

**TOWN OF NORTHAMPTON
ZONING BOARD OF APPEALS
April 25, 2018**

The Town of Northampton Zoning Board of Appeals meeting was called to order on Wednesday, April 25, 2018 by Chair Darling at 7:00 p.m. in the Municipal Building, 412 South Main St., Northville, NY. Chair Darling led the Salute to the flag.

PRESENT: Chair: Heidi Darling
Member Thomas Corrigan via Tele Conference
Members: Dennis Miller and Jeff Daum
Excused Member Bruce Backer

Also present: Code Enforcement Officer, Matthew Ginter; and Attorney Michael Albanese James Robertson

RECORDING SECRETARY: Elaine Mihalik, Town Clerk/ZBA Secretary

MINUTES: Member Dennis Miller motioned to approve the December 27, 2017 meeting minutes as presented by the ZBA Secretary. Seconded by Member Jeff Daum and passed by 4-Ayes: Darling, Miller, Daum; and Corrigan 0-Nays

Case #Z01-18: James J. and Cara L. Robertson, ~~680~~ 208 Skiff Road, Northville, NY. Parcel #32.18-1-18 in the Town of Northampton, Fulton County, NY. Provisions to the Town of Northampton Zoning Law: Schedule B Shoreline restriction of 12'. Type of Action request: Area Variance
PROPOSED: Applicant is proposing to build a deck into setback.

Deputy Chair Corrigan stated that the ZBA members do not have a full copy of the deed. The deed refers to Page 322 "Same premises as described in Schedule A attached hereto and made a part hereof." and that Schedule A is not included with the deed provided by the applicant. The survey needs that in order to apply for property. That should be filed with the County Clerk's office and should be a part of that deed.

The Chair Darling read page 137 of the "Town Zoning and Subdivision Law C. Application to the Zoning Board of Appeals". The survey copy the Zoning Board has is not stamped by the surveyor explained Deputy Chair Corrigan. There are no distances on the survey, front lot line, set back. There is no distance to the rear property line. It has to be to the existing building. There are no dimensions of all of the existing and proposed buildings and structures on the lot. You have several structures on the lot but we have no idea where they are on the lot because it is not shown.

There are two buildings on the survey. The shed and the camp and you want every dimension plotted on the survey asked Mr. Robertson. I'm asking for the standard due diligence to the surveyor replied Deputy Chair Corrigan.

The only area of contention is the deck side explained CEO Ginter. Everywhere else met the setback. When I spoke with Ferguson and Foss I told him they had to put the measurements down where the variance is being requested, which they did stated Mr. Ginter. I didn't ask them to put the setbacks where it far exceeded what is required stated.

We do not have the deed that accurately describes the property stated Deputy Chair Corrigan. We need a deed with the Schedule the A attachment. That is something Foss is going to need also. We do not know if the lot is one lot or two lots explained Deputy Chair Corrigan. There is one SBL on the tax record stated CEO Ginter.

Deputy Chair Corrigan explained that as you know it's two on the tax roll, it doesn't make it two. The deed makes it two. But that is not a requirement that the town has stated Mr. Ginter.

Therefore, we have one building on one property on one deed and it has zero side lot clearance, if the survey is right mentioned Deputy Chair Corrigan. They are discussing the dotted line on the survey. We checked with the Assessor to see if she has one parcel and she doesn't have adequate information to tell us that stated Deputy Chair Corrigan. She (Assessor) indicated that the deed was inadequately drawn. If that is two different parcels then the deck is going to span on two different parcels mentioned Deputy Chair Corrigan.

It's not; it is one SBL explained CEO Ginter. The one SBL on the deed reflects the entire property.

Deputy Chair Corrigan: For tax purposes I understand that. They put that entire piece of land, both deeds on one SBL. That does not legally combined property.

It does legally bind the two properties because it is one SBL number explained the Attorney. They are taxed as one parcel.

So, they can't take a separate deed sell that off and keep the other where the camp is on asked Chair Darling? Yes, they could but how are they going to do that they own both parcels stated the Attorney Albanese. Who's going to buy half of a camp?

The camp is on one parcel and just the deck is going to be on both stated Chair Darling.

In most municipalities you would have to go through site plan approval to put the two parcels back into one or do a lot line adjustment stated Deputy Chair Corrigan, the same way if someone were to do a flip.

If it came to me (CEO) for a subdivision, neither lot meet the minimum lot requirements, they can't split it or sell one without the other. Without the variance, mentioned Attorney Albanese. CEO Ginter stated that we do not have a Local Law or Ordinance that requires people. Some municipalities may. We may someday have a law that would require the people to file a new deed reflecting that whole thing. These people (Robertson) bought it like this and they filed it back in 2005.

I think I need more time to review the aspect of this mentioned Deputy Chair Corrigan. I promise to do that by the next meeting.

Did we know about this at the last meeting that we were told that it was cancelled and then it wasn't cancelled asked Mr. Robertson.

We did not have a enough members available for a quorum to hold a meeting stated Chair Darling.

I was told that you did have that meeting so this put us another month behind stated Mr. Robertson. Who told you that asked Deputy Chair Corrigan. It doesn't matter who responded Mr. Robertson. Who do I keep in contact with so I don't have to wait another month to find out that we need something taken care of that could have been taken care of asked Mr. Robertson. Deputy Chair Corrigan stated, I will research that aspect of it, whether you need to put the two deeds together. Mr. Robertson: If I don't build the deck then I won't have to worry about the deeds. What if I don't go over the line of the other parcel?

The variance is within you and the water explained Chair Darling. If you stay within the 12' set back then you won't need a variance, correct? Deputy Chair Corrigan mentioned that he would go to the consultant to help write this and also call the NYS Association of Towns; they provide that service to us. The Assessor did not think that it was done correctly either stated Deputy Chair Corrigan.

