

## ZONING BOARD OF APPEALS MEETING MAY 28, 2015

**PRESENT:** Chairman Brent Elford  
Mark Marion  
Sharyn Marchione

Sharon Pineo  
Michael Allen

**ALSO PRESENT:** Kate Cottrell  
Mayor Dixie Lee Sacks  
CEO Peter Sheridan  
Phyllis Wildberger  
Danielle Rigney  
Jeff Wildberger

Josh Cottrell  
Attorney Thomas Peterson  
Richard Theissen  
Scott Rigney  
Michael Roets

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

The pledge of allegiance was recited.

**APPEAL 2015-1:** Josh & Kate Cottrell, 26 Albany Avenue, Round Lake, NY 12151

At the last ZBA meeting, the Board and the Cottrells had discussed some changes to the house. The Cottrells presented drawings of proposed changes to the house as follows:

On the front of the house, the garage and the second floor cantilever will be removed. A porch will be added across the entire front of the house. On the back west side of the house there will be an open space – a 6' x 10' deck. The second floor remains as is above this deck. Discussion ensued about the removal of this section of the house. Sharyn Marchione questioned the square footage of the old design vs the newly proposed changes (2150 sq ft down to 1850 sq ft)

Kate Cottrell commented that they are flexible on the final design of the rear of the house. They have measured the roof to be 32'. Dick Theissen commented that on the southwest corner the adjustment will be going to the sky, not just the ground floor. This will allow the water run off from the roof to the neighbor's property. Kate Cottrell said this could be modified – talked about having a covered porch. Drawings of the southwest porch were presented by the Cottrells and reviewed by the Board.

Kate Cottrell talked about bringing back the entry of the house with the exception of the bump out on the second floor. The front of the house would be equal across the ground floor. The porch would be over the foundation. This would make a substantial difference coming down the street. The cut back in the bathroom will make a laundry room. Dick Theissen asked about the garage space on the west side of the house. Kate Cottrell replied that this will become living space – no more garage. Peter Sheridan commented that on the west side that if the house is 3' or less from the property line – no windows would be allowed. Dixie Lee Sacks asked if the front of the house is off Village property with the new plans. Kate Cottrell replied yes – the front of the house off the property line. This would bring the house off Village property and the street. Dick Theissen asked if they would be working from the sketches or will there be plans. Brent Elford commented that they are working on the details. On the southwest side, the foundation

will have to be changed. There needs to be discussion on how best to remove this foundation. There is limited space to work in this area. They will look for the appropriate drawings to show the removal of this foundation. Discussion ensued about the removal of the SW rear corner of the house.

Brent Elford thinks the proposed front peak of the house fits in well with the village. Cutting back the southwest corner is beneficial to the neighbors and the storm water management. Discussion going back and forth on the usability of the garage concerned them parking 2 cars. Kate Cottrell believes it could be parked alongside the west side of the house. Discussion ensued about the space needed to park a standard car.

Michael Allen commented that they have designed what was asked by the ZBA – push back the front, cut off the SW porch. Agrees that it's still a big house, but to be reasonable, not sure of what else to do to make changes.

Phyllis Wildberger commented – if the foundation is cut back, how are they doing it? Her foundation is rock/cobble – not concrete block.

Kate Cottrell commented that they would have someone come in and figure out the best and safest way to accomplish this.

Michael Allen commented why not leave the foundation – build with it.

Kate Cottrell commented that leaving the foundation may be the best thing to do for their foundation and the neighbor's foundation.

Peter Sheridan commented – what assurances can you give the ZBA that you will not sell the house unfinished? Kate Cottrell answers – don't believe anyone is worried given the notoriety of the house and issues. What about CO?

Kate Cottrell states they will sign a contract that they will finish the house – don't know the financial issues with that stipulation.

Discussion ensued about time limitations and granting variances.

Phyllis Wildberger brought up the issue of the tree leaning on the west side. Kate Cottrell says they will stick with the original idea for the tree – someone would come in and inspect it. Discussion ensued regarding pictures and claims.

Michael Allen comments that the location of the storm water line is to be placed to the southern line of the front porch. Kate Cottrell comments that the fence weaves in and out around the trees – don't want to damage them – attempts to replace some green space in front of the house. Doesn't know if storm water can go to the front of the house – replant any trees that are deemed needed to be taken down.

