

ROUND LAKE ZONING BOARD OF APPEALS HELD JULY 25, 2013

PRESENT: C. Brent Elford, Chair
Mark Marion
Michael N'Dolo

Sharon Lloyd
Sharyn Marchione

ABSENT: Thomas Peterson, Village Attorney

ALSO PRESENT: Dave Pentkowski
Dominick DeLorio
Janes Carter
Mary Jo Lanahan
Karen St. Martin
Marilyn DeLorio
Josh Cottrell
Daryl cutler
Michael Roets
Tom Bergin

Mayor Dixie Lee Sacks
Carol Luse
Jackie Carter
Phyllis Wildberger
Tom St. Martin
Peter Sheridan
Bob McKenna
Dave Blair
Bob Sweet
Jeff Wildberger

Mr. Elford called the meeting to order at 7:00 P.M.

This is a public hearing for Appeal # 2013-05, Lake Ridge Restaurant to be held prior to the Zoning Board of Appeal meeting.

Robert McKenna, one of the owners of the restaurant is here to request an amendment to the original variance granted September 2001. In the original variance the restaurant was to be opened six (6) days a week. They would now like to remain open seven (7) days a week.

Peter Sheridan lives in the neighborhood; he has no driveway and parks his car in the public parking area. This is the same parking lot that is used by Lake Ridge. This creates another hardship for the neighbors. The Methodist church has offered the use of their parking lot for overflow parking.

Mr. DeLorio asked if the hours would remain the same.

Mr. McKenna replied that the house will be the same.

Mr. DeLorio commented that because of the heavy traffic on the paper street behind the restaurant with their staff, deliveries and shared driveway with the DeLorio, there are large potholes. The Village has filled the holes and graded the street, but with the large delivery trucks that are backing out into George Avenue, it's a problem. Lake Ridge should consider paving the paper street or having the deliveries made to the front of the building.

Mr. Sheridan commented that there is a sign up in the parking lot referring to the additional parking in the church lot but no one pays attention to the sign.

Marilyn DeLorio commented that recently there was a customer of Lake Ridge that was backing up onto Kingsley Avenue and almost hit a young child and his father. The father had to jump onto the back of the car to stop the vehicle.

Mr. Elford stated that the original restaurant seated 40 people; they need parking for 10 cars. Some nights there is parking all over the Village streets.

Mr. Pentkowski commented that the parking and traffic issues are important. Monday nights may not be that busy but business has changed. They need to be open this additional night.

Mr. Sheridan stated that the parking and traffic are an ongoing problem. The Village Attorney, Thomas Peterson has sent letters to Lake Ridge about these issues. They have not replied to any letter.

Ms. Lloyd asked if the restaurant would consider valet parking on their busy nights.

Mr. McKenna replied that they would give it some thought. The staff tries to direct the customers to the church parking lot. There may be a liability issue for the valet parking.

Mr. N'Dolo commented that the benefit to the applicant needs to balance the benefit to the community. This needs to be part of the decision.

Mr. Pentkowski stated that they could sit down and talk about the deliveries to the front of the building. Certainly, backing out onto George Avenue is not very safe.

Mr. Bergin ask if the variance can be given with conditions for a time frame to resolve the parking problems. If the parking problems continue they would have to come back to the Zoning Board of Appeals.

Mr. Sheridan commented that the neighbors look forward to Mondays when there are no parking problems.

Mr. Elford stated that the variance runs with the land.

Mr. Elford closed the public hearing for Lake Ridge.

Public hearing for Appeal # 2013-04, for 25 Albany Avenue prior to the Zoning Board of Appeals meeting.

The applicant came to the Zoning Board of Appeals at the end of June, requesting a rehearing and the removal of conditions for the variance he was given by the Zoning board of Appeals.

