

**ZONING BOARD OF APPEALS MEETING HELD MAY 23, 2013**

**PRESENT:** C. Brent Elford, chairman                      Marc Marion  
                    Michael N'Dolo    Sharon Lloyd  
                    Sharyn Marchione

**Also Present:** Village Attorney, Thomas Peterson    Mayor Dixie Lee Sacks  
                    Daryl S. Cutler, Esq.                                      Don Hillmann, Esq.  
                    Stephanie Ferradino, Esq                                  Joel Fey.  
                    Mary Jo Lanahan    Phyllis Wildberger  
                    James Carter    Diane Marchand  
                    Peter Sheridan    John Vallelunga  
                    Eric Rutland    Dave Blair  
                    Michael Roets    Richard Theissen  
                    Thomas Bergin    Caroline Woerner  
                    Barbara Baker    Jeffrey Wildberger  
                    Josh Cottrell    Katie Cottrell

The meeting was called to order by Mr. Elford at 7:00 p.m.

The pledge of allegiance was recited.

Appeal 2013-03; Joel Fey, 2 Prospect Avenue, Round Lake, NY

Mr. Fey has submitted an application for the construction of a rear deck on this property. Currently there are a couple of small steps from rear of the house onto un-level ground. Mr. Fey is concerned for the safety on the deck and looking for a more stable deck. The deck will be on footings, not a slab. The deck is 6 feet across the rear of the house.

The Zoning Board reviewed the plan and the survey of the neighboring property, Robert & Linda Connors. A letter of support from the Connors and Jim & Laura Kaye, property owners, was read into the minutes.

MOTION by Mr. Elford to grant Joel Fey a variance of 7 feet for the construction of a rear deck on the property at 2 Prospect Avenue, contingent upon receipt of a copy of the Power of Attorney from the owner of the property.

Mr. Marion – aye

Mr. N'Dolo – aye

Ms. Lloyd – abstain

Mrs. Marchione- aye

Mr. Elford – aye

MOTION APPROVED

Mr. Fey will appear at the June 12 Planning Board meeting for site plan review.

Appeal 2013-02: Dave Blair, 26 Albany Avenue, Round Lake

At the last meeting there was a MOTION by Mr. Elford to table the discussion on this appeal until the next regular meeting of the ZBA, May 23, 2013, which was SECONDED by Mr. Marion. This motion was UNANIMOUSLY APPROVED

Discussion included the following:

- Mr. Hillman stated that he has done some extensive research. This project is type 2 project and as such does not require SEQR.
- As a type 2 project there is no further action necessary.
- Ms. Lloyd stated that the Zoning Board of Appeals is the lead agency; the short form has to be completed.
- Mr. Elford stated that after the last meeting he has discussion with an attorney concerning the motion that he made declaring the ZBA as lead agent.

- Tom Bergin stated that there was a structure there before he built the house. If he has just rebuilt the house in the same footprint there would not be a problem, he would not be needing a variance.
- Mr. Marion stated the he needs a variance for the east side of the house.
- Mr. Blair replied yes, he would need a 0 variance.
- Ms. Lloyd asked how tall the house is.
- Mr. Blair replied that he believes 31 feet.
- Ms. Lloyd read a letter from Mr. James Carter, of Vermont to the Zoning Board of Appeals and the general public. A copy of the letter will be attached to the minutes.

MOTION by Mr. Marion to review the five (5) requests for variances in one block then open for discussion, SECONDED by Mr. N'Dolo.

|                      |                 |
|----------------------|-----------------|
| Mr. Marion – aye     | Mr. N'Dolo –aye |
| Mrs. Marchione – aye | Ms. Lloyd – no  |
| Mr. Elford – aye     |                 |

MOTION APPROVED

- Mr. N'Dolo stated the builder needs a 0 variance for three sides of the house. He feels that this is significant.
- Phyllis Wildberger stated that the neighbors were never told what was happening on that property.
- There are items that need to be corrected that were identified by the CEO from Malta.
- There was discussion concerning the need for permission from the neighbor to go onto their property to repair/maintain the building.
- Ms. Ferradino stated that making that condition gives the neighbor power, extortion. This Board can't force that condition.
- What happens when Mr. Blair sells the house? Is it buyer beware or will they be stuck with this problem?

- This creates a situation where the neighbors have the whole side of a house on their property.
- Ms. Lloyd commented that she keeps hearing not fair. Not fair. It is not fair the neighbors; it's not fair to the Village for this house to have been built as it was.
- The Village Code enforcement Officers will be responsible for all inspections.
- Ms. Ferradino commented that if the neighbors are not able to reach an agreement is there the ability to mitigate the issues?
- The builder has the responsibility to know the NYS codes, the Village Zoning, and village laws.

MOTION by Mr. N'Dolo to grant a 0 variance on the rear of the house, 0 variance of the east side of the house, and a 0 variance on the west side of the house with three conditions:

1. Must obtain a maintenance agreement with Jeff & Phyllis Wildberger, the neighbor in the rear of the house,
2. Must obtain a maintenance agreement with John & Jane Vallelunga, the neighbor on the east side of the house
3. Must be granted an easement from the Village of Round Lake for the front of the house which is on Village property.
4. Must submit a plan for Stormwater & drainage on the property.

If these easements are not granted by the neighbors or the Village of Round Lake, Mr. Blair must return to the next meeting of the Zoning Board of Appeals, MOTION seconded by Mr. Elford.

Mr. Marion – aye

Mr. N'Dolo – aye

Mrs. Marchione – aye

Ms. Lloyd – aye

Mr. Elford – aye

MOTION APPROVED

MOTION by Mr. Marion to adjourn the meeting at 9:35 P.M.

MEETING ADJOURNED

Respectfully submitted,

Lois j. Whitbeck,

Village Clerk