

**Village of South Blooming Grove
Zoning Board of Appeals
Cont'd Public Hearing
September 18, 2019
Wednesday
7:30 P.M.**

➤ **Call to order**

- Chairperson James Campbell called to order the Zoning Board of Appeals Meeting on Wednesday, August 21, 2019 at 7:31 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.

➤ **Roll call**

The following persons were present:

- James Campbell - Chairperson
- Sonia Ayala – Member
- Pete Piampiano – Member
- A.Dennis Williams – Alternate Member
- Joseph McKay, Esq. – Special Counsel
- Bonnie Franson – Planner
- Michael Weeks – Engineer
- Jeanne Ovenson – Building Inspector

➤ **Public Notice**

- Chairman Campbell made a motion to open the public hearing, seconded by Member Ayala.
- The Clerk to Boards read the public notice regarding the continued Public Hearing of the Planning Board's appeal of a decision of the Building Inspector dated April 2, 2019, concerning the measurement of building height in the Ridgeline Overlay District.

➤ **Correspondence**

- Chairman Campbell received and distributed to the board a letter from Jay A. Myrow, Esq. regarding the ZBA proceeding for interpretation.

➤ **Discussion**

- Chairman Campbell confirmed that notice had been published in the local paper as well as mailed to all residents within five hundred feet from the applicant that is in front of the Planning Board of the Village of South Blooming Grove.
- ZBA Special Counsel, Joe McKay provided an explanation detailing that the Zoning Board has been asked by the Planning Board to review and provide a determination of the code regarding building height in the Ridgeline Overlay District.

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- Building Inspector Jeanne Ovensen provided an explanation for her interpretation of the building height requirement. Ms. Ovensen explained that her height determination was based on measuring the building height from the average point of ground level in the front of the house to the highest point on the top of the structure.
- Member Ayala offered that the code does not use the word average, the code uses the words natural ground level.
- Building inspector Ovensen offered that her determination was to use the average ground level for measurement per the Code of New York State. Village Zoning Code overrides the New York State Code.
- Alternate member Williams asked when measuring from the front, is the natural grade taken from the road or from the house. Ms. Ovensen offered it is taken from the house.
- Planner Franson reviewed her technical comments from August 2018, March 2019, April 2019 and July 2019. Explained her interpretation of definition for natural grade. Offered information regarding the code for the Ridgeline Overlay District and explained that the regulations are in place to develop a terrain adaptive housing. Stated her opinion that the height requirement was not intended to be taken from an average height but from the natural ground level.
- Mr. McKay inquired about topography measurements and the timeline as to when the measurements are taken. It was established that since this is an existing house, that the natural grade would be established at the current point in time, the time the application is made. Ms. Franson offered that this project is unique as there is an existing home on the property.
- Engineer Weeks provided his interpretation on determination of building height. Explained that any applicant interested in building in the Ridgeline Overlay District is required to appear before the Planning Board, therefore it is the jurisdiction of the Planning Board to determine how building height is measured. Mr. Weeks read from the zoning code regarding natural ground level and maximum height of twenty five feet in the Ridgeline Overlay District from all points on the property.
- Mr. McKay reviewed a letter submitted to the board from Mr. Jay Myrow, Esq. on September 18, 2019 that explained the applicant's opinion of the zoning code interpretation. The board read the letter and accepted it into the record.
- Mr. Weeks offered that the code regarding building height is more specific for the Ridgeline Overlay District than any other area of the village, therefore the determination should be strictly followed. Ms. Franson concurred.
- Chairman Campbell asked if there was any additional questions or comments.
- Ms. Ovensen stated her interpretation remains as originally stated.
- The board reviewed the site plan.

➤ **Public Comment**

- Israel Zigelman, Allegheny Cross, Monroe – Owner of property that will be effected by the property height determination. Mr. Zigelman expressed his opinion as to how building height

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should be determined. Explained that his site plan only goes three feet over the twenty five foot restriction and does not think it should be an issue.

- Bonnie Rum, Shore Drive, Washingtonville – Reviewed details of July 18, 2019 Planning Board meeting where the property owner had offered to provide new site plan. Expressed opinion that the zoning code needs to be followed by everyone.
- Darlene Patterson, Hawthorne Drive – Asked what the property owner is proposing. Ms. Franson described the details of the new site plan; that the existing home will be removed and rebuilt, and that the plans show the applicant will be extending out from both sides.
- William Caleca, 19 Dallas Drive – Neighbor to 13 Dallas Drive inquired how building height is determined. Expressed concern that a building that exceeds the twenty five foot building restriction will block his current view.

➤ **Adjournment**

- Chairman Campbell made a motion to adjourn the public hearing at 8:24 pm, seconded by Pete Piampiano, 3 Ayes, 0 Nays.
- Member Ayala made a motion to enter into attorney client session at 8:25 pm, seconded by Chairman Campbell, 3 Ayes, 0 Nays.
- Motion to exit attorney/client session and reopen the meeting at 8:49 pm by Chairman Campbell, seconded by Member Ayala. 3 Ayes, 0 Nays.

➤ **Discussion**

- Chairman Campbell explained that the board would discuss the term natural ground level.
- Member Ayala offered her opinion that the natural ground level is the existing untouched ground.
- Mr. McKay explained that the board will determine what natural ground level is and to take in to consideration all opinions from the professionals as well as the building inspector in order to make a determination regarding the building inspector's decision.
- Mr. Campbell expressed his opinion that the Ridgeline Overlay District code is a more restricted portion of the zoning code. Mr. Piampiano and Ms. Ayala concurred.
- Alternate Member Williams offered that the zoning code does not say average at any point regarding the Ridgeline Overlay District. The natural grade would be taken from the lowest point of the natural ground level.
- Mr. Campbell explained that in order to measure the maximum height, measurement would be taken from the lowest natural ground level to the highest point on the structure. Multiple measurements could be needed due to the grade of the property.
- The board determined that with respect to total height measurement specifically, there is no average calculation, the building height cannot exceed twenty five feet at any point from the natural ground level to the peak of the structure.

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- The natural ground level at the time of application cannot be changed. The lot must be undisturbed at the time of application, there can be no clear cutting done prior.
- Chairman Campbell stated that it is the opinion of the Zoning Board that the Building Inspector did not properly interpret the code regarding building height within the Ridgeline Overlay District.
- The ZBA is responsible to make the determination regarding building height prior to the end of the meeting. Upon decision, the ZBA will make a petition to the Village Board for clarification of how building height is measured in the Ridgeline Overlay District to be added to the Zoning Code.
- Upon the determination reached by the Zoning Board, Mr. Lipa Deutch stated that a new site plan that will comply with the building height requirement will be submitted for the 13 Dallas Drive application.

➤ **Determination**

- Resolution (01) Determination of the Zoning Board of Appeals regarding the Measurement of Total Height of any Structure of Any Accessory Structure within the Ridgeline Overlay District shall be Measured from the Natural Ground Level, and on a Plane to the Natural Ground Level to the Top of the Structure or the Top of the Uppermost Accessory Structure, Whichever is Higher, Whereas the Total Height of any Structure Shall Not Exceed Twenty Five Feet. Motion to accept based on written decision submitted to the Board by Chairman Campbell. Vote to take place upon receipt of the written resolution.

➤ **Adjournment**

- The scheduled September 26, 2019 Zoning Board of Appeals meeting is canceled.
- The next ZBA work session will be held on October 10, 2019.
- Motion to close the meeting at 10:12 p.m. made by Member Ayala and seconded by Chairman Campbell. 3 Ayes, 0 Nays.

Minutes respectfully submitted by:
Christine Bodeker – Deputy Clerk