

**TOWN OF NORTHAMPTON  
ZONING BOARD OF APPEALS  
August 28, 2013**

The Town of Northampton Zoning Board of Appeals held their regular meeting Wednesday, August 28, 2013. The meeting was called to order by Chair Skotarczak at 7:05 p.m. in the Municipal Building, 412 South Main St., Northville, NY.

**PRESENT:** Chair Amanda Skotarczak  
Members: Thomas Corrigan, Heidi Darling, Bruce Backer and  
Alternate Heather Simpson  
Absent: Jeff Daum

**ALSO PRESENT:** Matthew Ginter, Code Enforcer  
Ronda and Peter Cucchi, Lorraine Frasier, Melissa Cucchi, Kathryn Bonk and Robert Reed

**RECORDING SECRETARY:** Elaine Mihalik, Town Clerk

**MINUTES:** Member Backer motioned to approve the July 24, 2013 meeting minutes as presented by the Town Clerk/Secretary, seconded by Deputy Chair Corrigan, and passed by, 4-Ayes: Skotarczak, Corrigan, Backer, and Darling 0-Nays

**COMMUNICATIONS**

- Copies were given to each ZBA member on the Amendment to the Zoning and Subdivision Law
- Chair Skotarczak has read the following letters regarding Case #2013-05
  - Letter from HRBRRD dated 8/19/2013 regarding
  - Letter from Raymond & Amy Butler dated 8/21/2013

Chair Skotarczak opened the Public Hearing at 7:07 p.m.

**Legal notice for Case #2013-05: Ronda and Peter Cucchi, 23 Johnston Ave., Cohoes, NY 12047** on parcel #17.2-1-1, location at 201 State Hwy 30, in the Town of Northampton, Fulton County, NY. Provisions to the Town of Northampton Zoning Ordinance: Schedule B-RR1 Zone requires yard set-back.

**PROPOSED:** Camper trailer on lot and build 2 decks

Chair Skotarczak: I'm confused because in Mr. Butler's letter he's talking about 55 feet of State land to meet the set-back.

Deputy Chair Corrigan: He's talking about the distance from the pavement to the property line on that parcel. That has no relevance

Member Darling: That's probably not even relevant to what we are doing anyway.

Chair Skotarczak: Before the decks were built there was short of 20 feet to the property line and 70 +/- feet to the HRBRRD line.

Peter Cucchi: There was only one deck built but more of a patio down on the side. We didn't build a deck on the front.

Chair Skotarczak: Deck #2 doesn't exist?

Peter Cucchi: We put in a permit for that, it doesn't exist.

Matthew Ginter: On your big survey map there, it shouldn't be on there. I didn't get into the details with the setbacks. It is Rural Residential 1 – drop is 50' and the sides are 25' each for a combine of 50', the rear is 25'.

The sides aren't really an issue there's a lot of room. The issues are the front and rear.

Member Darling: The front being towards the lake and the rear towards the road? Or are we flipping it?

Matthew Ginter: The front is the side that you enter from.

Member Darling: But usually when it's lakefront it's flipped.

Matthew Ginter: No, the side you drive into.

Chair Skotarczak: Does our Zoning address it?  
Discussion ensued.

Chair Skotarczak: Prior to the new Zoning we did what was in favor of the applicant.

Matthew Ginter: I have consulted with our Attorney; it is the side that you enter from.

Chair Skotarczak: Addressing Peter Cucchi, what side do you enter from?

Peter Cucchi: The front of the trailer is facing the lake, where the main door is.

Deputy Chair Corrigan: Zoning doesn't matter because that is a pre-existing non-conforming building lot under interpretation which the Zoning Board issued back in 2007, under the small lots section. If it was a legal lot before the adoption of the Zoning Ordinance, it is still a legal lot.

Matthew Ginter: It's a legal lot but it doesn't mean you don't have to apply for the required setbacks.

Deputy Chair: I think that setbacks were established with the interpretation back in 2007.

Chair Skotarczak: It states, "The Zoning Board of Appeals shall make a determination as to the prior legal non-conforming use status of the use structure or lot. The Zoning Board of Appeals shall make a determination on whether the use structure and or lot is entitled to prior non-conforming status based upon all the information provided, which may include documentary evidence submitted, site inspections, interviews with the applicant and/or any other person, or any other information that can reasonable be considered relevant."

Matthew Ginter: So in other words, it doesn't have to equal the minimum lot area of 2 acres? It's a building lot.

