

**Danby Board of Zoning Appeals  
Minutes of Hearing and Meeting  
July 10, 2013**

**Present:**

Gary Bortz  
Sarah Elbert  
Joe Schwartz  
Alan Wagner

**Absent:**

Allen Becker

**Others Present:**

Secretary	Pamela Goddard
Code Officer	Susan Beeners
Public	Joseph and Audrey Hulbert

**BZA Chair, Al Wagner, opened the Hearing at 7:10pm**

PUBLIC HEARING to consider a request for variance of the minimum 50-foot side yard depth from an adjacent property line required in Section 600, paragraph 6 of the Town of Danby Zoning Ordinance, in order to allow for construction of a new house on Tax Parcel 18.-1-7.2 with a 25-foot side yard depth from a property line shared with Parcel 18.-1-7.5 (176 Station Road). Joseph and Audrey Hulbert, owners/applicants.

**Public Comment**

No correspondence was received from neighbors related to this request. Joseph Hulbert informed the BZA that his neighbors have expressed support for the requested variance. These neighbors offered to attend the variance hearing, if needed. There is no indication that this will change the character of the neighborhood.

The Hulberts explained that they own both parcels. They want to put a new house near an existing pool and workshop. There is also concern that the farther they put a new house from the existing property line the closer they get to a steep slope with an 8 foot drop. That area also encroaches on an existing pasture with water lines, etc. Their intention is to keep all parcels of the land in the family. They have no intention to subdivide or sell lots from the property parcels. The current house, on the smaller “neighboring” lot is intended to go to their son. This property has been in the Hulbert family for several generations.

There were several specific questions from Bortz. He asked when the property was split? The Hulberts explained that the one acre lot was split circa 1988, when the original house was built. This was done to be a hold for the house mortgage, so as not to endanger the entire property. Bortz asked about the pool and workshop, which are close to the property line. The building locations were in compliance with the Zoning Code at that time. Bortz asked whether it would be possible to swap land with a family member in order to adjust the property lines and make the building sites “legal.” The Hulberts responded that the one acre lot is still under mortgage and they want to avoid the additional legal fees which such a land swap would entail.

Wagner stated his view that setbacks are to protect the neighbors and they are the neighbors. Therefore the need for setback protection is not such an issue in this case. Schwartz agreed that setback relief is important in other cases of subdivision and development in order to maintain the rural character of Danby but that this was not a concern in this case.

Beeners added her perspective as Code Officer. She supported the request for variance. In her view the Hulberts have been and will be in the area for a long time. In addition, the site of the proposed house is very scenic.

Bortz expressed concern about the impacts of these structures in relation to property lines should there be a future sale of the property. He was uncomfortable with creating two parcels which were in conflict with the zoning code.

### **The hearing was closed at 7:29pm**

### **Hulbert Variance Discussion**

Wagner, Elbert, and Schwartz spoke in support of the variance request. Bortz continued to have concerns.

### **MOTION TO GRANT THE VARIANCE:**

The Board of Zoning Appeals of the Town of Danby approves the variance on Town of Danby Tax Parcel number 18.-1-7.2 as requested. The Board of Zoning Appeals recognizes that there are hardships in positioning the house due to the topography of the land. In granting this variance the Board of Appeals that the request is in keeping with the character of the neighborhood and the spirit of the Zoning Ordinance.

**Moved by Elbert, Second by Schartz, the motion passed**

<b>Gary Bortz</b>	<b>NAY</b>
<b>Sarah Elbert</b>	<b>AYE</b>
<b>Joe Schwartz</b>	<b>AYE</b>
<b>Alan Wagner</b>	<b>AYE</b>

### **Adjourn**

The Meeting was adjourned at 7:31pm.

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Pamela Goddard, Board of Zoning Appeals Secretary