

**Village of South Blooming Grove
Zoning Board of Appeals
Public Hearing
March 12, 2020
Thursday
7:30 P.M.**

➤ **Call to order**

- Chairperson James Campbell called to order the Zoning Board of Appeals Public Hearing on March 12, 2020 at 7:32 p.m. at the South Blooming Grove Village Hall located at 811 State Route 208, within the Village of South Blooming Grove, and having a mailing address of Monroe, New York. Chairperson Campbell opened the meeting with the Pledge of Allegiance, followed by a moment of silence in honor of Village Board Trustee James Mullany who passed away on February 25, 2020.

➤ **Roll call**

The following persons were present:

- James Campbell - Chairperson
- Sonia Ayala – Member
- A. Dennis Williams – Alternate Member
- Dennis Lynch, Esq. – Special Counsel

Absent:

- Pete Piampiano – Member

Also Present:

- Leo Garrison – Applicant
- J. Scott Bonacic, Esq. – Applicant Attorney
- David Higgins, P.E. – Applicant Engineer

➤ **Adoption of Minutes**

- Motion to adopt minutes of January 23, 2020 meeting by Member Ayala, seconded by Chairperson Campbell. *2 Ayes, 0 Nays, 1 Abstain.*

➤ **Correspondence**

- Letter received on February 21, 2020 from Orange County Planner David Church providing comments for the requested variances for the Metro Assets application
- Letter received from Mr. Bonacic on February 14, 2020 discussing the proposed variances for the Metro Assets application.

➤ **Business**

- Dennis Lynch, Esq. offered that the submission describing the variances request is adequate for the board to review. The document was entered into the record for board review.
- Dave Higgins gave a brief review of the proposed project.
- Mr. Lynch swore Mr. Higgins in to testify under oath what the criteria are needed and how all criteria are met for the requested variances.
Mr. Higgins proceeded to review each variance as listed below:

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Variance #1:

The first bulk area variance is related to the Village Zoning Code lot frontage requirement of 200 feet for the ORI Zoning District. The applicant proposes Lot 1 have road frontage of 94 feet (variance of 106 feet) and Lot 2 proposes lot frontage of 161 feet (a variance of 39 feet).

Variance #2:

The second requested bulk area variance pertains to the Village Zoning Code front yard requirement. The code requires a 50-foot setback in the ORI District. The existing residential structure is set back 32 feet from the road and requires an 18-foot variance. Mr. Higgins made a point the home is an existing structure, has been renovated and has existed at this location since 1867.

Mr. Lynch offered that proposed variance is not a change but to accept the current location. The board requested why this variance was requested.

Mr. Bonacic offered that the Planning Board had requested a ZBA review.

The ZBA determined that the variance was not required since the building was in existence.

Variance #3:

The third requested variance pertains to Zoning Code 235-45.3E requiring a buffer of 35 feet for warehouses. Due to the narrow geographical characteristics of the property, the buffer is less than 35 feet at certain points. Mr. Higgins noted that all the structures are more than 35 feet from the property line. The access drives surround the structures leave approximately 22 feet of area for planting materials, thus the requested variance.

Variance #4:

The fourth requested variance pertains to Section 235-22.5A of the Zoning Code requiring a 100-foot minimum distance between any new structure and a cemetery. The details of the request would be for an 8.9-foot variance between the new building and the outer wall of the Bull Family Cemetery.

Chairman Campbell asked if the Planning Board had made any requirements for screening that would be used for separating the property from the Bull family cemetery, Mr. Higgins replied not at this time.

Variance #5:

The fifth requested area variance is related to Section 235-45.3C of the Village Zoning Code that states the warehouse requires two access driveways. Mr. Higgins informed the board that the applicant had originally proposed two access drives, but upon a site meeting with a representative of the NYS Department of Transportation, it was suggested a single new driveway access would provide sufficient sight distances for turning movements from the property.

Mr. Higgins offered the requested variance is based on the Department of Transportation recommendation.

Member Ayala asked the applicant for further details of this variance.

Mr. Higgins offered that the original application was submitted prior to improvements that had been made to the road for the hotel located at the next parcel. The original application did include two access drives and was changed per the DOT recommendations.

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The board determined that the variance could be made on the condition of the final determination of the DOT recommendation. If the DOT does permit the two access drives, this variance would be null and void.

An error was found in the original request and the correct section of the code was updated.

Variance #6:

The applicant is requesting an interpretation of the code as to whether subdivision of the property to place the residential structure on a smaller, separate lot from the warehouse and office buildings requires a Use Variance.