Discussion picks up again talking about the foundation at the back..

Kate Cottrell comments – mirroring neighbor’s house with a diagonal cut – foundation is so close it may be supporting the Wildberger’s foundation. Phyllis comments that her foundation was fine until the backhoe was brought to put in the foundation.

Sharyn Pineo asks if they need a variance for the roof to be 32’ at the peak.

Peter Sheridan says that 32’ high peak is ok.

Discussion ensued regarding future maintenance of the house with regard to neighbors.

Plumbing and electrical meters and entry point are on the neighbor’s side of the house – west side.

Michael Allen comments that applicants will come back after speaking with the engineer regarding the back corner. He wants a written report of what would have the least impact to the Wildberger’s foundation and relocation impact of storm water to front of house and away from the driveway.

Peter Sheridan states that with the proposed plan the house will be 4’ from the road – house will be in the Village right of way.

Jeff Wildberger mentions the trees again and their root system. Michael Allen states that is why the storm water needs to be moved. Kate Cottrell states the trees will be replaced if necessary after being inspected by an expert.

Sharon Pineo states she is very disinclined to grant a variance on the southwest side.

Kate Cottrell states with cutting off the corner and bringing back 8’ almost 11” less imposing than it was. The main difference is that the addition of the porch opens up the front decreasing the feel of the size of the house.

Brent Elford thinks it’s a good start – taking the advice of the ZBA on some changes. Think they are on a possible path – each board member has their ideas.

Kate Cottrell states they are getting more accurate measurements and drawing and will have answers for June meeting – site plan.

Michael Allen doesn’t want them to go through all this without clear direction, err on the side of giving them more specific than less.

Brent Elford comments the more the west side lines up with the original footprint the more inclined he is to vote yes to the variance. “The closer it gets, the happier I become.”

Kate Cottrell states they are trying to reduce the impact of big grey wall.

Sharon Pineo will not vote to approve the variance if the foundation’s remaining size is larger than the house. She comments that the foundation has to go with the rest of the house. Want

this to go with the original house and relieves the intrusiveness to the neighbors. Sharon agrees with Brent Elford. She would be inclined to move more to the foot print of the original house.

Kate Cottrell states can we see what would be the cost of these changes.  
Josh Cottrell states there is no foundation under the porch.

Mark Marion states we want them to come back with cost they can afford. It's the process.

Dick Theissen states that it has been a long time since he was on the ZBA and they did not take into account the cost to an applicant when making a decision. The applicants issues – not the ZBA's if the project moves forward.

Tom Peterson states that the Village has created the situation from granting a building permit and responsibility because the applicant acted on detrimental reliance

Sharon Pineo states that we have been over this before. Contractor liability trumps detrimental reliance. The contractor has a duty to perform to a professional standard. He/she is liable to know local and state zoning laws and to abide by them. Just as a store owner must perform to a standard to be responsible for the products sold in his store, so a contractor bears the burden to be responsible to know zoning laws, and abide by them. On the application for the building permit, they signed that they would abide by those laws. Nothing alters the fact that this building was built with an invalid permit. Sharon then addressed Dick Theissen - while I understand your feelings in this matter, we on the Board, have a responsibility to weigh impact to all parties, including the needs of the applicant. Believe me, we have not forgotten to consider the financial and other impacts on the neighbors and the Village as a whole. There is a 5 point balance test that we are mandated to review.

Jeff Wildberger states he wants everyone to know he and family have incurred financial hardships – financial responsibility. Getting frustrated it comes down to someone else.

Brent Elford states – For me the discussion of financial impacts is not contingent on granting a variance. The ZBA will give direction to the applicant as to what they feel needs to be done to garner a passing vote for variances. While this may result in financial hardship for your family, we are responsible for 200+ families in the village and the historical setting of this village.

Brent Elford – Motion to grant a 30 day extension until June 24<sup>th</sup> 2015

Adjourn 9:11pm

The date for the next meeting will be changed due to graduations.

**MOTION** by Chairman Elford to grant a 30 day extension for the appeal until Wednesday, June 24, 2014 at 7:00 P.M, **SECONDED** by Ms. Pineo.

**MOTION APPROVED**

**MOTION** by Chairman Elford to adjourn the meeting at 9:11 P.M.

**MEETING ADJOURNED**

**Lois J. Whitbeck**

**Village Clerk**