto her property. Ms. Roy said a variance must have been achieved because it fails to meet the requirements. Ms. Roy said the variance required for Lot A is 98% and less than 30% required for Lot B. Ms. Roy said this is a rural area and the square footage is good for one home or a townhome. Ms. Roy is asking Wilton to rein it in and completely changed everything in the town in the last 10 to 15 years. Ms. Roy said a variance that requires give and take is not too much to ask for, but is not esthetically pleasing on this corner lot. Many of these people find it difficult to interest new buyers if their land is too small and on a hill. Ms. Roy said Wilton needs to take a look at the Town not a Village, not the center of Fort Edward. Ms. Roy said why we want it to look like all the other homes of the surrounding properties of that size not on 20,000sq. ft. they are on larger lot. Ms. Roy said think more Queensbury less "McMansion" on a postage stamp.

Patrick Vanderbogart, 34 Gailor Road said he has a concern for the proposed homes being built too close to his property and if not drained properly; his backyard will turn into swamp. Mr. Vanderbogart is also concerned about devaluing his property as he plans on selling his property in ten years.

Mr. Worth asked Mr. Canfield about proposed house plans. Mr. Canfield said he proposes to build a three or four bedroom colonial style home with two car garage full basement with town water and sewer.

Mr. Worth said the town code states on a corner lot the minimum square footage is 30,000sq. ft.

Mr. Mykins overlooked the footnote for a corner lot.

Mr. Mykins said the applicant would need to reapply because the determination needs to be changed and add variances for the property.

Mr. Allen asked if the applicant will have to pay another application fee. Mr. Mykins said no. Mr. Mykins said the application will need to be amended.

Mr. Schachner said the application will need to be advertised.

Mr. Mykins said the application will need to be tabled. Mr. Allen asked is there is sufficient time for notice for the April ZBA meeting. Mr. Mykins replied yes. Mr. Allen said subject to this issue raised, the lots are comparable in size to what is in this entire development. Ms. Roy has a lot of 20,000sq. ft. and with respect of Mr. Vanderbogart, the side yard requirement is met. If this is all one lot, a house could be built.

Mr. Kolligan said for clarification for lot (3) labeled B on map has an area 21,586sq ft. is not inclusive of the additional 100ft. variance; square footage as is and 20,005sq. ft. Mr. Allen said the applicant is here under the direction of the Building Inspector's determination that a variance is needed for frontage of the corner lot and did not have 150ft.

Mr. Worth made a motion to table. Mr. Angerami seconded the motion. All board members voted in favor. Motion carried.

Chairman O'Brien said the next meeting is scheduled for April 25, 2013.

APPEAL NO. 13-07 David P. Miller, 1 Moonglow Road, Gansevoort, New York 12831. Request for an Area Variance pursuant to Schedule A, R-1 Residential of the Zoning Ordinance for a proposed 21' x 12' attached garage and a proposed 23' x 6' addition; property located at 1 Moonglow Road, Tax Map. No. 115.18-1-3 zoned R-1, in the Town of Wilton.

Mr. Miller appeared before the board requesting to add onto front of the existing garage and front corner of the house. Mr. Worth asked Mr. Miller if the fence is the property line. Mr. Miller replied yes. Mr. Worth made a motion

1. Mr. Worth said an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting of the area variance. Mr. Worth said the way the house and the property line the difference will be barely visible from the road or the adjacent neighbors.
2. Mr. Worth said the benefit sought cannot be achieved by some method feasible to pursue other than an area variance. Mr. Worth said the applicant is adding an addition to the garage that is what the garage is and there is no other available land to purchase to reduce the variance.
3. Mr. Worth said the requested area variance is not substantial. Mr. Worth said the requested variance is 4ft. and from the road will be barely visible.
4. Mr. Worth said the requested area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Mr. Worth said the applicant is adding on the garage, it is a residential area, most of the homes have garages and it will fit in.
5. Mr. Worth said the alleged difficulty was self-created. Mr. Angerami seconded the motion. Mr. Ramsdill voted in favor, Mr. Worth voted in favor, Mr. Angerami voted in favor, Mr. Kolligan voted in favor, Mr. McCracken voted in favor and Mr. Barrett voted in favor. The motion passed.

