

**Danby Board of Zoning Appeals  
Minutes of Hearings and Meeting  
April 18, 2012**

**Present:**

Allen Becker  
Gary Bortz  
Nancy Medsker  
Joe Schwartz  
Alan Wagner

**Others Present:**

Secretary Sue McLellan  
Public Pamela Goddard, Ted Crane, Jeff Huddle, Gary Huddle, Sue Beeners,  
Ross Borden, Cynthia Bowman, John and Marjory VanDeMark

**BZA Chair, Al Wagner opened the Huddle hearing at 7:05pm**

PUBLIC HEARING to consider a request for variance of the minimum 200 foot frontage requirement of Section 600, Paragraph 5 of the Town of Danby Zoning Ordinance, in order to subdivide a 14-acre portion of Tax Parcel 8.-1-5.2 into a 2 acre lot with 248+/- feet of frontage and containing an existing house at 400 Comfort Rd and a 12 acre lot with 50+/- feet of frontage. Jeffrey Huddle applicant, John and Marjory VanDeMark, owners.

**Public Comment**

No correspondence was received from neighbors related to this request. There were no other comments.

**The hearing was closed at 7:07pm**

**Huddle Variance Discussion**

A discussion took place regarding the dimensions of road frontage for the existing property and the proposed new flag lot. Concern was expressed whether the road frontage of the existing house would remain in compliance with the minimum 200 ft requirement. After a closer look at the dimensions, it was discovered that the road frontage was misread as a total of 248 ft instead of 298 ft. The Board agreed that the 298 feet road frontage is more than adequate for the proposed 50 ft flag lot road frontage.

The septic system and leach field at the existing property was discussed in relation to the proposed driveway. The septic system for the downstairs part of the house is a sand filter system and is closest to the driveway. There is at least 15 ft between the leach field and the 50 ft right of way. The leach field was redone in 2001. It was determined that if the sand filter system needed to be rebuilt, it would not create a problem.

**MOTION TO GRANT THE VARIANCE:**

The Board of Zoning Appeals of the Town of Danby grants the variance on Town of Danby Tax Parcel 8.-1-5.2 as requested.

**Moved by Gary Bortz, second by Allen Becker, the motion passed**

**Allen Becker      AYE**  
**Gary Bortz        AYE**  
**Nancy Medsker    AYE**  
**Joe Schwartz     AYE**  
**Alan Wagner      AYE**

## **The Goddard/Crane Hearing was opened at 7:18pm**

PUBLIC HEARING to consider a request for variance of the maximum height requirements of Section 600, Paragraph 8 of the Town of Danby Zoning Ordinance related to the proposed construction of a single-family dwelling at 888 Comfort Road, Tax Parcel 9.-1-18. Said Section provides for a maximum 36 foot height from lowest exterior grade to the highest point on the roof (excluding chimneys, antennae and other similar protuberances) and the requested maximum height is 42 feet. Said Section also provides for a maximum 44 feet from the lowest interior grade in a cellar, to the highest point on the roof (excluding chimneys, antennae and other similar protuberances), and the requested maximum height is 50 feet. Ted Crane and Pamela Goddard Owners/Applicants.

## **Public Comment**

Ross Borden and Cynthia Bowman both commented that the proposed height of the house would not be a concern and they highly supported the variance. No other correspondence received from other neighbors.

## **The Hearing was closed at 7:27pm**

## **Goddard/Crane Variance Discussion**

There was a lengthy discussion over the wording of the ordinance and its original intent in respect to whether or not the 6 ft variances were self-inflicted. The BZA needed to determine from a procedural standpoint whether it was within their prerogative to answer the self-inflicted part. The observations revolved around the design of building into a hill. From one side it is within the ordinance but from the downhill side it looks like it exceeds the ordinance.

The applicant was asked “when was it realized the house was too high”. The applicant responded that he got the architect stamp on the drawings and brought them to the Code Enforcement Office. Code Enforcement replied that it was after significant design development when the plans were reviewed. Code Enforcement Officer Beeners gave an explanation of a last minute change to the south elevation, through an approved below grade access door, so that the outside grade will be higher on the foundation wall. The result is to lower the request for variance of exterior height from 50 to 42 feet.

The BZA discussed the purpose of the house and whether there were choices to alleviate the height issue. The applicant stated that the cost to make changes at this time would be significant and even if changes were made, it could not easily achieve the same results. It was noted that if you have to change the design, it creates a situation where the house no longer achieves its purpose. In that sense, it’s not self-inflicted.

The BZA talked about the original intent of the ordinance. In the 1980’s, they established the height limit so people would not have 3 or 4 story buildings. The intent was not to have big towers. This home is well within the height limit from the north side. This concern is 6 ft on the down side of the hill. It was determined that the design was not self-inflicted. It happened by default. Also, the BZA expressed concern that this variance would not set a precedent. A future applicant can not get the next variance because this one is granted.

## **BZA Finding on Goddard/Crane Variance**

As the improvement is a significant distance from the road as well as neighboring properties, the height difference in question is imperceptible to other area residents whose owners have spoken in favor of the overall design of the home. The single level basement slab is the best design for this particular hillside home and cannot be easily redesigned. The front and back sides of the home do not exceed 36 feet, preserving the overall spirit of the zoning requirement. We further conclude that there is no resulting change in the character of the neighborhood as a whole as a result of this construction. It is further resolved that the Board grant the variance as proposed.

**MOTION TO GRANT THE VARIANCE:**

The Board of Zoning Appeals of the Town of Danby finds the following:

Whereas the improvement is a significant distance from the road as well as neighboring properties, the height difference in question is imperceptible to other area residents whose owners have spoken in favor of the overall design of the home. The single level basement slab is the best design for this particular hillside home and cannot be easily redesigned. The front and back sides of the home do not exceed 36 feet, preserving the overall spirit of the zoning requirement. We further conclude that there is no resulting change in the character of the neighborhood as a whole as a result of this construction. Therefore, it is resolved that the Board grants the variances on Town of Danby Tax Parcel 8.-1-5.2 as requested.

**Moved by Nancy Medsker, second by Allen Becker, the motion passed**

**Allen Becker      AYE**

**Gary Bortz        AYE**

**Nancy Medsker    AYE**

**Joe Schwartz     AYE**

**Alan Wagner      AYE**

**Adjourn**

The Meeting was adjourned at 8:00 pm.

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Susan McLellan, Acting Board of Zoning Appeals Secretary