

APPROVAL OF MINUTES DATED June 28, 2023

Allan Wolfe - Addition to garage


Due to minutes of above meeting being mailed to all members of the Zoning Board of Appeals
I the undersigned do hereby approve said minutes as mailed, or disapprove with comments below.

Signed 

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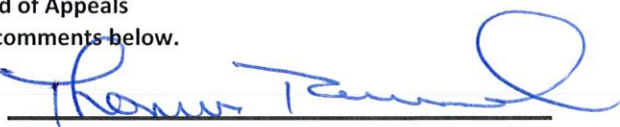
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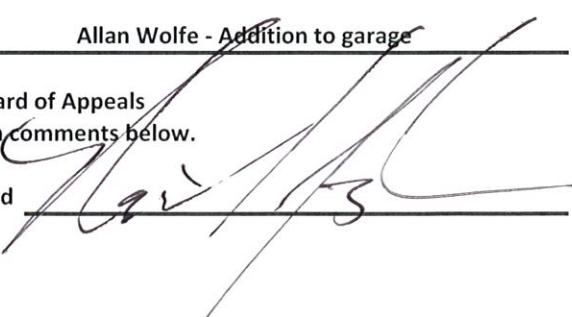
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**MEETING OF THE ZONING BOARD OF APPEALS
TOWN OF DUNKIRK JUNE 28, 2023
ALLAN WOLFE – ADDITION TO GARAGE**

The Town of Dunkirk Zoning Board of Appeals held a Zoning meeting at 5:20 P.M. on Wednesday June 28, 2023 at the Town Hall, 4737 Willow Road, Town of Dunkirk with Scott Pagano presiding as Chairman.

PRESENT: Scott Pagano, Thomas Tarnowski, Michael Miller, Michael Bohn and Kenny Tarnowski.

ALSO, PRESENT: Supervisor Pagan, Councilwoman Penfold, Town Clerk, Rebeca Yacklon, Code Enforcement Officer, Ryan Mourer, Kyle Coughlin, Zoning Clerk, Allan Wolfe, Jim Wolfe, and Charles Gilbert

The Meeting was opened at 5:20 P.M. Roll call was previously taken and all members were in attendance.

Chairman Scott Pagano read the legal notice that was posted on June 16, 2023:

“NOTICE IS HERBY GIVEN that a public hearing before the Zoning Board of Appeals of the Town of Dunkirk will be held, June 28, 2023 at 5:15 p.m. at the Dunkirk Town Hall, 4737 Willow Road to consider the following application: In the matter of the application of Allan Wolfe for property located at 4525 Willow Road, Town of Dunkirk., Tax Map No. 96.01-1-12 for an area variance and use variance. This is in violation of Article V –Section 29 Accessory Uses – AR-1. This is due to restricted accessory uses and dimensions within this zone. The use variance is for an addition to an existing garage with no main building with an addition request of 2,400 sq. ft. Any person may appear in person, agent or attorney. All interested persons shall be heard at said public hearing. If you have any questions regarding the above, please contact me at the Town Clerk’s Office at (716) 366-3967.” An affidavit is available in the Town Clerk’s Office.

Chairman Pagano asked Mr. Wolfe if he would like to explain what he wants to do to the Board.

Allan Wolfe stated that he wanted to do a 40 x 60 addition to the current garage. He stated that he wants the garage to be updated and look more modern, similar to his neighbor’s garage. While making the garage larger is the ultimate goal, he also wants it t be more esthetically pleasing.

Chairman Pagano asked if he had a drawing of the garage.

Allan Wolfe stated that there was one on the survey he presented to the Board.

Chairman Pagano asked if the Board had any questions.

Member Miller asked if Mr. Wolfe owned the home located on the parcel next to the garage.

Allan stated that he did.

Member Miller then asked if the garage was just located on a second parcel.

Allan stated that it did.

Chairman Pagano shared concerns with Board on how to proceed, it was determined that they wanted an answer from the Code Enforcement Officer. They call Ryan Mourer on speaker phone.

