

WILTON ZONING BOARD OF APPEALS
THURSDAY, February 25, 2021

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, February 25, 2021 via a ZOOM webinar and was called to order by Vice Chairman Ramsdill at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Vice Chairman Christopher Ramsdill, Jim Deloria, Scott Kingsley, Gerard Zabala, Jay Rifenburg, 1st Alternate, and Christian Clark, 2nd Alternate. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, Mark Mykins, Zoning Officer, Lisa Closson, Zoning Clerk, and Joshua Carlsson, ZOOM Meeting Coordinator.

ABSENT: Chairman O'Brien, Dean Kolligian, and Robert Barrett. (Robert Barrett was present at 7:02 p.m., then disconnected at 7:02 p.m. due to connection problems.

MINUTES: The minutes of the last meeting, held on January 28, 2021, were approved, as submitted, on a motion made by Mr. Rifenburg, seconded by Mr. Deloria. All board members present were in favor. The motion passed.

CORRESPONDENCE: None other than what is presented before the board.

EXTENSIONS: *SPECIAL USE PERMIT EXTENSIONS ARE NOT SUBJECT TO A PUBLIC HEARING*

SUP NO. 2011-07 Lauri Barrera, also known as Lauri Fisch, 252 Gurn Springs Road, Gansevoort, New York 12831. Request for an extension of a Special Use Permit pursuant to Schedule B and §129-176 (V) 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. SUP No. 2011-07, originally granted on March 28, 2011 for a period of two years, and continually extended every two years since, is due for review and extension on or before March 23, 2021.

Mr. Ramsdill read correspondence from Lauri Barrera, AKA Lauri Fisch, explaining that she would like her Special Use Permit extended. Mr. Deloria asked how many horses were originally granted and Mr. Mykins stated there are two horses on the property currently. Mr. Ramsdill asked Mr. Mykins if there were any problems on the site and Mr. Mykins stated that the stable is impeccable.

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Mr. Deloria made a motion to approve the extension of SUP No. 2011-07, Lauri Barrera, also known as Lauri Fisch, 252 Gurn Springs Road, Gansevoort, New York 12831. Request for an extension of a Special Use Permit pursuant to Schedule B and §129-176 (V) 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, for a period of 3 years, and will be due for review and extension on or before March 23, 2024. Mr. Kingsley seconded the motion. All board members were in favor. The motion passed.

OLD BUSINESS:

Appeal No. 2021-02 Joseph Ernst, 5 Commerce Park Drive, Gansevoort, New York 12831. Request for an Interpretation of the Determination of the Code Enforcer; property located at Commerce Park Drive, Gansevoort, New York, 12831, Tax Map No. 115.-2-89.1, zoned C-3 in the Town of Wilton.

Mr. Ramsdill asked if Mr. Ernst was present. Since he was not present at the time, Mr. Ramsdill asked if it would be appropriate to move on without him. Mr. Schachner explained that there is no obligation for the party to be present. Mr. Ramsdill stated that Appeal No. 2021-02 will be heard again at the end of the meeting to give Mr. Ernst a chance to come forward.

NEW BUSINESS:

Appeal No. 2021-05 Robert and Jane Burns, 34 Corinth Mountain Road, Gansevoort, New York 12831. Request for Area Variances pursuant to §129-157, §129-158, and Schedule C, R-3 District, of the Zoning Ordinance; property located at 34 Corinth Mountain Road, Gansevoort, New York 12831, Tax Map No. 101.-1-61.1, zoned R-3 in the Town of Wilton.

Mr. Ramsdill asked if Mr. and Mrs. Burns were present to explain what they would like to do. Robert and Jane Burns, 34 Corinth Mountain Road, were present and presented their appeal before the Board. There was discussion between Mr. Ramsdill, Mr. Zabala, Mr. Mykins, and Mr. Burns regarding the proposed building Lot (Lot #2) and the setback variances for both north and south side, and frontage.

Mr. Zabala asked if there had been any negative comments or problems with the neighbors, and Mr. Mykins said he had one call from a neighbor, Mr. Bollman, who Mr. Mykins asked to talk to Mr. Burns about the project.

Mr. Zabala asked Mr. Burns if he had spoken to Mr. Bollman, and to relay comments to the Board. Mr. Burns explained that Mr. Bollman feels it is going to be impeded on his privacy, but that he (Mr. Burns) is willing to work with him (Mr. Bollman).

