

****TOWN OF GRAND ISLAND**
ZONING BOARD OF APPEALS**

**MINUTES
November 3, 2022**

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TOWN CLERK
GRAND ISLAND NY

MEMBERS PRESENT: Chairman Bob Mesmer, Betty Harris, Tim Phillip
John Braddell

MEMBERS ABSENT: Dan Drexelius

OTHERS PRESENT: Nick Cultrara, Code Enforcement Officer
Ronald Milks, Code Enforcement Officer
Mike Madigan, tech support

*Because of the Novel Coronavirus (COVID-19) Emergency and State and Federal bans on large meetings or gatherings and pursuant to Governor Cuomo's Executive Order 220.1 issued on March 12, 2020 suspending the Open Meetings Law, the Zoning Board of Appeals of Grand Island will be held electronically via the Town's website link/You Tube Channel as well as a public meeting open for the public to attend in person. Members of the public may view the Zoning Board's meetings by connecting to the You Tube Channel via the Town's website: www.grand-island.ny.us. or be heard by connecting via the zoom link provided on the Town's website.

Chairperson, Robert Mesmer opened the meeting at 7:00 p.m. and introduced the members of the Zoning Board of Appeals and explained the process.

NEW BUSINESS:

1) 1963 Baseline Road – Eric Pietron

This property is zoned R-1D. The applicant is requesting to construct a front and rear open deck on their home. The proposed front 5' x 3' open deck will encroach into the required front yard setback. The house itself is a legal non-conforming house and is itself in the required setback. Town Code §407-18.A. establishes the Baseline Road setback at 100 ft. The proposed 3' deck along with the house would require a 46' front yard setback variance. The proposed 10' x 20' rear deck would follow the existing house side yard on the north side which encroaches 4 ft. into the required 10' side yard setback making a 6 ft. side yard setback necessary.

There was no one present for this application. The Board moved this request to the end of New Business.

2) **5361 East River Road – Mark Hess**

This property is zoned R1C. The applicant is requesting to construct a new 20' x 30' x 20' tall (600 sq. ft.) detached garage in the same location as the old garage. Town Code §407-142.A. the setback distance for an accessory storage structure from the rear and side yard lot lines shall be equal to or greater than the height of the accessory storage structure. The applicant is requesting to locate the new structure 6 ft. from the east side lot line, making a 14 ft. side yard setback variance from the east lot line necessary. Also the allowed height of an accessory structure as stated in 407-142.C. is 18 ft. making a 2 ft. height variance necessary.

Appearing before the Board was Mr. Mark Hess of 5361 East River Road. He stated that currently there was a detached garage on his property that he would like to take down and replace it with another slightly larger structure that would be parallel to the lot line in the same location as the old. Mr. Hess presented to the Board pictures of other similar structures in the neighborhood. Board member Phillips stated that he had visited the site and was concerned about the standing water he saw between the old garage and the neighboring property. Mr. Hess said there was drainage there but will address the issue of not working properly.

Speaker, Steve Gorcheck, who resides adjacent to Mr. Hess at 5355 East River Road. Mr. Gorcheck stated that he was taking responsibility for the standing water that was witnessed by Board member Phillips. His garage which is larger than Mr. Hess's garage has no gutters or water management. He is in favor of Mr. Hess's project and together will take care of the drainage issue for both properties.

Board member Phillips stated that he was still concerned about the proximity to the lot line and asked Mr. Hess if he would consider decreasing the height of the building whereas decreasing the amount of required setback. Mr. Hess agreed.

A **motion** was made by Harris / Braddell to close the public hearing. All in favor.

A **motion** was made by Phillips / Braddell to **GRANT** the request for a 10 ft. side yard setback variance for the 18 ft. tall storage building to be located 8 ft. from the east side lot line at 5361 East River Road.

Roll Call:

Ayes: Harris, Braddell, Mesmer, Phillips

Noes: None

Carried

Due to the reduction of the height of the building a variance was no longer required for the detached garage. Town Code §407-142. C. Allows for an 18 ft. accessory storage structure in a R1C zoned district.

Rationale:

1. The Board recognizes the need for storage and difficulties presented on some of the smaller sized lots. The size of the building height was mitigated to minimize the request of the side yard setback.
2. This variance request will not create a detriment to nearby properties but would better the drainage situation between properties.
3. This variance request is reasonable and compatible with other detached structures in the neighborhood

3) 1244 East River Road – John Siegel

This property is zoned R-1D. The applicant is requesting to construct a wrap around deck on their home. The home is currently 11.9 ft. from the northeast side lot line. Town Code 407 Attachment I Schedule I establishes the required side yard in R1D at 10 ft. The new deck would encroach 2.08 ft. into the existing side yard making a 2.08 ft. side yards setback variance from the northeast lot line necessary.