Mr. Robertson explained the time frame with which he started the building permit process, up until this meeting expressing that he is just finding out he still does not have an answer.

We are going by the rules of our Zoning and Subdivision Law book that we are given stated Chair Darling. That is in the Zoning Law on page 137.

Why would you show setbacks for the shed when that is not relevant to this case asked CEO not expect the whole property surveyed to make a determination on something on one side. The shed in this case is not relevant to this owner's request.

Deputy Chair Corrigan refers to page 15 of the Town Zoning and Subdivision Law – Schedule B -Hamlet Residential and Shoreline Restrictions. "Shoreline shall be the greater of 12' inland from the original NYS property line-or the required shoreline setback of the NYS APA and the Adirondack Park Land Use and Development Plan. See also Article IV, C (2)." Page 9 Shoreline Restrictions (b) (3) 50 in Hamlet Residential.

The shoreline setback is 771' which is the legal full limit stated CEO Ginter. The APA has that as a structure setback. Some places are 75' in RR1, on 50' with the other. Where he is it is 50' from the high water mark. High water mark and taking lines are two totally different things. Do any properties have to comply with section (b) asked Deputy Chair Corrigan? Yes was the response.

It is 50' from the elevation line not the taking line respond Chair Darling. CEO Ginter explained that we have taken the verbiage "the taking line" out of the Zoning and had gone with the 12' which usually exceeds that structure setback. It used to have reference 778 which was typically you try to make it to 778' depending on its terrain and some have a great drop off and we have no way of measuring that explained CEO Ginter.

If he were to confirm where the shoreline setback is as provided for the Zoning regulations, whom would I confirm that with asked Deputy Chair Corrigan? We would have to look at either 12' or 50'. HRBRRD was there surveyed it and put the stakes up responded Chair Darling.

I will call the APA to clarify that by the next meeting stated Deputy Chair Corrigan.

I believe the survey provided meets that definition stated Attorney Albanese.

Page 135: was read from the Town Zoning and Subdivision Law. A (3) the Board shall prescribe rules for the conduct of its affairs. Page 137: Section C which is what we wanted "NYS licensed land surveyor, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.

CEO Ginter responded. That is what you've got. The only thing not on there was when they did the survey they hadn't built the second deck yet, which that has been constructed.

The dimension numbers I see on the survey are of the proposed deck noted Member Miller. I don't see the dimensions of the south boundary lines, the east boundary lines and no dimensions on the shed. Is that what you are looking for? It sounds like it is relative it's in the appeals. I read it that it sounds like the Law is asking for those dimensions.

The reference to the dimensions to the boundary lines and property mentioned Attorney Albanese. That is the purpose of a survey. The purpose of the survey is to show the boundary line.

Member Miller: The only dimensions I see are the dimensions from the setbacks. I don't know if this deck is 3' wide or 18' wide. So therefore I can't determine how far back the camp is from the shoreline, HRBRRD taking line.

Deputy Chair Corrigan: This meeting is to deem if the application is adequate and complete, this is not a Public Hearing meeting. Discussion ensued.

Member Daum noted that he sees it as a deck going to the taking lines to the HRBRRD as going to be 8' 6" versus 12" and 7' 5" versus 12'. I don't see where I need to know where the camp goes to the south or the north.

Member Miller: Page 137. Plot plan is defined as the dimensions of the land as requested. Plot plan also shows where the structures are located. The Plot Plan drawn to scale is accurately dimensioned. The boundaries are accurately dimensioned, showing the location. It doesn't say accurate dimensions. It says; show the location of the existing and proposed buildings. It does show location. The wording does not say dimensional location. If you wanted the dimensions of all of the existing buildings, that wording should say show me the dimensional locations of all existing and proposed buildings.

So the map does show a location and proposed buildings and structures on the lot. I would say that the survey map is correct stated Member Miller.

Attorney Albanese: I've argued with the Assessor over someone who was requested to file a new deed with the County over the two parcels as this. There is no requirement that you have to join both those parcels in one deed. In other towns they may have that Law that requires that. The Town of Northampton does not. This does not allow the Assessor to arbitrarily do that.

Deputy Darling: The Town of Northampton does not require that they put the deeds together. So it doesn't matter, does it? If the two parcels are together with one SBL then it is treated like one parcel.

Discussion ensued on the two parcels and the one SBL number and the description of the land.

Discussion on the motion -

Deputy Chair Corrigan: Is the applicant willing to supply a copy of the attachment Schedule A as noted in the deed?

Mr. Robertson: No

Deputy Chair Corrigan What is the question?

Response: The question is to move forward with the public hearing and deem the application complete. The members voted that they did deem the application complete.

Both Members Daum and Miller said "yes".

Chair Darling said yes because the Attorney is saying that they do not need that part of the deed.

MOTION: Member Daum motioned to deem the application complete for Case #Z01-18: James J. and Cara L. Robertson. The ZBA has set the Public Hearing for Wednesday, May 23, 2018 at 7 p.m. Seconded by Member Miller and passed by

A Vote of 3-Ayes: Darling, Daum and Miller

1-Nay: Corrigan

Just to clarify the owner will provide the Town Clerk a stamped copy of the survey stated CEO Ginter.

CEO Ginter discussed the possibility that it seems everyone was in agreement that the 771' could be an issue that you would like to see on a survey map?

Chair Darling. We won't decide that tonight.

ADJOURN: Member Dennis Miller motioned to adjourn at 8:37 p.m. Seconded by Member Jeff Daum Miller and passed by,

4-Ayes: Darling, Corrigan, Daum and Miller

0-Nays

Respectfully submitted,

Elaine Mihalik, Town Clerk/ZBA Secretary