

APPROVAL OF MINUTES DATED April 27, 2023

Amy Callahan/Mike Anderson - area variance New Build


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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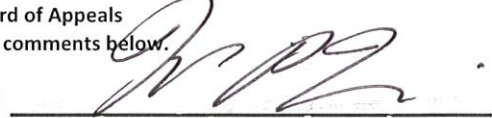
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**MEETING OF THE ZONING BOARD OF APPEALS
TOWN OF DUNKIRK APRIL 27, 2023
MIKE ANDERSON- ABSTRACT ARCHITECTURE- ON BEHALF OF AMY
CALLAHAN**

The Town of Dunkirk Zoning Board of Appeals held a Zoning meeting at 5:45 p.m. on Thursday April 27, 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, Code Enforcement Officer, Ryan Mourer, Kyle Coughlin, Zoning Clerk, Sue Hazelton, Jerry Dziduch, Irene Strycalski, Ericka Strychalski, and Jay Warren.

The Meeting was opened at 5:53 P.M.

Chairman Scott Pagano read the legal notice that was posted on April 20, 2023:

“NOTICE IS HERBY GIVEN that a public hearing before the Zoning Board of Appeals of the Town of Dunkirk will be held, April 27, 2023 at 5:45 p.m. at the Dunkirk Town Hall, 4737 Willow Road to consider the following application:

In the matter of the application of White Terrace Carpentry on behalf of Amy Callahan for property located at 5174 Woodlands Dr, Town of Dunkirk., Tax Map No. 95.13-1-1 for an area variance. This is in violation of Article III – R-1 Single Family Residential District, Section 16 – Area Requirements – Minimum side yard. The minimum side yard requirement is 25 ft., the applicant is applying for a side yard setback of 19 ft; a 6 ft. variance on the East side yard. 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 of this posting is available in the clerk’s office.

Mike Anderson of Abstract Architecture explained the project to the Zoning Board. He explained the Site Plan and how they chose the location of the house. He stated that the lot was narrow. The neighbors located on the West side are further away than the neighbors on the East so that was how they determined the location of the house. He stated that Mrs. Callahan wants to be a good neighbor and not interfere with anyone else’s view of the lake.

He also stated that they wanted to get ahead of the rumors surrounding the new build, that it would be used as a short-term rental. He explained that they are willing to ask for a stipulation with the variance that states that it could never be a vacation rental. Mr. Anderson told the Board and Members of the audience that the owners are multigenerational and that is the way they plan to keep it. They do not want to see the property/home leave the family.

Member Miller asked about the elevation of the home and drainage. He stated he was told there was drainage issues in that area.

Mr. Anderson said that they will be using fill to bring the house up due to how low the property is. They will also be extending perimeter drainage and over sizing said drainage to give the water more time to permeate into the soil.

Member Kenny Tarnowski asked about the drainage. He asked if there was anywhere for water to flow other than into the ground.

Mr. Anderson stated that the ground was the only place the water could flow and that's why they are designing the drainage system the way they are.

Member Tom Tarnowski asked if the home would have a basement.

Mr. Anderson stated that it would not, just a crawl space.

Member Tom Tarnowski asked if Ms. Callahan was responsible for the new retaining wall on the property.

Mr. Anderson stated that she was.

Chairperson Pagano asked if there was any public comment.

Irene Strychalski of 5170 W. Shorewood Dr, explained that she was the neighbor on the east side and wanted to look at the plans.

Many Neighbors then reviewed the plans with the architect.

Sue Hazelton of 5178 Woodlands Dr. stated that she was the West side neighbor and was concerned about the drainage because they have experienced flooding issues.

Mr. Anderson stated that he understood that there was a flooding issues that was why the house was designed with no basement. The French drain system they designed will help with the wet/flooding season there.

Jay Warren of 5182 Woodlands Dr. stated that in the R1 district in a single-family home it is a requirement that you have at least an Acre. There is not an acre there, therefore that should be included as a variance.

He also stated that the Short-Term Rental stipulation should be included in writing when the approval is granted. He then asked when construction will start.

Mike Mckinnon of White Terrace Company stated as soon as possible.

Ryan Mourer, Code Enforcement Officer stated that he appreciated Mr. Warren's concern about the 1 acre. He explained that he was told by the Town Board in the beginning of his career that these lots were created with the intention of being buildable lots so he was shut down when he tried to enforce that rule. In efforts to continue to be consistent for every homeowner, he sticks by that.

Sue Hazelton asked the square footage and how many bedrooms.

Mr. Anderson stated that he was sure about the square footage but that there would be 3 bedrooms and described the layout for the Zoning Board and Public Audience.

Jay Warren stated that he had also talked with Gary Hazelton who shared concerns about the potential location of the garage and if it was possible to move that to the East side.

Ryan Mourer, CEO stated that the garage will be addressed at another meeting, at a later date.

Supervisor, Juan Pagan shared his concern with putting a stipulation on the variance that the home could never be a short-term rental because that would mean no matter what changes in the future that would never be able to be an option. He felt that was too heavy of a burden to put on the home owner.

Ryan Mourer, CEO added that short term rentals are not allowed as dictated by the courts in the R1 district. The Town Attorney, Jeff Passafaro stated that per the determination of the Supreme Court in Mayville there are currently no short-term rentals allowed in the R1 District.

Member Tom Tarnowski stated that the ZBA made their decision about short-term rentals over a year ago and they stated that they are not permitted. There is no reason to add that as a stipulation because it is not allowed period.

After much discussion amongst one another, it was determined that a stipulation stating that this home could never be a short-term rental was not necessary. They concluded the first portion of the meeting and moved into the second part of the meeting for Zoning Board discussion only.

PART 2

With no further discussion from the Zoning Board, they began reviewing 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 this would be a new home and would add to the neighborhood.
2. Whether benefit sought by the applicant can be achieved by a feasible alternative. The Board agreed with the applicants answer of no because they are doing everything in their power to not block the view that their neighbors have.
3. Whether the variance request was substantial. The Board agreed that it was not a substantial request because the house is not large and the variance request is minimal.
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 they are installing extensive drainage to help mitigate any impacts on the conditions of the area.
5. Whether the alleged difficulty was self-created. The Board stated that the issue was not self-created because the lot was small and once had a cottage on it.

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. The ZBA felt that they could approve the variance with the following stipulation:

1. That a natural line of vegetation would be maintained.

Member Ken Tarnowski made a motion to approve the area variance for a side yard setback of 19 feet, a 6-foot variance on the East side of the property. The motion was second by Member Miller and carried.

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 Bohn and carried. The meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Kyle Coughlin
Secretary to Zoning