Appearing before the Board was Mike Tucker of Sharp General Contracting representing the project at 1244 East River. Mr. Tucker stated that there was a deck on the front of the home and stairs on the side of the home to the deck which were difficult to climb. There was also a deck on the rear of the home. The applicant requested to make one large deck that would wrap around the house from front to back with a handicap accessible ramp in the rear. The deck would be 2 ft. wider on the side of the house than the current stairs are.

A **motion** was made by Phillips / Harris to close the public hearing. All in favor.

A **motion** was made by Braddell / Phillips to **GRANT** the request for a 2.5 ft. side yard setback variance for a deck leaving a 7.5 ft. side yard setback on the northeast lot line at 1244 East River Road.

Roll Call:

Ayes: Mesmer, Braddell , Harris, Phillips

Noes: None

Carried

Rationale:

1. The variance amount for the deck was not substantial for the impact and benefit it would provide the homeowner to have an entrance to the second level of the home.
2. The new deck would not cause a detriment to nearby properties.

3. The deck is reasonable and compatible with other homes in the areas and would not affect the views of the river.

4) 2585 Bedell Road – Steven Stutz

This property is zoned R-1A. The applicant is proposing to construct a 10' x 7' mud room addition to the front of their home. As it is now there is an 8 ft. enclosed porch original to the house in the required front yard setback. The current house including the proposed mudroom leaves a setback of 32.26 ft. Town Code 407 Attachment I Schedule I establishes the required front yard setback in a R1A at 50 ft. making a 17.74 ft. front yard setback variance necessary.

Appearing before the Board was Steven Stutz who resides at 2585 Bedell Road. Mr. Stutz explained to the Board that his project was not to construct a mudroom, but rather a 7' x 10' covered porch entering the existing mudroom. The door entering the mudroom was currently on the side of the house facing the driveway. He would like to move the front door to face the street and add a covered entrance to the mudroom. This porch would not be enclosed. The variance amount would cover the porch and the existing mudroom which is in the allowed setback.

A **motion** was made by Phillips /Harris to close the public hearing. All in favor.

A **motion** was made by Braddell / Phillips to **GRANT** the request for a 18 ft. front yard setback variance for an open covered porch to the front of a house at 2585 Bedell Road.

Roll Call:

Ayes: Harris, Braddell, Mesmer, Phillips

Noes: None

Carried

Rationale:

1. The Board recognizes the difficulties with the older homes that are legal nonconforming to the setbacks.
2. The Board determined the granted variance will not create a detriment to nearby properties because the porch will remain open and not block the view of adjacent properties owners.
3. The requested project would be a great improvement to the character of the neighborhood

5) SBL # 36.01-1-1 Second Street

This property is zoned R1A. and is located at the end of 2nd Street and Third Ave. Currently the Town owns and maintains 3rd Ave up to the vacant parcel. The applicant is seeking relief from Town Code to build a single-family

dwelling on the vacant lot of record that has no legal street frontage. Town Code §327-19. D. All lots shall front upon a public street. Also, Town Code § 407-17.J. Street frontage: No dwelling or structure shall be erected, or use conducted, on any lot which does not have immediate frontage on an existing or platted street or highway, suitably improved to the satisfaction of the Town Board, unless a variance is granted by the Zoning Board in accordance with Town Law §407-188.

Appearing before the Board was Nick Panepinto who resides at 313 Island Pass. He was requesting to build a single-family dwelling on a lot without legal street frontage. Mr. Panepinto stated that he had done a lot of research and talked to several departments at town hall regarding what would be required to make this possible. Mr. Panepinto stated that by developing the street and turnaround the neighborhood would be safer for everyone residing in that area. The number of vehicles that have to back their way out of the neighborhood is growing every day with deliveries, garbage pickup and snow plows and with a proper turnaround that wouldn't be necessary.

Speaker, Robert Brach who resides at 3093 Third Ave, said he objected to the granting of the variance for several reasons and had prepared a PowerPoint for the Board to view. Mr. Brach's objections included the lack of a site plan depicting the driveway, septic and house location. He also stated that he believed a turnaround would not fit on the current 50 ft. wide street, and the applicant had "brokered a deal" with the Town Engineer and Highway department to construct the turnaround and to deny the variance request.

