

**Danby Board of Zoning Appeals
Minutes of Hearings and Meeting
September 24, 2013**

Present:

Allen Becker
Gary Bortz
Sarah Elbert
Joe Schwartz

Others Present:

Secretary Pamela Goddard
Code Officer Susan Beeners
Public George "Skip" Fairchild, Barrett Nelson, Carolyn Colella

BZA Chair Pro tem, Al Becker, opened the Hearing at 7:00pm

PUBLIC HEARING to consider a Request for variance of the minimum 50-foot front yard required for corner lots in High Density Residential Zones in Sections 510(1) and 602(5a) of the Town of Danby Zoning Ordinance in order to build a detached garage with a front yard 15 feet deep from the appropriations line of NYS Rte. 34/96 (Spencer/West Danby Road) and 16 feet deep from the right of way line of Short Road. The property is located at 2245 Spencer/West Danby Rd., Tax Parcel 16.-1-18.21, George and Janet Fairchild, Owners.

Public Comment

George Fairchild explained that he was seeking a variance in order to build a garage so that the family does not need to cross Rt. 34/96 to park their car. He stated that he has considered the line of sight on the highway when choosing a location for the garage. He also wishes to avoid blocking the only kitchen window. There are further limitations due to the topography of the property. He has chosen a site with a gradual slope as opposed to a place with a ten foot drop.

There was a discussion about the proposed garage location between BZA members and applicant. Bortz expressed the view that this location is too close to the road and would present a safety issue due to a limited turn around area and during winter snow removal. He suggested that the access and variance be considered for Short Road rather than Rt. 34/96.

Becker reported concerns from Highway Superintendent Seamon over the proposed site. Seamon reported that the berm on Short Road will be removed in the near future. This may make access from Short Road more plausible.

There was an extensive discussion about alternatives to the proposed garage location and modifications to the request for variance. Fairchild asked for time to revisit the proposal.

This hearing was closed at 7:20pm

Variance Discussion

The BZA proposed to adjourn the hearing without prejudice until a later date.

MOTION TO ADJOURN HEARING:

The Board of Zoning Appeals of the Town of Danby **adjourns without prejudice** the Fairchild Hearing regarding Request for variance of the minimum 50-foot front yard required for corner lots in High Density Residential Zones in Sections 510(1) and 602(5a) of the Town of Danby Zoning Ordinance in order to build a detached garage. The Hearing will be **reconvened** on October 2, 2013 at the Danby Town Hall at 7:00pm.

Moved by Becker, Second by Bortz, the motion passed

Gary Bortz	AYE
Sarah Elbert	AYE
Joe Schwartz	AYE
Allen Becker	AYE

BZA Chair Pro tem, Al Becker, opened the second Hearing at 7:25pm

PUBLIC HEARING to consider a Request for variance of the minimum 200-foot frontage and minimum 2-acre lots size required in Section 600(5), of the Town of Danby Zoning Ordinance, in order to subdivide the existing 10-acre parcel at 1116 Coddington Road, Tax Parcel Number 5.-1-1.78, resulting in one lot with 186' of frontage and approximately 1.5 acres in size, containing the existing dwelling at 1116 Coddington Road, and a second lot with 20 feet of frontage and approximately 8.5 acres in size. Barrett and Angela Nelson, property owners.

Public Comment

Mr. Nelson explained that he wished to build a second dwelling on his property, uphill from the existing dwelling. He does not currently live on the property but plans to move there in the near future. He needs a larger dwelling to house his family. This would be possible by special permit through the Planning Board. He has explored this option but has learned that financial loan institutions do not favor two dwellings on one property. Therefore he wishes to subdivide the property. He plans on working from the existing driveway with an easement to himself.

There were extensive questions from the Board members. Nelson explained that he bought the property six years ago but has never lived there (he receives housing as part of his employment). The existing dwelling has been rented to good tenants. Members of the Board expressed concern regarding the shared driveway, proximity of the driveway to an existing pond, local housing density, and the creation of "flag lots." There did not appear to be a defined hardship related to the request. The request for frontage variance is far under the 200-foot requirement in the Zoning Ordinance. Nelson attempted to address these concerns.

Nelson was asked, "why not simply add onto the existing house?" He was the designer/builder of the house and described adding an addition as "problematic."

There were comments from neighbor, Carolyn Colella regarding pressures to develop the Coddington Road neighborhood and how this is changing the rural character of the area. She pastures two horses on the adjacent parcel. She did not intend to put pressure on the Nelsons, but there have been four houses built in the neighborhood in the past few years, with the possibility of several more. The neighborhood is changing quickly and she is concerned about losing the rural area.

This hearing was closed at 7:40pm

Variance Discussion

The property owner was given the option to withdraw the request, as there are only four seated members of the Board of Zoning Appeals and a split decision results in an automatic denial. Beeners further clarified the options which might be available dependent on the outcome of a split vote. The property owner opted to go ahead with deliberation and a decision.

There was continued discussion regarding this variance request. There was concern that a request for 20 feet of frontage when the Zoning Ordinance specifies 200 is not in line with either the letter or spirit of Zoning as per community preference. There was not proven economic hardship as there could be the option to add to the existing house.

Nelson argued that the request did not change the character of the neighborhood as there are similar flag lots in nearby properties. He considered these lots when designing the original house. Nelson stated that his original intent had been to have a rental property with a larger home placed behind. He acknowledged that the property frontage is narrow and noted that he wishes to keep the wooded acreage uphill from the road intact.

Each Board member expressed their concern about the variance request. The Board was not in favor of splitting the ten acre lot in two.

MOTION TO DENY THE VARIANCE:

The Board of Zoning Appeals of the Town of Danby **denies** the request for variance of the minimum 200-foot frontage and minimum 2-acre lots size required in Section 600(5), of the Town of Danby Zoning Ordinance, in order to subdivide the existing 10-acre parcel at 1116 Coddington Road, Tax Parcel Number 5.-1-1.78.

Moved by Schwartz, Second by Elbert, the motion passed

Gary Bortz	AYE
Sarah Elbert	AYE
Joe Schwartz	AYE
Allen Becker	AYE

Adjournment

The Meeting was adjourned at 7:54pm.

Pamela Goddard, Board of Zoning Appeals Secretary