There was discussion about one of the existing sheds on Lot #1 between Mr. Burns, Mr. Ramsdill, and Mr. Mykins, regarding it being pre-existing non-conforming.

Mr. Ramsdill opened up the public hearing at 7:13 p.m.

Fredrick and Nikki Bollman, 30 Corinth Mountain Road, explained that he (Mr. Bollman) spoke with Mr. Burns a couple weeks ago, and that they are concerned because they bought the lot 21 years ago, it was a five acre lot, and had placed their home in the middle

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to give the most privacy. They explained that they never thought it could be divided again in the future and feel that they are going to lose some privacy.

There was discussion between Mr. Mykins, Mr. Ramsdill, Mr. Schachner, and Mr. Rifenbary regarding the proposed setbacks on Lot #2 without a proposed structure. Mr. Mykins explained that this is exactly what is done with subdivisions as well.

Mr. Bollman questioned setting a precedent. Mr. Ramsdill explained that each application is viewed as a unique project. There was discussion about the current proposed subdivision and the prior subdivision of the land and acreage between Mr. Bollman and Mr. Mykins.

Mr. Ramsdill closed the public hearing at 7:21 p.m.

Mr. Rifenbary asked why Mr. Burns can not comply with the required setbacks, and Mr. Mykins explained that the problem here is it's not the same size building lot that is required for that zone. He's not just asking for setback variances. He's asking for square footage, setbacks, road frontage...a number of different variances, because the lot he wishes to create is smaller than what is allowed in the zone.

Mr. Ramsdill asked Mr. Burns to comment on why this is something he needs to do, and Mr. Burns explained he is going through a divorce right now, it's kind of amicable, and that they could work with each other from different homes being closed by.

Mr. Zabala asked Mr. Burns if he would be willing to adjust the proposed building line, and Mr. Burns explained that he would be willing to adjust to give more footage on the right side if Mr. Bollman feels that it would interfere with his privacy and give less on the left side, if it can be done.

There was discussion about how the survey was prepared between Mr. Zabala and Mr. Mykins. There was discussion between Mr. Ramsdill, Mr. Deloria, Mr. Mykins, and Mr. Burns about the compass direction on the survey for the requested variances and the shifting of the proposed lines.

Mr. Zabala expressed that he was disinclined to act on this appeal this evening, and see if Mr. Burns wants to put forth an idea of what would be shifting and where.

There was discussion about the proposed building lot and approving variances without knowing what the structure would look like on the lot between Mr. Ramsdill and Mr. Mykins.

Mr. Mykins asked Mr. Burns if he needs to subdivide the lot, are you each taking a piece of property here, or could you put a second family dwelling on this property without subdivision? Discussion upon this continued between Mr. and Mrs. Burns, Mr. Mykins, and Mr. Ramsdill.

Mr. Rifenbary made a statement concurring with Mr. Zabala to be inclined not to make a decision on this tonight without some more specificity.

Mrs. Burns voiced with asking for more specificity and details, what that would entail, without having an approval to go ahead and hire an architect or a builder? I'm not sure if that's what you are looking for, but that expense without knowing we could go forward with it doesn't seem feasible, and Mr. Deloria agreed, in part, regarding not knowing what the next step is or what to consider or do, and that the Board should give a little bit more clarification if in fact the other Board members decide they do not want to act on this tonight. Discussion continued between Mr. Rifenbary, Mr. Ramsdill, Mr. Deloria, Mr. Kingsley, and Mr. Schachner.

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Mr. Ramsdill asked Mr. Burns if he had any issue with shifting this on the property towards the north, without telling you how far to move it or planning? He also stated that it's a concern of his approving it (tonight) before moving on to a vote.

Mr. Burns stated he would like to have the board not vote and amend the project.

Mr. Ramsdill asked Mr. Burns if he would prefer to come back next month and show an amended project, and Mr. Burns said that is correct.

There was discussion between Mr. Rifenburg and Mr. Ramsdill regarding an amendment to the application.

Mr. Kingsley expressed concern on the subdivision where one parcel will only have 85% of the square footage of the parcel and that town board has put 120,000 square foot requirement in for a reason in R-3, and that is to maintain a role characteristic of that neighborhood.

