

**SPECIAL MEETING OF THE ZONING BOARD OF APPEALS  
TOWN OF DUNKIRK AUGUST 25, 2020  
ELIZABETH WOODS (ADDITION TO HOME)**

The Town of Dunkirk Zoning Board of Appeals held a special meeting at 5:00 p.m. on Tuesday August 25, 2020 at the Town Hall, 4737 Willow Road, Town of Dunkirk with Scott Pagano presiding as Chairman.

**PRESENT:** Scott Pagano, Thomas Tarnowski, Joseph Muscato, and Ken Tarnowski.

**ABSENT:** Estelle Harper and Michael Miller.

**ALSO, PRESENT:** Supervisor Richard Puro, Councilman Juan Pagan, Councilman Robert Penharlow, Code enforcement Officer Ryan Mourer, Elizabeth Woods petitioner and contractor Michael Mckinnon.

**PRESENT VIA ZOOM:** Jack Alonge, Cynthia Jusko, and William Wright.

Petitioner: Elizabeth Woods was requesting an area variance for an addition to her home on 5096 Shorewood Drive. The area variance request was for an east side setback of 15'4" and a south side setback of 37'7". No change in the west side setback and on the North side setback it is less than what is allowed but further away from the existing portion of the home. This property is located on Section 95. 13; Block 1; Lot 17 of the Chautauqua County Tax map.

With all notices having been properly posted and published for attendance for public via zoom Chairperson Pagano called the meeting to order.

Ms. Woods was informed by Chairman Pagano that she has the right to reschedule the hearing as there was not a full board present. She declined Mr. Pagano's offer and decided to move forward with the meeting.

Code Enforcement Officer, Ryan Mourer stated that after discussion with the contractor it was brought to his attention that the shed on the property, (that current residents are concerned about) is actually in the way of the addition. Mr. Mourer stated that Ms. Woods is going to move this shed and will not request for it to be reinstalled at a later date. He also stated that this would be a good stipulation for the Zoning Board Members to consider when they got to that point of the meeting.

Chairman Pagano went on to explain to Ms. Woods that the meeting had two parts to it. The first part is for public comment and for explanation of the project, the second part is for Zoning Board Member commentary only.

Chairman Pagano read to the board correspondence that was received.

The first piece of correspondence was from Jack Alonge of 10619 Linwood Drive regarding a shed located on the property that was within his line of sight blocking the lake. He stated that the variance/addition to the home did not seem substantial and he was okay with that as long as the shed was removed from her property. Mr. Alonge also commented on an issue he had with the boat ramp that is Ms. Woods property.

Code Enforcement Officer, Ryan Mourer stated to the board and Mr. Alonge who was present via zoom that this matter was a civil matter and nothing that the board needs to consider or worry about in determining a decision for the variance.

Correspondence was also received from Ms. Cynthia Jusko of 10618 Linwood Drive. Ms. Jusko stated that she was not for the variance as she felt it would affect her view of the lake.

Code Enforcement Officer, Ryan Mourer stated that community members were present via zoom and if they have any questions to raise their hand so they can explain their case and they would then be unmuted from the meeting.

Chairman Pagano asked the petitioner if she would like to state her name, address, and explain a little more about her plans with a more in-depth description of what she would like to do for this addition.

The Petitioner, Ms. Woods explained that she would like to add an addition on to this home, as it is 847 square feet. There is only one direction she can add to and it is the current way she plans to go, in the east and southern sides of the property. She stated that she cannot add on in any other direction. Ms. Woods went on to say that she just wants to make the house more appealing and similar character of the other homes within that area.

Chairman Pagano asked the public members attending via zoom if they would like to comment for or against the variance.

William Wright of 5098 Shorewood Drive stated that he just wanted to go on record stating that as long as the addition did not get any closer to his home or his lake view that he would be okay with the addition.

Jack Alonge of 10619 Linwood then asked a question. He asked if the variance does not get approved, would Liz still be able to add on to her home? Or would a negative outcome mean that she could not add on to her home at all.

Code Enforcement Officer, Ryan Mourer stated that she would be able to still add on to her home. She is asking to go a certain distance from the house/property line. She is currently asking to go 25 feet. If this variance was denied she would be allowed to go 10 feet from the home. The Code Enforcement Officer asked if this answered Mr. Alonge's question.

Mr. Alonge stated Okay, Thanks.

We then muted the audience as they had all commented, asked questions, or shared thoughts with the Zoning Board Members.

With no further discussion the public portion of the meeting was closed.

Motion to close the first portion of the meeting was made by member Tom Tarnowski and seconded by member Muscato.