Speaker, Dave Giddings who resides at 3189 3rd Ave., stated that he rebuilt a new home at the corner of 2nd Street and 3rd Ave. and put the road in up to his house and people are continuously trying to turnaround in his private driveway and is opposed to opening up to more traffic.

Speaker, George Panepinto who resides at 3109 3rd Ave., stated that his family owns more than a few homes in that area and as it has developed safety is a growing concern. With more delivery trucks, garbage pick-ups and school buses that have to back their way out, the more concern there is for the children and pets in the area of being run over or trucks off the road. His family has put a lot of money into the area to make it nice and is in favor of approving this variance and making the proper turnarounds that the whole community would benefit from.

Other speakers who gave approval; Charles Panepinto 2445 First St., Emily Kernin 313 Island Pass, Kevin Kernin 2432 Long Rd., Kimberly and Roger Yung 1191 Ransom Rd.,

A **motion** was made by Harris / Braddell to close the public hearing. All in favor.

The Board had discussions about the research and conversations some of them had with various departments to be able to allow a turnaround that would be necessary to grant the request for no legal street frontage. The granting of the variance would be just one part of the process to make it all work.

A **motion** was made by Phillips / Braddell to **GRANT** the request for relief from Town Code §407-17.J. *No dwelling or structure shall be erected on any lot which does not have immediate frontage on an existing or platted street or highway with the condition* that the developer meets all Engineering Department, Highway Department and Building / Zoning requirements for a turn-a-round. Also, utilities such as water may need to be extended at the developer's expense and dedicated to the Town.

Roll Call:

Ayes: Harris, Braddell, Mesmer, Phillips

Noes: None

Carried

Rationale:

1. The granting of this variance is just a piece of the puzzle that would involve many agencies but would benefit more than just one property owner in that area.
2. The Board has set conditions to help solve "sins of the past" where illegal driveways have been put in to access some of these existing parcels without street frontage that have caused safety concerns for the agencies that need to use them.
3. The granting of this variance allows the development of vacant residential land and provides a safer means of ingress and egress
4. The benefit sought by the applicant could not be achieved by any other method, feasible for the applicant to pursue, other than a variance.

Chairman Mesmer now referred to Agenda item 1) which was move to end of New Business.

1) 1963 Baseline Road – Eric Pietron

This property is zoned R-1D. The applicant is requesting to construct a front and rear open deck on their home. The proposed front 5' x 3' open deck will encroach into the required front yard setback. The house itself is a legal non-conforming house and is itself in the required setback. Town Code §407-18.A. establishes the Baseline Road setback at 100 ft. The proposed 3' deck along with the house would require a 46' front yard setback variance. The proposed 10' x 20' rear deck would follow the existing house side yard on the north side which encroaches 4 ft. into the required 10' side yard setback making a 6 ft. side yard setback necessary.

Appearing before the Board was Eric Pietron who resides at 1963 Baseline Road. He explained that his existing front porch was over an old cistern that

he would like to remove and replace the concrete porch with decking. It would not be any larger than the original porch. The rear deck he would like to construct to follow the same line as the house which is already in the required front yard setback so he is asking for a 6 ft. side yard setback for the rear deck.

A **motion** was made by Braddell / Harris to close the public hearing. All in favor.

A **motion** was made by Braddell / Harris to **GRANT** the request for a 6 ft. side yard setback variance for a deck on the rear of the home that will be 4 ft. from the lot line keeping the same side yard as the house at 1963 Baseline Road.

Roll Call:

Ayes: Harris, Phillips, Braddell, Mesmer

Noes: None

Carried

The Board determined that a variance for the front deck was not necessary since the amount of nonconformity would not be expanded.

Roll Call:

Ayes: Harris, Mesmer, Phillips, Braddell

Noes: None

Carried

Rationale:

1. The variance request will not create a detriment to nearby properties. The adjacent lot will be an entrance to a future subdivision and not a residence.
2. The granted variance will allow the new addition to follow the same line as the existing house.

OLD BUSINESS

1) 3751 East River Road – Frank Vacanti

This property is zoned R-1B. The applicant is requesting to construct a 20' x 34' x 17' tall (680 sq. ft.) detached garage to be located 8 ft. from the south side lot line. The shed in that current location will be removed. Town Code §407-142. A. the setback distance for an accessory storage structure from the rear and side yard lot lines shall be equal to or greater than the height of the accessory storage structure, making a 9 ft. side yard setback variance from the south side lot line necessary.