Mr. Lynch advised the board what is required for a Use Variance.

The board determined there is no need for a Use Variance as the structure is an existing house and causes no change to the landscape.

At this point the applicant advised they had concluded with their plea to the board.

Mr. Lynch advised that the Zoning Board had the ability to make decisions for the above variances at this time.

ZBA Findings of Variance Requests:

- Review of Zoning Code Interpretation Variance #6:
Decision for interpretation of the Zoning Code (Variance 6) regarding the existing non-conforming lot was determined that there was no need for a variance.
Motion was made that this is a non-conforming lot and that a use variance is not required, by Member Williams, seconded by Member Ayala. 3 Ayes, 0 Nays.

- Review of Bulk Area Variance #1
Chairman Campbell read each of the following questions to the board for consideration and received the following unanimous answers for each question:
Analysis of Village Code Criteria:
Is the variance substantial in relation to the requirement and to other factors set forth?
No
Is the effect of any increased population density which may thus be produced upon available services and facilities significant?
No
Will a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties be created?
No
Can the difficulty be alleviated by some method feasible for the applicant to pursue other than a variance or would a lesser variance alleviate the difficulty?
No

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In view of the manner in which the difficulty arose and considering all of the above factors, would the interests of justice be served by allowing the variance?

No

Would the variance cause adverse aesthetic, environmental or ecological impacts on the property or surrounding areas and would it harm the general health, safety or welfare?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Analysis of New York Law criteria:

Will an undesirable change in the character of the neighborhood be produced or will a detriment to nearby properties be created by granting this variance?

No

Can the benefit be achieved by some method feasible for the applicant to pursue other than a variance?

No

Is the requested variance substantial?

No

Would the proposed variance cause impact on the physical or environmental conditions in the neighborhood or district?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Determination:

After review of each of the above questions, a motion to grant approval of Variance Request #1, Bulk Area Variance of the Zoning Code for lot frontage requirement with respect to Lot 1 (a variance of 104 feet) and Lot 2 (a variance of 39 feet) was made by Member Ayala, seconded by Member Williams. 3 Ayes, 0 Nays.

- **Review of Bulk Area Variance #2**

Chairman Campbell made the point that the building is preexisting and non-conforming; therefore, does not require a variance. Mr. Lynch further explained that under NYS SEQRA section 617.5 this is a Type II action, is not subject to SEQRA review, and does not require a variance.

Chairman Campbell read each of the following questions to the board for consideration and received the following unanimous answers for each question:

Analysis of Village Code Criteria:

Is the variance substantial in relation to the requirement and to other factors set forth?

No

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Is the effect of any increased population density which may thus be produced upon available services and facilities significant?

No

Will a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties be created?

No

Can the difficulty be alleviated by some method feasible for the applicant to pursue other than a variance or would a lesser variance alleviate the difficulty?

No

In view of the manner in which the difficulty arose and considering all of the above factors, would the interests of justice be served by allowing the variance?

No

Would the variance cause adverse aesthetic, environmental or ecological impacts on the property or surrounding areas and would it harm the general health, safety or welfare?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Analysis of New York Law criteria:

Will an undesirable change in the character of the neighborhood be produced or will a detriment to nearby properties be created by granting this variance?

No

Can the benefit be achieved by some method feasible for the applicant to pursue other than a variance?

No

Is the requested variance substantial?

No

Would the proposed variance cause impact on the physical or environmental conditions in the neighborhood or district?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Determination:

After discussion and review of each of the above questions and the variance request, a motion was made to accept the interpretation that a variance was not required for Variance Request #2, Bulk Area Variance of the Zoning Code front yard requirement of 50 feet in the ORI District, as a result of a non-conforming condition, by Chairperson Campbell, seconded by Member Ayala. 3 Ayes, 0 Nays.

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- Review of Bulk Area Variance #3

Chairman Campbell expressed his opinion that the 35-foot buffer is not an issue due to the fact that the far end of the property has substantial trees and plant life along with considerable area on each side of the access drives. Member Ayala concurred.

Chairman Campbell read each of the following questions to the board for consideration and received the following unanimous answers for each question:

Analysis of Village Code Criteria:

Is the variance substantial in relation to the requirement and to other factors set forth?

No

Is the effect of any increased population density which may thus be produced upon available services and facilities significant?

No

Will a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties be created?

No

Can the difficulty be alleviated by some method feasible for the applicant to pursue other than a variance or would a lesser variance alleviate the difficulty?