Deputy Chair Corrigan: That was what the application was in 2007, by the owner/realtor. He had a lot that he was being taxed on, as if it was a build able lot and it was too small based upon on the current zoning. When this was adopted in 2012, that lot could still be built on using the standards that the ZBA granted in 2007.

Matthew Ginter: I am familiar with any lot that was created prior to the new Zoning is still a lot. But setbacks, that's irrelevant to setbacks. Setbacks are something we applied now when it come to build. Minimum lot size they are non-conforming pre-existing, anything prior to March 2012. Discussion ensued.

Member Darling: But now the setbacks apply?

Matthew Ginter: The setbacks apply now. Unless somebody had a building permit back then and it was specifically approved as a 5 foot variance that is transferred through owners.

Member Darling: Right, because it goes with the property. It goes with the deed, not with the person.

Matthew Ginter: Based on the new Zoning now this is not a build able lot. But this lot was created prior to the new Zoning as a build able lot.

Member Darling: Correct.

Member Backer: What I understand is that this lot is a "build able lot". Then is there a build able structure on the lot? That is the question before the board.

Deputy Corrigan: Can a building, a dwelling, be placed on the lot?

Member Darling: If you build a building on it, with the size that it is and will it meet the setbacks? Is that what you are saying?

Matthew: If you can build on it and get your setbacks and you can get your well and separation distance, it's a build able lot.

Deputy Chair Corrigan: But the fact that you can't make the current setback requirements doesn't make it a non build able lot. So, it's still a build able lot.

Matthew Ginter: The hardship is it is very difficult to put a building on that. That is why we have the appeal process. He gave an example. You can get the well and septic separation by the Health Dept standards, the APA doesn't have a problem, I got the JIF, however, they can't quite meet the zoning standards setback requirements. They have that opportunity to come and do that. It this not a self created hardship. His hardship it that he doesn't have the width, that is why they are appealing because they have no other option.

Member Darling: In the 2007 when this property came before the Zoning Board of Appeals it states that all the houses in that line with them are only 5' off their line.

Matthew Ginter: Some are closer. They are pre-existing non-conforming. If they come down, they are not going back unless they are destroyed by fire.

Chair Skotarczak: The Application is for both decks and the camper?

Matthew Ginter: Yes, that would be the ultimate goal.

Chair Skotarczak: Is it fair to say that the 5 ¾ feet and 3.8 feet from the State Hwy 30 side if roughly in line with everyone else house is?

Matthew Ginter: The one that is drawn on the survey map also owned by Mr. Cucchi is closer to HRBRRD. I believe the camp that is next to him is also is very close to HRBRRD and I believe they both are within a couple feet. From that point on I'm not really sure. They tend to be toward the lake.

Member Darling: Because it is narrower.

Matthew Ginter: It's an odd situation because there is a section of unclassified State land that separates State Hwy 30 from their properties. It's technically comes under DEC regulations. Discussion ensued.

Chair Skotarczak: I can't imagine what you would have (stick) built anything any different that would have made this any better. I drove by that. How did you get the trailer in there?

Peter Cucchi: The Bobcat.

Member Backer: When you placed the unit in there, did you give any consideration or have you given any thought that you had to follow the Rules and Regulations before? How did that come about?

Peter Cucchi; I was not aware that your Zoning Ordinance was in place until I started to talk with Mr. Ginter that I found out.

Member Backer: So, you didn't have any thought of any Zoning?

Peter Cucchi: I wasn't building anything. I see a lot of trailers around the lake so I just assumed.

Member Backer: If I were to do something my first thought would be, Can I do it? Instead of doing it and now it's after the fact. I understand it's a hardship but it is, after the fact.

Chair Skotarczak: It is such a drop going to the lake that you shouldn't have put it any closer Right? Considering it is a build able lot according to the determination the Zoning Board of Appeals made many years ago. I can't see how they could have done it any different.

Deputy Chair Corrigan: The problem is it is not a house. It is not a dwelling. It's a trailer and trailers are not allowed on any lot that joins HRBRRD property. So, if, you could put a house (dwelling) on it but you can't put a trailer on it.

Member Darling: 5j (2).

Chair Skotarczak: You have to consider a camper instead of a manufactured home?

Discussion ensued on the definition of "Manufactured Home" and "Travel Trailers".

Matthew Ginter: I didn't mention it on the original applicant because I also looked up the definitions. Travel trailers are defined under major Recreation equipment. It's a matter of the Board's interpretation. There is no definition for camper.