Mr. Deloria made a motion to table Appeal No. 2021-05, Robert and Jane Burns, 34 Corinth Mountain Road, Gansevoort, New York 12831. Request for Area Variances pursuant to §129-157, §129-158, and Schedule C, R-3 District, of the Zoning Ordinance; property located at 34 Corinth Mountain Road, Gansevoort, New York 12831, Tax Map No. 101.-1-61.1, zoned R-3 in the Town of Wilton, until the next meeting to be held March 25, 2021. Mr. Rifenburg seconded the motion. All board members were in favor. The motion passed.

Appeal No. 2021-06 Debora Chartrand, 6 Craw Lane, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-157 and Schedule A, R-1 District, of the Zoning Ordinance; property located at 6 Craw Lane, Gansevoort, New York 12831, Tax Map No. 115.13-4-31, zoned R-1, in the Town of Wilton.

Mr. Ramsdill asked if Mrs. Chartrand was present and to present to the Board what she would like to do. Debora Chartrand and her wife Mary Eaton, 6 Craw Lane, were present and explained they're just asking for an area variance on the north side of the property line so they can put up a shed.

Mr. Rifenburg made a comment that he happen to stop by the lot and they shared their plans, just the whole layout of what was going to be constructed, and that it's very well done and seems to be very nice.

Mr. Ramsdill and Mrs. Chartrand discussed the bushes and shrubs on the property and the placement of the shed.

Mr. Ramsdill opened and closed the public hearing at 7:48 p.m. due to lack of public comment.

Mr. Zabala asked if all green cards were returned and any comments. The secretary stated there were no comments with the cards but a phone call was received about the meeting date.

There was discussion about the type of structure, the placement, the location of the patio and stairs, and the location of the existing shed between Mr. Deloria, Mr. Ramsdill, and Mrs. Chartrand.

Mr. Rifenburg made a motion to approve Appeal No. 2021-06, Debora Chartrand, 6 Craw Lane, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-157 and Schedule A, R-1 District of the Zoning Ordinance; property located at 6 Craw Lane, Gansevoort, New York 12831, Tax Map No. 115.13-4-31, zoned R-1, in the Town of Wilton, be granted for the placement of a 17' x 22' pavilion, a relief for 12.5 ft. north side setback;

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property located at 6 Craw Lane, zoned R-1 in the Town of Wilton, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variances because the structure will match the house and be aesthetically pleasing to the eye. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because there is not enough area in the back north side. 3. The applicant has demonstrated that the requested Area Variances are substantial because they are only asking for north side setback relief. 4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because the structure would be built to appear the same color, look like the house, and not hindering sight. 5. The applicant has demonstrated that the alleged difficulty was self-created because of the owners desire to build this.

Mr. Zabala seconded the motion. A Roll call showed all other board members present were in favor. The motion passed.

Appeal No. 2021-02 Joseph Ernst, 5 Commerce Park Drive, Gansevoort, New York 12831. Request for an Interpretation of the Determination of the Code Enforcer; property located at Commerce Park Drive, Gansevoort, New York, 12831, Tax Map No. 115.-2-89.1, zoned C-3 in the Town of Wilton.

Mr. Ramsdill asked if Mr. Ernst was present, and he was not. He also asked the Board about acting upon this now or delaying until the next meeting. He also noted that there was extensive discussion at the last meeting.

Mr. Kingsley recalled from the last meeting that Mr. Ernst was going to get in touch with Mr. Mykins, then asked Mr. Mykins if Mr. Ernst had gotten in touch with him. Mr. Mykins stated they did talk and ideas were given on what he could do, but that he has not heard back from him since.

Mr. Kingsley shared that there's not a definition in our code for what for what Mr. Ernst wants to do which is to park vehicles, and still questioned about what type of vehicles, can they be driven off the lot, immediately, are they registered, are they inspected, are those registration inspections up to date?