Phyllis Wildberger informed the Board that the water run off on the rear of this house is horrid. Her foundation now has a crack in it. The water is up to the window in her foundation,

Mr. Blair states that he took photos before he dug the foundation but she has never seen them. There is also a problem with the vent for the natural gas fireplace. This vent is directed right to her house.

To install the dry well he would have to go onto her property. She is also concerned about the tree roots being damaged. Mrs. Wildberger stated that she was never told that a complaint had to be in writing. This has been several months of aggravation.

Mr. Bergin asked if this is the rehearing. If not was there a decision?

Mr. Elford replied that the applicant came to the Zoning Board of Appeals requesting a rehearing. Tonight starts the public hearing for the rehearing.

Mr. Sweet asked if the applicant can ask for the removal of the conditions.

Mr. Elford replied yes.

Ms. Lanahan asked if the Village can give a section of the street for the encroachment.

Mr. Elford replied that the Village denied the request for an easement. No building permit can be issued.

Mrs. Wildberger stated that Mr. Blair was digging a hole in the yard today.

Mr. Blair replied that he was digging a test hole for drainage.

Ms. Lloyd commented that the only condition that was met is that Mr. Blair presented a plan for the storm water; the other conditions have not been met.

Mr. Blair commented that the Village sold property to Robert & Linda Connors in 2010. This put them closer to their neighbors.

Ms. Lloyd replied that she believed that reason may have been was that they net the balance test. They were able to meet four (4) of the five (5) requirements for a variance.

Mr. Elford commented that at the time Mr. Blair came to the Zoning Board of Appeals, the structure was already built.

Mr. Blair agreed.

Mr. Bergin commented that the Village Board did not grant the easement. It is still unresolved on how much of the house must be removed.

Mr. Elford closed the public hearing for 26 Albany Avenue.

Lake

The applicant is asking for a modification to the variance of the complete striking of the variance.

Mr. Elford stated that the conditions will stand as stated. This rehearing needs a unanimous vote of the Board.

Ms. Lloyd introduced James Carter to the Board and public. Ms. Lloyd read his letter to the Board and public. Mr. Peterson and Mr. Carter have spoken on this matter.

The attorney for the Wildbergers stated that Mr. Blair has offered them \$150 for any damage to their property. The applicant and the Wildbergers can't come to an agreement.

Mr. Blair stated that he is asking for the three conditions to be removed, he will fix the front of the house so an easement will not be necessary.

Mr. Elford asks Mr. Blair how he plans to do the fire rating and fire code violation that needs to be done.

Mr. Blair replied that he will be seeking legal assistance with the law that allows access to adjoining property to make improvements or repairs. It would need to be filed each time he would need access to his house.

Mr. N'Dolo asked if an architect worked with Mr. Blair on the plan, did he come to Round Lake and look at the site. It's hard to believe that someone with that level of expertise would agree that the house would fit on the property. This is a self-created hardship.

Mr. Blair replied that he only working with a draft man.

Mr. N'Dolo commented that to grant an o set back on two sides of the property, an agreement with the neighbors for the maintenance of the property and the applicant removing the encroachment on the Village property is reasonable.

Ms. Lloyd asked where all the issues like parking and Stormwater come into play.

Mr. Elford replied that zoning requires that parking for one car is necessary; the other issues would be subject to the Planning Board. There appears to be an issue if a car will fit into the garage.

MOTION by Mr. Elford that a unanimous vote was needed to overturn the original variance. Although conditions were amended, it was felt that the original zoning was still valid and necessary and by changing that we would need to void the entire variance and there was also a difference of opinion at that point as well. No unanimous vote could be reached; the original decision stands.

Mr. Elford – aye
Mr. Marion – aye
Mrs. Marchione – aye

Mr. N'Dolo – aye
Ms. Lloyd – nay

MOTION APPROVED

MOTION by Mr. N'Dolo to adjourn the meeting at 9:30 P.M.

MEETING ADJOURNED

Respectfully submitted,

Lois J. Whitbeck
Village clerk