

**Danby Board of Zoning Appeals
Minutes of Hearings and Meeting
September 23, 2014**

Present:

Allen Becker
Gary Bortz
Sarah Elbert
David Hall
Joe Schwartz

Others Present:

Secretary Pamela Goddard
Public John Shepardson, Raymond Mayo, Gwyneth Diemand and family, Cathy LaMorie and family, Leslie Connors

BZA Chair, Joe Schwartz, opened the FIRST Hearing at 7:00pm

PUBLIC HEARING to Consider granting a Request for variance of the minimum 50-foot rear yard depth from the property line to the principal structure as required in Section 602, Para. 5 of the Town of Danby Zoning Ordinance for construction of a 16x8 foot covered porch on the rear of an existing house at 6 Bald Hill Road, Tax Parcel No. 10.-1-30, Cathy Lamorie, owner and applicant. The distance from rear property line to proposed porch will be approximately 27 feet. The current structure is approximately 31 feet from the rear property line.

Public Comment and Board Discussion

The applicant spoke in support of the variance, explaining that they would like to improve their home with a covered porch. She directed the Board to the letters of support from her neighbors that were included in the project application.

Bortz asked questions regarding the status of construction at the site. The LaMories explained that construction has not started on the porch. They have set the poles, on the chance that the variance might be granted, as part of a roof improvement project on the main roof of the house. They have not started any other construction.

Shepardson spoke in support of the variance.

Ray Mayo spoke in support of the variance.

BZA Chair, Joe Schwartz, closed the Hearing at 7:06pm

Hall asked whether this construction will cause any drainage problems. The applicants stated that this will not change the drainage patterns around the property.

Bortz asked further questions regarding the status of construction at the site. LaMorie explained that the poles were set during a window of time when roof work can be done. They want to tie the new porch roof to the existing roof.

MOTION TO GRANT VARIANCE:

The Board of Zoning Appeals of the Town of Danby **approves the variance** as stated: Request for variance of the minimum 50-foot rear yard depth from the property line to the principal structure as required in Section 602, Para. 5 of the Town of Danby Zoning Ordinance for construction of a 16x8 foot covered porch on the rear of an existing house at 6 Bald Hill Road.

Moved by Becker, Second by Hall, the motion passed

David Hall	AYE
Joe Schwartz	AYE
Allen Becker	AYE
Gary Bortz	AYE

Sarah Elbert Arrived at 7:11pm

BZA Chair, Joe Schwartz, opened the SECOND Hearing at 7:12pm

PUBLIC HEARING to Consider granting a Request for variance of the minimum 50-foot side yard depth from the property line to the principal structure as required in Section 600, Para. 5 of the Town of Danby Zoning Ordinance for construction of a 24x28 foot garage attached to the side of an existing house at 422 Troy Road, Tax Parcel No. 4.-1-38.44, Gwyneth Diemand, owner and applicant. The distance from side property line to proposed garage will be approximately 10 feet +/-.

Public Comment and Board Discussion

Diemand made comments in support of the variance request. The location of the proposed garage will connect with an existing driveway. The adjoining neighbor has no complaint with this proposal and has written a letter in support, which was presented to the Board. The applicant will be addressing possible drainage concerns in the design of the garage and nearby landscaping. There is a standing tree line between these two properties, which acts as a natural buffer.

A major reason for the location of the proposed garage as presented in the variance request is to optimize solar gain for a PV solar installation to be added to the garage roof. The angle of the garage from the house is to accommodate the solar panels.

The Board asked several questions regarding the distance between the Diemand house and that of their neighbors. The structure on the adjoining property encroaches the property line. There was a discussion of the purpose of setbacks and distance from the property line, for aesthetics and fire safety.

Close Hearing - 7:18pm, Open BZA discussion

Bortz asked how many BZA members had visited the site in at least a “drive by.” Only two out of three had visited the property and neighborhood. Bortz was emphatic that the Board makes due diligence in reviewing all variance requests, including on site visits. There was an agreement that due diligence is part of the BZA charge.

There was extensive discussion of whether to defer consideration the hearing until a majority of the Board could make a site visit. There were difficulties, logistically, in meeting Bortz’s request to defer this hearing to a later date.

Elbert and Schwartz noted that there have been and will be an increasing number of variance requests related to solar panel installations. It was suggested that this need be reviewed during a joint meeting of the Town Board, Planning Board, and Board of Zoning Appeals with a possible change to the Town of Danby Zoning regulations. Elbert was concerned that undue stress not be put on the applicants as a result of a lack of diligence on the part of the Board. This concern was echoed by other members of the BZA.

MOTION REGARDING FUTURE PROCEDURE

Moved, that, after this meeting it shall be incumbent on the Danby Board of Zoning Appeals that a majority of its members make a reasonable effort to engage in a site visit related to a variance request prior to a board decision.

Moved by Elbert, Second by Schwartz, the motion passed

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

There was continued discussion of how this is not out of character of the neighborhood and the importance of structure location for solar installation. There was some discussion of whether the solar panels could be mounted as a ground installation. This would require some tree removal and members of the Board were not in favor of that. There were also considerations related to architectural aesthetics, should a different layout be designed for the proposed garage.

Bortz expressed the opinion that the garage would be too close to the property line, as a result of both existing houses. Hall had questions about consistency and what criteria should be used in making decisions. Schwartz noted that decisions should be made on a case-by-case basis, with regard to the character of the neighborhood.

Schwartz expressed the opinion that the solar installation makes this case. Without this aspect to the project, he would not be in support of this variance. He noted that a ground mounted system, further back from the house, would add considerable expense. Given the solar installation, this is the only option. There is no opposition from neighbors. Elbert agreed with Schwartz evaluation.

MOTION TO GRANT VARIANCE:

The Board of Zoning Appeals of the Town of Danby **approves the variance**, Request for variance of the minimum 50-foot side yard depth from the property line to the principal structure as required in Section 600, Para. 5 of the Town of Danby Zoning Ordinance for construction of a 24x28 foot garage attached to the side of an existing house at 422 Troy Road, Tax Parcel No. 4.- 1-38.44, Gwyneth Diemand, owner and applicant.

Moved by Becker, Second by Elbert, the motion passed

David Hall	Abstain
Joe Schwartz	AYE
Allen Becker	AYE
Sarah Elbert	AYE
Gary Bortz	NAY

Schwartz repeated a suggestion that zoning related to solar installations reviewed during a joint meeting of the Town Board, Planning Board, and Board of Zoning Appeals with a possible change to the Town of Danby Zoning regulations. He asked Councilperson Connors to bring this request to the Town Board at an upcoming meeting. It is anticipated that more of these requests will be coming before this board.

Adjournment

The Meeting was adjourned at 7:44pm

Pamela Goddard, Board of Zoning Appeals Secretary