No

In view of the manner in which the difficulty arose and considering all of the above factors, would the interests of justice be served by allowing the variance?

No

Would the variance cause adverse aesthetic, environmental or ecological impacts on the property or surrounding areas and would it harm the general health, safety or welfare?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Analysis of New York Law criteria:

Will an undesirable change in the character of the neighborhood be produced or will a detriment to nearby properties be created by granting this variance?

No

Can the benefit be achieved by some method feasible for the applicant to pursue other than a variance?

No

Is the requested variance substantial?

No

Would the proposed variance cause impact on the physical or environmental conditions in the neighborhood or district?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

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Determination:

After review of each of the above questions, a motion to grant approval of Variance Request #3, Bulk Area Variance of the Zoning Code Section 235-45.3E which requires warehouses provide a minimum buffer of 35 (due to the narrow geographical characteristics of the parcel only 22 feet of planting space is available because of the access drives) was made by Member Ayala, seconded by Member Williams. 3 Ayes, 0 Nays.

- Review of Bulk Area Variance #4

Chairman Campbell read each of the following questions to the board for consideration and received the following unanimous answers for each question:

Analysis of Village Code Criteria:

Is the variance substantial in relation to the requirement and to other factors set forth?

No

Is the effect of any increased population density which may thus be produced upon available services and facilities significant?

No

Will a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties be created?

No

Can the difficulty be alleviated by some method feasible for the applicant to pursue other than a variance or would a lesser variance alleviate the difficulty?

No

In view of the manner in which the difficulty arose and considering all of the above factors, would the interests of justice be served by allowing the variance?

No

Would the variance cause adverse aesthetic, environmental or ecological impacts on the property or surrounding areas and would it harm the general health, safety or welfare?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Analysis of New York Law criteria:

Will an undesirable change in the character of the neighborhood be produced or will a detriment to nearby properties be created by granting this variance?

No

Can the benefit be achieved by some method feasible for the applicant to pursue other than a variance?

No

Is the requested variance substantial?

No

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Would the proposed variance cause impact on the physical or environmental conditions in the neighborhood or district?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Determination:

After review of the above questions, a motion to grant approval for the Bulk Area Variance related to Zoning Code Section 235-22.5A requiring an 8.9-foot variance between any new structures and a cemetery was made by Member Ayala, seconded by Member Williams.

3 Ayes, 0 Nays

- **Review of Bulk Area Variance #5**

The board discussed that the Department of Transportation recommends one access drive based on a site visit, while the Village Code requires two access drives.

Chairman Campbell read each of the following questions to the board for consideration and received the following unanimous answers for each question:

Analysis of Village Code Criteria:

Is the variance substantial in relation to the requirement and to other factors set forth?

Yes, the Zoning Board will allow based on the determination of the Department of Transportation

Is the effect of any increased population density which may thus be produced upon available services and facilities significant?

No

Will a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties be created?

No

Can the difficulty be alleviated by some method feasible for the applicant to pursue other than a variance or would a lesser variance alleviate the difficulty?

No

In view of the manner in which the difficulty arose and considering all of the above factors, would the interests of justice be served by allowing the variance?

No

Would the variance cause adverse aesthetic, environmental or ecological impacts on the property or surrounding areas and would it harm the general health, safety or welfare?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Analysis of New York Law criteria:

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Will an undesirable change in the character of the neighborhood be produced or will a detriment to nearby properties be created by granting this variance?

No

Can the benefit be achieved by some method feasible for the applicant to pursue other than a variance?

No

Is the requested variance substantial?

No

Would the proposed variance cause impact on the physical or environmental conditions in the neighborhood or district?

No

Is the alleged difficulty self-created?

Yes, but it is determined that it is not a significant concern.

Determination:

After review of each of the above questions, a motion to grant approval, with conditions based on the Department of Transportation Decision, for Variance #5 related to Zoning Code Section 235-14.3A (a warehouse shall have two access drives), was made by Member Ayala, seconded by Chairman Campbell. 3 Ayes, 0 Nays

- Resolution for applicant counsel to prepare a written determination for review by the Zoning Board of Appeals and counsel. Motion to accept was made by Chairman Campbell, seconded by Member Ayala. 3 Ayes, 0 Nays

➤ **Adjournment**

- Next meeting is scheduled for March 26, 2020.
- Motion to close the meeting at 8:35 p.m. made by Member Ayala and seconded by Chairperson Campbell. 3 Ayes, 0 Nays.

Minutes respectfully submitted by:
Christine Bodeker – Deputy Clerk