Chair Skotarczak: I look at that and say it's a travel trailer. That is something that you are taking camping. A manufactured home is a double wide in my opinion.

Member Backer: It's a tough situation in that the letter from your neighbor's in terms of their opposition. I guess I think that, esthetically, they don't want this next door to them. I feel that is their real point of view.

Member Darling: They are not your next door neighbor, they are two houses down?

Rhonda Cucchi: Yes, it's my niece and nephew.

Melissa Cucchi explained the situation of the on going family feud over there. The trailer is teeny tiny but it allows us to go up there still. They may not like the appearance of the trailer but we are doing everything in our power to keep the trees in. While they on their side, are taking down all the trees on their lot that my gram did have. To say that we destroyed the lot in another 10 or 15 years it is going to look better we are looking at big beautiful trees and make sure that you can't see it from the road.

As far as, not knowing about Zoning, this is the first piece of property that I every owned. I can learn and deal with a few things as it comes along. But it is turning into a he said, she said situation there.

Matthew: Peter Cucchi did come to me for a building permit back quite a while ago. It was original told to me about putting the trailer on top and I told him he couldn't put it up there. It is State property and there is no way you can build on that. I can not find that application. I didn't give Mr. Cucchi permission and I did not follow up with any fees or anything.

In the letter it states that they did build a deck there. They did apply for a permit for that. That is a floating deck. It does cross the property line which Peter Cucchi owns. Typically in the past, as long as it can be taken away, you can do that. If you own two pieces of property, you don't have to abide by that boundary setback because it is just setting on top.

They had gotten a permit for the septic system and they provided an engineers design.

Deputy Chair Corrigan: If that camp is a recreational vehicle. How do you legitimize the permanent installation of it?

Matthew Ginter: I don't know.

Deputy Chair Corrigan: Other than the fact that they are only allowed to use it 30 days every year or with a permit from the Town Planning Board, 90 days every year.

Discussion ensued on other situations with trailers in the Town and the Zoning Commission addressing this with the Consultant.

Chair Skotarczak: How is it that Major Recreational Equipment, storage outdoors is permitted in RR1?

Deputy Chair Corrigan: How about permitted residential uses in the Allowed Use section?

Matthew Ginter: We do allow trailers, if someone is building a house.

Member Darling: If they are not using the trailer, then they are storing it?

Deputy Chair Corrigan: You are not storing it on the lot because it is connected to a sewage system. It is being used. It is not stored.

Question: What if it were disconnected?

Peter Cucchi: It would have to be disconnected in the winter time. I couldn't get a winterized trailer.

Member Backer: Had you not bought the trailer but built a stick built unit with those dimensions, you would not have had to be here? Is that correct?

Response: They would still have to have the variance because they can't meet the setbacks.

Deputy Chair Corrigan: The use variance is almost impossible to grant. It can't be a self imposed hardship. An area variance is much easier.

Matthew Ginter refers to page 122 B. 1 (a) which is the 30 days and C is the 90 days. There are situations where the owner does the 90 days and then takes the trailer home.

Question: Do they go before the Planning Board and get a permit?

Matthew Ginter: I've not yet seen that.

Chair Skotarczak: Is that a possibility that your trailer can be removed in the winter time?

Peter Cucchi: It is a possibility. We only come up here in the summer in July and August. Realistically, I would like to disconnect everything and store it there and use it for the 90 days in the summer.

Question: Would that be the Zoning Board of Appeals call?

Deputy Chair Corrigan: The Planning Board would have to issue the permits for the 90 days.

Chair Skotarczak: At that point, it is permissible in that district to have Major Recreational storage. If the Planning Board issues them a permit for June, July and August and the owner unhook everything, store it on the site. They wouldn't actually need to remove it and they wouldn't need a variance.

Deputy Chair Corrigan: in the Zoning Law on page 123 C. Temporary Use permit issued by the Planning Board. If they stored it 9 months of the year on the site then there is no requirement for setbacks. If they have the permit from the Planning Board then they can use it three months out of the twelve.

I think it was the previous realtor/owner's intention to market it as a build able lot.

Chair Skotarczak: I want to go over the Use Variance with the owner. Have you seen the questions that have to be gone over with, with a Use Variance?

Deputy Chair Corrigan: Are you aware of the questions for a Use Variance?

Melissa Cucchi: We have seen a couple of application with questions but we are not sure specifically which one they are.

Deputy Chair Corrigan: It can't be a self imposed hardship.  
Discussion ensued.