APPEAL NO. 13-08 Dairy Haus Ice Cream, 262 Wilton Mountain Road, Corinth New York 12822. Request for a Special Use Permit pursuant to Schedule 129 Attachment 21 O CR-2 Commercial Residential Two District (Amended 2-7-13) Restaurants are an allowed use pursuant to a special permit for an establishment that serves food and beverages primarily to persons served on the premises.; property located at 697 Maple Avenue, Tax Map No. 140.-3-6, zoned CR-2, in the Town of Wilton.

Chairman O'Brien read the decision from the Saratoga County Planning Board, dated March 25, 2013; "No Significant County Wide or Inter Community Impact" The Applicant should contact Chad Corbett of NYS Dot's Saratoga Springs Residency (584-3790) to receive a curb cut application and to discuss the requirements for a commercial driveway onto a state highway.

Chairman O'Brien read the recommendation from the Wilton Planning Board "Please be advised that the above-referenced application by Dairy Haus Ice Cream for a special permit at its meeting held on March 20, 2013 and the following action was taken.

David Gabay moved for a positive recommendation to the ZBA regarding the request for a special permit pursuant to Schedule 129 Attachment 21, Schedule O CR-2 Residential Two District (Amended 2-7-13) which states that restaurants are an allowed use pursuant to a special permit. Harold VanEarden seconded the motion which passed with all board members in favor."

Chairman O'Brien read a letter from SNYDER, KILEY, TOOHEY, CORBETT & COX, LLP "Dear. Mr. O'Brien, This firm represents the Taylor/Stevens family which owns 701 Maple Avenue (Saratoga Rd., Route 9) in the Town of Wilton. Their property is a single family home just north of the property involved herein. They are concerned that the proposed restaurant will be intrusive upon their use of their property. They would like any outdoor seating placed on the south side of the proposed building. They would also like to have a row of bushes or fence placed on the north side of the property to protect their view and to reduce some of the noise. There is concern for potential outdoor music and lighting. Also a request that signage be minimal and not overly lighted. Lastly, that the garbage and recycling be kept in an enclosure to keep the smell down and to keep the animals away. There is a good deal of wildlife that resides in that area that would disturb those items.

Please keep these stated concerns in mind when considering the Dairy Haus application.

Thank you for your anticipated attention to this matter.

Very truly yours,

JAMES G. SNYDER

Mr. Ethan Hall, Principal of Ricinski Hall Architecture and Michael Goodspeed, owner of Dairy Haus Ice Cream were present. Mr. Hall said the proposal is to keep the building on the southernmost portion of the lot and have created a 50ft. no build buffer next to adjoining property owner. The refuse and recycling area are proposed to be gated on the southern portion of the site. All of the undercover seating is located on the southern portion of the site. The existing curb cut is being utilized on Route 9 which is proposed to be widened in order to create a left hand turn lane to create "two out and one in"; a left hand lane and a right hand lane. Mr. Hall said the site distances are over 700ft. to the north and 500ft. to the south. The southern portion of the site will be paved and the western portion will be crushed stone. Mr. Hall said the storm water management is proposed to the south. Mr. Hall said there is a proposal for one low ground mounted sign, landscaped with lights just inside driveway. Mr. Hall said no additional clearing is proposed other than what was already cleared on the lot with the exception of what was cleared for the sidewalk wanting to stay as far south for the residential lot. Mr. Hall said the proposal is an Adirondack theme with cathedral ceilings with lightening under cover.

Mr. Worth asked Mr. Mykins, "What differentiates this from McDonald's." Mr. Mykins said there is no drive-thru. If you look at the town code nowhere in any zone are the restaurants singled out by definition. Mr. Mykins said restaurant and restaurant fast food in the C-1 zone there is no fast food requirement defined in that zone. Mr. Worth said to answer his question, a McDonald's would be allowed. Mr. Mykins said yes, but no drive-thru.