Member Tom Tarnowski went over the variance figures with the Zoning Board Members and Ms. Woods. Zoning Board Members then asked to see physical plans as it was determined they could better see the dimensions of the home.

Contractor Michael McKinnon brought out the plans and explained the dimensions of the current home and the future plans of the home. Code Enforcement Officer, Ryan Mourer explained while members examined plans that she will be going closer to the property line on the east and closer to the road on the south side. The plans were then presented for zoom attendees to see.

Code Enforcement Officer Mourer asked the contractor, Mike what the current size of the home was? Is the home 30 x 30?

Mr. McKinnon stated that he was correct, the current home was 30 x 30.

Code Enforcement Officer, Ryan Mourer stated that if the variance was given to her for 25 feet, she would be able to go 10 feet to be within the current code. He stated that only one person presented concern about the lake view. (Ms. Jusko) Ryan stated others have asked him and expressed concerns with him over the project but no of those individuals presented correspondence to the board so it does not need to be considered. He stated that she is moving 25 feet into the sight line but she has a right of use. So, no matter how much people complain she can go 10 feet into the sight line and still be within code.

Board member Ken Tarnowski asked the Code Enforcement Officer if he is understanding correctly. That they are basically just voting on the two variances and nothing else? Because legally, she can build 50 feet from the boundary under current code?

Code Enforcement Officer, Ryan Mourer showed board members the amount she is allowed to build out according to code on a piece of paper. He then showed the extra piece she is asking to build from that point. Ryan showed the piece that the board is voting on. A pie shaped piece. He stated that you can choose to address just one variance at a time or both together, it's up to the board on how they would like to proceed with the remainder of the meeting. They chose to keep discussing both pieces of the variance together.

Board member Tom Tarnowski then asked the petitioner, Elizabeth Woods why she didn't build north?

Code Enforcement Officer Ryan Mourer showed another picture of the property to show that Ms. Woods would need a 75-foot depth and her current property already doesn't have that.

Code Enforcement Officer, Ryan Mourer then stated that it is not the closest property to the road however, it is not the furthest from the lake either. He stated the properties in that area are all zig-zagged along the lakeside in terms of depth from the lake and distance from the road.

Code Enforcement Officer, Ryan Mourer asked if anyone had any more questions for him.

No one had a question.

Chairman Pagano asked the Zoning Board Members if they had any more questions.

Member Muscato asked if the board was to approve the variance, she would then have to remove the shed?

Code Enforcement Officer, Ryan Mourer stated that it's your decision as a board, she has given you the permission to make that a stipulation. However, if you don't approve her variance, she will not remove the shed and at that point you cannot make her because the current shed is within code.

Code Enforcement Officer, Ryan Mourer then stated that one could argue that with the addition there will be 25 feet left of lakeview.

Chairman Pagano wanted to clarify if this addition was a single-story addition or a two story.

Contractor, Mike McKinnon stated it would be a 2-story addition.

Petitioner, Elizabeth Woods stated that it was more like 1 and a half stories.

Contractor, Mike McKinnon showed the plans to the board showing that the highest point of the house is the existing part of the home. It will be on a slope down to the east side of the home. Which he stated would leave a lot of view for the houses behind Ms. Woods.

Board member Ken Tarnowski then asked so, the highest point is on the west side of the home, which is the existing portion of the house?

Contractor, Mike McKinnon stated that he was correct.

Zoning Board members further reviewed these plans.

Member Tom Tarnowski asked the petitioner if she had tried to build within code or come up with plans that were within the current code.

Ms. Woods stated that she was unaware that these rules existed. She was just trying to add onto the home in the least expensive way possible. Ms. Woods stated that she felt this design was the simplest and would be the least expensive. She stated she was unaware of the setback laws until recently and had already had the plans for what she is presenting.

Zoning Board Members decided to move forward with the voting and determination process of the variance meeting.

By resolution of the Zoning Board, it was determined that:

- A. The requested variance would not produce an undesirable change in the character of the neighborhood.
- B. There was no other feasible method available for you to pursue to achieve the benefit you seek other than the requested variance
- C. The requested variance was not substantial.
- D. The proposed variance would not have adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- E. The alleged difficulty was not self-created.

A motion was made by member Tom Tarnowski and seconded by chairman Pagano to grant Elizabeth Woods an area variance of a setback on the east side of 9'6" and a variance on the south side or front yard of 12'3", with a stipulation that the shed on the property must be removed. The motion was carried in a 4-0 Vote.

The approved variance must be commenced with 12 months of the approval date or the approval will become void.

The meeting was adjourned at 5:37 pm

Respectfully submitted,

Kyle Bentley  
Secretary to Zoning Board