

TOWN OF NORTH EAST ZONING BOARD OF APPEALS
MINUTES
June 20, 2019

The regular meeting of the Town of North East Zoning Board of Appeals (“ZBA”) took place on Wednesday, June 20, 2019 in the North East Town Hall located at 19 North Maple Avenue, Millerton, New York at 7:30 PM. Board members present were Chairman Julie Schroeder, Vice Chairman Edie Greenwood, Jon Arnason, Patti VandeBogart and Karen Pitcher. Also, in attendance were Carl Pucci, Ron Steed, Coleman Lawrence, Nelson C. North Jr., Tom Rowe and Deb Phillips, secretary to the Zoning Board.

7:30PM

Public Hearing on the application of Carl Pucci, co-owner of tax parcel #: 7272-00-684879, for a variance of Section 280-a of NYS Town Law requesting relief from the requirement of frontage on a public road. The parcel is located at 115 Grassy Pond Drive in the A5A Zoning District of the Town of North East.

8:00 PM

Public Hearing on the application of Thomas J. Rowe, co-owner of tax parcel #: 7271-00-058266 for a variance of Section 280-a of NYS Town Law requesting relief from the requirement of frontage on a public road. The parcel is located at Reservoir Road in the A5A Zoning District of the Town of North East.

Chair Schroeder read the legal notice of the public hearing for Carl Pucci.

Pucci appeared before the board for a variance to allow construction of a single-family home/accessory building on a 67.37-acre site under conservation easement on an alleged private road. He has applied to the Dutchess County Department of Health for a septic system and the septic system has been approved. The building department rejected the application because there was not sufficient road frontage.

Arnason asked for a copy of the road easement. Chairman Schroeder said they need to see the Planning Board minutes from the 2004 and the 2016 subdivisions that would describe the easement of the road. She explained Section 280-a of NYS Town Law has a requirement for frontage for the passage of emergency vehicles and she thought the road had to be 15 feet wide. Discussion ensued regarding the gate on the road that is locked, who maintains the road and who gets to improve it. Pucci said there is a description of the easement in the deed from when he purchased the property. Vice Chair Greenwood read a note from the recorded map that states “Grassy Pond Drive is a private road which services private dwellings on Grassy Pond Mt. Riga. The limits of the right-of-way are shown on a New York State Parks Taconic Region Survey done by James Edgett Land Surveyors dated April 3, 1980.” Arnason said that is the document the board needs to look at.

Arnason made a motion to recess the public hearing to July 18, 2019 at 7:30PM. Motion seconded by Greenwood; all were in favor and motion passed.

Vice Chair Greenwood read the legal notice of the public hearing for Thomas Rowe.

Rowe appeared before the board seeking a variance in order to gain access for a single-family home. He said he has 5 BOHA acres that he wants to build on and has the right-of-way (15feet) over the road.

Arnason asked who owns Reservoir Road. Rowe replied he didn’t know. He provided the board with a memorandum of law from Attorney Warren Replansky. Chairman Schroeder asked who is responsible for maintaining the road. Rowe said there is no maintenance agreement. Schroeder asked about utilities. Rowe said he ran power conduits over ten years ago. He said the property was sold as a residential building lot. Arnason read the letter from Replansky that mentions that the property appears on a filed residential subdivision map apparently approved by the North East Planning Board as a residential subdivision filed map. Replansky said

it's not clear from his examination of the available records who owns the private road; the subdivision map in the Dutchess County Clerk's records indicates that the private road was created by a deed dated November 12, 1949 from Lucy G. Blanchard to Arthur J. Stinari and Florence G. Stinari.

Arnason asked Chair Schroeder if the map answered the 280-a question. Chair Schroeder suggested hiring an outside attorney to review the application and Replansky's submission. She suggested there should be a Homeowners' Association to specify who owns the road and who maintains the road.

Chair Schroeder mentioned deeds from James Blanchard to the Warrens (1973); Stinari to Warren (1986); Alfano to Alfano (1992); Alfano to Rowe (2003). Chair Schroeder make these deeds part of the record.

Arnason suggested finding the Planning Board minutes. He said the board needs to establish who owns the road.

Skip North said he looked at the property in 1975 and there was no clear title to a road at that time. He said there were two accesses – one was on the road they are talking about now and the other went to Sawchuck Road.

Ron Steed said when Rowe purchased the property, he understood there was a survey. A title search was done that indicated that Rowe had a right-of-way over the parcel of land now owned by Coleman Lawrence. He said it was a private road. He said when Coleman Lawrence purchased his property, the bank questioned who owned the road. Steed said the right-of-way is over Lawrence's property and Rowe has access to and from his property. No proof of these statements was introduced.

Chair Schroeder said Rodenhausen, Chale & Polidaro LLP will advise the board. She asked for \$2,000 escrow from Rowe.

VandeBogart made a motion to recess the public hearing to July 18, 2019 at 8:00PM. Motion seconded by Pitcher; all were in favor and motion passed.

General Business

Greenwood made a motion to open the regular meeting at 8:50PM. Motion seconded by VandeBogart; all were in favor and motion passed.

Arnason and Chair Schroeder discussed 267-b and 280-a of Town Law. He asked if the board's assumption was that the Planning Board approved the plat. He suggested asking Rodenhausen. There was discussion of a parcel number for the road. Arnason said the issue is whether the road is adequate for fire equipment.

Minutes

Vice Chair Greenwood made a motion to approve the minutes of April 18, 2019. Motion seconded by Pitcher; all were in favor, motion carried.

Close of Meeting

Arnason made a motion to close the meeting at 9:15PM. Motion seconded by VandeBogart; all were in favor and motion passed.

Respectfully Submitted,

Deb Phillips
Zoning Board Secretary
ZBA 6/20/2019