Deputy Chair Corrigan: You don't have any intentions of putting a regular dwelling on your property, do you?

Peter Cucchi: No.

Deputy Chair Corrigan: You just want a travel trailer?

Peter Cucchi: Yes, because it just isn't large enough.

Deputy Chair Corrigan: One of our concerns was legitimizing that kind of thing. While it is fairly shielded from the river the HRBRRD land right now if you cut the trees down, it won't be. I think part of the Master Plan they wanted to avoid any more of these trailers/mobile homes, whatever, within site of the water.

Peter Cucchi: Right now, we are 200 yards from the water.

Chair Skotarczak: The only way the ZBA would be able to help you is if you decided to remove the camper/trailer and build a structure.

Peter Cucchi: I would still need the setbacks because I want to build a deck in front of it.

Matthew Ginter: The one deck is there and the other one is proposed. We need to talk about that.

Chair Skotarczak: Are we going to modify the application to be, hypothetically the Planning Board issue them a permit, and the owner is going to disconnect it from the septic and store it there?

There was discussion on "Decks" and the definition was read of a deck among the members and Mr. Ginter.

Matthew Ginter: A deck has to meet setbacks because years from now they want to build a roof over them or they want to screen them in.

Deputy Chair Corrigan: You can't say that they might do that.

Matthew Ginter: That is why we say it is a structure from the beginning.

Member Darling: We discussed this with the Consultant and she stated that this wasn't a structure.

Chair Skotarczak read the definition of a "Patio".

Matthew Ginter: That's as far as building code goes.

Chair Skotarczak: A deck and a patio differ based on their height.

Deputy Chair Corrigan: read "Building Area". Saying it doesn't count as Building Area.

Chair Skotarczak: read the definition "Porch"

Matthew Ginter: Read the definition of "Structure".

Member Darling: What the Consultant went over with us is conflicting with what you are saying, it's a gray area.

Deputy Chair Corrigan: Mr. Ginter is right. Look under the definition of "Setback" then go to the definition of "Structure".

Matthew Ginter: The only thing I don't make anybody get a setback in is a driveway, or somebody is doing paver blocks because that is also a driveway. It is not a structure. When it involves a building, a structure we make them abide by the setbacks. That is how it has been done prior to me and how I was taught. It's done just about everywhere. It's hard to decipher this sometimes.

Chair Skotarczak: They enter the camper/trailer from the lakeside and that would make that the front yard. RR1 calls for a 50 foot front yard setback. Without the deck they are between 20' and 27.1' from the camper to the property line. So, they currently don't make it.

Matthew Ginter: Based on the HRBRRD treats these lines as a glass wall. You can build whatever but no part of anything can break that wall, so to speak. Our setbacks say 50'.

Member Darling: So, HRBRRD does have a problem with the deck?  
Matthew Ginter: That's correct as long as it doesn't cross their line.

Chair Skotarczak: Again, Are we going to modify the application to be, hypothetically the Planning Board issue them a permit, and the owner is going to disconnect it from the septic and store it there? It would be 8' from the line and 15' on the other side. It was stated that deck #1 doesn't count because of the way it was built and it isn't attached to anything.

Matthew Ginter: Deck #2 would probably have to be on piers.

Deputy Chair Corrigan: If you want to allow the owner to build the decks within x amount of feet from the line, you can do that. But you would have to consider the decks as an accessory use to the trailer. You're going to have to condition the presents of the decks to the presents of the trailer. It has to be an accessory use. So, if the trailer has to disappear, the deck would have to too.

Member Backer: All of this is contingent upon this going before the Planning Board. Why don't we just table it? Let them proceed with the Planning Board and then no action will be taken by the building inspector because it will all be monitored. After receiving a decision from the Planning Board then the owner will come back to the Zoning Board.

Chair Skotarczak announced at 8:10 p.m. that the Zoning Board of Appeals members have unanimously tabled a decision, deeming this Public Hearing as being left open, for Case #2013-05: Ronda and Peter Cucchi, 23 Johnston Ave., Cohoes, NY 12047 on parcel #17.2-1-1, location at 201 State Hwy 30, in the Town of Northampton, Fulton County, NY., pending this case go before the Town of Northampton Planning Board and they will await their decision.

The next Zoning Board of Appeals meeting will be held Wednesday, September 25, 2013 at 7 p.m.

Respectfully submitted,

Elaine Mihalik  
Secretary/Town Clerk