There was discussion about road worthy vehicles between Mr. Ramsdill, and Mr. Mykins. Mr. Deloria recalled a couple of particular vehicles on a different lot, which Mr. Mykins explained was owned by the same person, that sat there for years, and that he left it open in that there was really no accurate way to tell us what the longevity would be of those parked vehicles, and that the Board offered him somewhat of a solution in that if he had a building on that particular parcel, that would change the application considerably, which he was unwilling to consider that for his own reasons. So those factors, candidly, had dissuaded him from wanting to really move forward with this application positively. Mr. Ramsdill conveyed that they are not moving forward, just saying whether the Board thinks Mr. Mykins interpretation was accurate, or whether there's a better interpretation that the Board feels is more accurate. He also shared that he does not exactly agree that this situation isn't addressed in our code, because parking lots are covered extensively in our code, and that he think it's not an allowed use in our code to have a parking lot as a

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principal use. He believes that it doesn't perfectly meet the criteria for a junkyard, but does think that it's still not an allowed use in our zoning code, because it's a standalone parking lot, which is not an allowed use, and parking lots are covered extensively and are allowed. He also stated he was looking, and there's the park, private parks you could have a parking lots for, and they you don't need a structure for that. So it's just not an allowed use anywhere in our code to have a primary use parking lot. He shared that he feels comfortable saying that he would disagree with Mr. Mykins that it's a wrecking yard or a junkyard as he proposed it, but that he would agree that it is not an allowed use in our zoning code to have a parking lot as a primary use.

There was discussion upon placement of a building, the combining of two properties (across a Town road) between Mr. Deloria, Mr. Rifensbary, and Mr. Mykins.

There was discussion between Mr. Zabala, Mr. Kingsley, Mr. Ramsdill, Mr. Schachner, and Mr. Mykins regarding stand-alone parking lots, the code, and allowed uses in the zone.

Mr. Zabala made a motion to uphold the Code Enforcer's Determination regarding Appeal No. 2021-02, Joseph Ernst, 5 Commerce Park Drive, Gansevoort, New York 12831. Request for an Interpretation of the Determination of the Code Enforcer; property located at Commerce Park Drive, Gansevoort, New York, 12831, Tax Map No. 115.-2-89.1, zoned C-3 in the Town of Wilton, to uphold the Zoning Officers Interpretation that this is not an allowed use.

There was discussion between Mr. Ramsdill, Mr. Schachner, Mr. Deloria, Mr. Kingsley, and Mr. Zabala regarding the wording of the motion. Mr. Zabala withdrew his motion for Appeal No. 2021-02.

Mr. Deloria made a motion to uphold the Code Enforcer's Determination, pursuant to Section 129-157 and Schedule J, C-3 District, regarding Appeal No. 2021-02, Joseph Ernst, 5 Commerce Park Drive, Gansevoort, New York 12831. Request for an Interpretation of the Determination of the Code Enforcer; property located at Commerce Park Drive, Gansevoort, New York, 12831, Tax Map No. 115.-2-89.1, zoned C-3 in the Town of Wilton, to uphold that neither a Junkyard: A lot, land or structure or part thereof used for the collecting storage and sale of wastepaper, rags, scrap metal or discarded material; or the collection, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof, or an Automobile Wrecking Yard: The use of any area or portion of any lot or plot, whether inside or outside of a building, for the temporary storage of automobiles of awaiting dismantling or dismantled parts of automobiles or for the dismantling, cutting, demolition and burning of automobiles, best classified as such by the Code Enforcer, which are not allowed uses within the C-3 Zoning District. Further, the applicant is proposing to park trailers and other vehicles at the lot located at 5 Commerce Park Drive, which are also not allowed uses in the C-3 Zoning District.

Mr. Zabala seconded the motion. Roll call showed Mr. Deloria, Mr. Kingsley, Mr. Zabala, Mr. Rifensbary, 1st Alternate, and Mr. Clark, 2nd Alternate, were in favor. Mr. Ramsdill was opposed. The motion passed.

Mr. Rifensbary wanted to clarify that the motion was not to approve the project, but to uphold Mr. Mykins' understanding of what the best designation would be for that property, and that Mr. Ernst could come back and put a building on that lot, which would be a whole different application to the Board. Mr. Schachner confirmed both.

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Mr. Mykins explained that putting a building on the lot was the discussion that he had with Mr. Ernst.

Adjournment:

Mr. Kingsley made a motion to adjourn. Mr. Rifenburg seconded the motion. All board members were in favor. The meeting was adjourned at 8:16 p.m.

Dated: February 26, 2021

BOARD OF APPEALS

BY _____

Lisa Closson, Zoning Clerk

BY _____

Christopher Ramsdill, Vice Chairman