Mr. Hall said the Dairy Haus has been in operation for 11 years which is a seasonal operation May through October.

Mr. Mykins addressed Mr. Worth explaining the way the town zoning schedules are made up, the town could have a McDonald's in the RB-1 zone because a restaurant is allowed in the RB-1 zone.

Mr. Worth asked if the sidewalks will be required. Mr. Mykins said the sidewalks are required and are on the plan.

Mr. Worth said the concern is the neighbor and asked how that will be addressed. Mr. Hall said all concerns were brought up on the plan and have already tried to be addressed. Mr. Worth asked the hours of operation. Mr. Goodspeed replied 12:00pm to 9:00pm until Memorial Day and after Memorial Day until 10:00pm. Mr. Hall asked in the heat of the summer, what would be considered the busiest hours. Mr. Goodspeed replied the majority of the business is between the hours of 6:00pm and 9:00pm; the hours between 9:00pm to 10:00pm the staff is cleaning and getting rid of trash. Mr. Worth asked what type of buffer is being proposed. The town code requires a 50ft. landscape buffer. Mr. Hall said the proposed building is 162ft. from the north property line that portion is wooded having a fair amount of brush. Mr. Ramsdill said after looking at the site, it is an outdoor seasonal use in the wintertime when the vegetation would not have people outside. Mr. Mykins said the ZBA could make a recommendation for a vegetative buffer to the Planning Board. Mr. Mykins said a 50ft. landscape buffer adjacent to the property line. Mr. Worth would rather see the woods stay and recommends adding White Pines 6ft. tall 6ft. to 8ft. apart.

Mr. Hall said plantings could be added to the front portion. Mr. Worth asked, "Could the Planning Board make the applicant put them in or could the ZBA recommend that the applicant put in the evergreens and leave the natural woods." Mr. Mykins said the ZBA could put that recommendation in and leave the natural buffer. Mr. Worth said, "Mr. Farone and Bill Johnson put the trees on that site." Mr. Mykins said, "They are Arborvitae and White Spruce Pine."

Mr. Hall said Mr. Goodspeed is welcome to the 4ft. trees that were planted on his property located on Route 9.

Mr. Worth made a motion to approve Appeal No. 13-08 Dairy Haus Ice Cream, 697 Route 9, Tax Map No. 140.-3-6 in the town of Wilton for a seasonal ice cream store with the following requirement the trees talked about be planted in the most convenient area for the applicant on the north side of the property. How much time do you want to put them in? Mr. Mykins said that that applicant has to the completion of his site. Mr. Mykins said whatever site conditions are not met at Certificate of Occupancy, the applicant has to meet them or provide the town with an escrow check. Mr. Worth recommends a 5ft to 6ft. planting distance. Mr. Hall said since the natural vegetation will not be disturbed, 10ft. to 15ft. will be sufficient. Mr. Worth said 12ft.

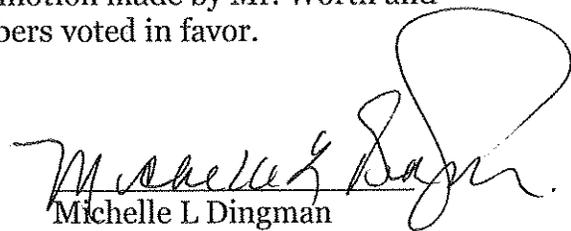
Mr. Schachner suggested the board make a determination.

Mr. Worth made a motion for a Negative Declaration. Mr. Ramsdill seconded the motion. Mr. Ramsdill voted in favor, Mr. Worth voted in favor, Mr. Angerami voted in favor, Mr. Kolligan voted in favor, Mr. McCracken voted in favor, Mr. Barrett and Chairman O'Brien voted in favor. Motion carried.

ADJOURNMENT:

The meeting was adjourned at 7:50pm on a motion made by Mr. Worth and seconded by Mr. Angerami. All board members voted in favor.

APPROVED: 4/25/2013


Michelle L Dingman
Zoning Board Secretary