Code Enforcement Officer, Ryan Mourer stated that the area variance and use variance needed to be treated separately. He stated that the use variance would need to be first because it is a detached lot from the home with a garage on it, with no main building. Once it is determined that you have allowed that, then you may move onto the area variance which is for the square footage of the addition. The votes must be separate.

Chairman Pagano asked Ryan if the lots were adjoined if that would change the need for the use variance.

Ryan stated that it would however, he thought from talking with the homeowner that was not something he was interested in doing. He said that the Board can proceed with that however they feel is necessary.

The phone conversation with the Code Enforcement Officer ended.

Chairman Pagano asked Mr. Wolfe if he would be willing to join the lots together to eliminate the use variance.

Allan stated that he was not.

Member Miller asked why.

Allan stated that in case is parents decide to relocate to Dunkirk he would want to leave that parcel separate to potentially build a home for them if needed on that parcel.

Member Miller stated that the reason he asked is because sometimes someone will put a large barn up and then when they no longer have a need for it, they will come back and say they can't use it but a business could go there. That is what the Board is concerned about happening.

Allan stated that won't happen because he will live there for the rest of his life.

Member Miller asked Mr. Wolfe if he felt comfortable with a stipulation that would state he could not sell the parcels separately from one another.

Allan stated that he would have no problem with that as long as they can remain two lots in the meantime.

There was no further comment from the Board or the public.

PART 2

With no further discussion from the Zoning Board, they began reviewing the use variance application.

1. The applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence. All agreed that the amount of equipment and vehicle cost is substantial and if destroyed (due to the elements) that cannot be returned.
2. The alleged hardship relating to the property is unique and does not apply to a substantial portion of the district or neighborhood. The Board stated that not everyone owns a property with multiple parcels and one with an existing garage on it.
3. The requested use variance, if granted will not alter the essential character of the neighborhood. They stated that the neighboring property also has a garage on it, it will not alter the character in the neighborhood.
4. The alleged hardship has not been self-created. The hardship was not self-created because he purchased the home with the parcels being separate.

It was determined by the ZBA based on the factors above that the benefit to the applicant does outweigh the detriment to the neighborhood or community. However, they felt a stipulation needed to be made in order to grant the variance. Members agreed that the stipulation would be as follows:

1. That the owner cannot sell the two parcels separately.

A motion was made by Member Tom Tarnowski to grant the use variance to put an addition onto a garage on a detached lot with no main building. The motion was second by Member Ken Tarnowski.

A roll call vote was taken.

AYE:
 Member Miller
 Member Tarnowski
 Chairman Pagano
 Member Tarnowski
 Member Bohn

NAY:

The Board then moved on to review the area variance application.

1. Whether undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties. The Board agreed with the applicants answer of no because there are many large pole barns located within the AR-1 District.
2. Whether benefit sought by the applicant can be achieved by a feasible alternative. The Board agreed with the applicants answer of no because this is the only garage on the property that an addition could be put on easily.
3. Whether the variance request was substantial. The Board stated that it was substantial but nothing that would affect any of the nearby properties and the additional storage is needed by the property owner.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood. The Board agreed with the applicants answer of no because the area is wooded and not going near anyone’s property lines or affecting any setback requirements.
5. Whether the alleged difficulty was self-created. The Board stated that the issue was self-created but it would look better to have the storage inside a nice pole barn rather than outside.

It was determined by the ZBA based on the factors above that the benefit to the applicant does outweigh the detriment to the neighborhood or community. Chairperson Pagano made a motion to approve the area variance for an addition of 2,400 sq. ft.. The motion was seconded by Member Tarnowski.

A roll call vote was taken.

AYE:
 Member Miller
 Member Tarnowski
 Chairman Pagano
 Member Tarnowski
 Member Bohn

NAY:

ADJOURNMENT:

A motion was made by Chairperson Pagano to adjourn the meeting. The motion was seconded by Member Miller and carried. The meeting was adjourned at 5:31 P.M.

Respectfully submitted,

Kyle Coughlin
 Secretary to Zoning