The Public Hearing was closed last meeting.

Appearing before the Board was Frank Vacanti who resides at 3751 East River Road. He asked the Board if they received the letters he submitted from homeowners in his neighborhood regarding his variance request. Chairman Mesmer replied yes and that he and several other members make another site visit.

A **motion** was made by Braddell / Harris to **GRANT** at the applicants request for a 9 ft side yard setback variance from the south side lot line for the location of a 680 sq. ft. detached storage structure to be 8 ft. from the lot line at 3751 East River Road.

Roll Call:

Ayes: Phillips, Mesmer, Braddell, Harris

Noes: None

Carried

Rationale:

1. This property has a sloping grade toward the river and is a well-established neighborhood where water runoff is not an issue.
2. The height of the building which is what sets the side yard setback would not have an adverse effect or impact on physical or environmental conditions in the neighborhood.
3. The granting of the variance allows the structure to line up with an existing structure so not to change the view lines for the neighbors.
4. The granting of this structure was approved by the residents most affected.

7) SBL # 36.01-3-52 Located at the end of Fourth Street

This is a vacant lot zoned R-1A and is located at the end of 4th Street. Currently the Town owned and maintained street ends before this parcel of land. The applicant is seeking relief from Town Code to build a single-family dwelling on the vacant lot of record. Town Code §327-19. D. All lots shall front upon a public street. Also, Town Code § 407-17.J. Street frontage: No dwelling or structure shall be erected, or use conducted, on any lot which does not have immediate frontage on an existing or platted street or highway, suitably improved to the satisfaction of the Town Board, unless a variance is granted by the Zoning Board in accordance with Town Law §407-188. The public hearing was left open.

There was no representative for this application. The Board decided to look at this application because it was identical to Agenda item #5 for a lot without legal street frontage in the same geological location as item #5. Chairman Mesmer stated that this was just discussed and ask the Board if there where anything in addition they would like to add. The response was no.

A **motion** was made by Harris / Phillips to close the public hearing. All in favor.

A **motion** was made by Phillips / Braddell to **GRANT** the request for relief from Town Code §407-17.J. *No dwelling or structure shall be erected on any lot which does not have immediate frontage on an existing or platted street or highway with the condition* that the developer meets all Engineering Department, Highway Department and Building / Zoning requirements for a turn-a-round. Also, utilities such as water may need to be extended at the developer's expense and dedicated to the Town.

Roll Call:

Ayes: Harris, Braddell, Phillips, Mesmer

Noes: None

Carried

Rationale:

1. The granting of this variance is just a piece of the puzzle that would involve many agencies but would benefit more than just one property owner in that area.
2. The Board has set conditions to help solve "sins of the past" where illegal driveways have been put in to access some of these existing parcels without street frontage that have caused safety concerns for the agencies that need to use them.
3. The granting of this variance allows the development of vacant residential land and provides a safer means of ingress and egress
4. The benefit sought by the applicant could not be achieved by any other method, feasible for the applicant to pursue, other than a variance.

APPROVE THE 2023 ZBA MEETING AND DEADLINE CALENDAR

A **motion** was made by Harris / Phillips to approve the calendar for 2023. All in favor.

APPROVE MINUTES:

A **motion** was made by Harris / Braddell to Approve the October 6, 2022 ZBA Minutes as written. The meeting was held live via zoom and may be viewed on the town YouTube site.

Roll Call:

Ayes: Mesmer, Harris, Braddell, Phillips

Noes: None

Carried

OTHER MINUTES AVAILABLE FOR REVIEW

Board of Architectural Review Minutes –Aug. 16, 2022, Sept. 20, 2022

Planning Board Agenda –Oct. 11, 2022

Planning Board Minutes–July 11, 2022

Town Board Agenda – Regular Meeting #16, Sept. 19, 2022, Regular Meeting #17, Oct. 3, 2022,

Town Board Minutes –Regular Meeting #15, Sept. 6, 2022, Regular Meeting # 16, Sept. 19, 2022, Regular Meeting #17, Oct, 3, 2022

A **motion** was made by Phillips / Harris to adjourn the meeting at 8:24 p.m. All in favor. Minutes prepared by Rhonda Tollner, Zoning Clerk. The meeting was conducted via Zoom and may be viewed on the town You tube link.