

DEERPARK ZONING BOARD OF APPEALS - MAY 16, 2013 - PAGE #
PUBLIC HEARING NICHOLAS, JOHN & ANTHONY OLENICK

The Deerpark Zoning Board of Appeals met for a public hearing on Thursday, May 16, 2013 at 7:30 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

ZONING BOARD OF APPEALS MEMBERS

Gerald Cedrone -Chairman Martin D. Smith, Jr. Jim Harrington Jane Lord Dan Witt

OTHERS

Mr. Glen A Plotsky, Town Attorney Mr. Nicholas Olenick, Applicant

The secretary read the public hearing notice: "Notice is hereby given of a Public Hearing to be held by the Zoning Board of Appeals of the Town of Deerpark, Orange County, New York, pursuant to Article 9 of the Town of Deerpark Zoning Law on the application of Anthony Olenick for a variance for a road to allow access to a building.

The application effects the following premises: Record Owners: Anthony, John and Nicholas Olenick; Tax Map Designation: Section 4, Block 1, Lot 9; Zone Designation: RR. Located at 232 Big Lake Rd., Huguenot, Town of Deerpark, Orange County, New York. Information on this application is on file with the Town Clerk, Town Hall, Route 209, Huguenot, New York. The Hearing shall take place at 7:30 o'clock P.M. on the 16th day of May, 2013 at Deerpark Town Hall, located on Route 209, Town of Deerpark, Orange County, New York, or as soon thereafter as practicable. All parties wishing to be heard shall be heard at that time."

Martin Smith: I'd like to make a motion for the purpose of SEQR that this is a simple area variance and we should consider it for a Class II Action.

Jim Harrington: What's a class II action, may I ask?

Martin Smith: It's a list of 37 things that the State has put out, that's considered a Class II Action.

Jim Harrington: I second that motion. He just made a motion for a class II action. I thought you made a motion

Jane Lord:: He did, and it needs a vote.

Gerald Cedrone: Aye.

Jim Harrington: Aye.

Dan Witt: Aye.

Martin Smith: Aye.

Jane Lord: Aye.

Gerald Cedrone: Okay, we went through your application,, and the question that came up, the soil classification.

Nicholas Olenick: Yes, I did take care of it.

Secretary: Yes, it's in the town clerks' file, I did see it, it's in the town clerks vault, and I did see it.

Gerald Cedrone: Okay, you have these items.

Nicholas Olenick: Number one, whether an undesirable change will be produced in the character of the neighborhood will be produced or detriment to nearby properties will be created by the granting of this area variance. No, nothing is going to change.

Jim Harrington: Do you have a building on the property now?

Nicholas Olenick: Yes.

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Jim Harrington: How do you get to it?

Nicholas Olenick: There's a road,

Jim Harrington: You're not going to build another road?

Nicholas Olenick: No, that road isn't up to standard...

Glen Plotsky: If I can, just as a matter of explanation very briefly. There's already a parcel there, that they're working to subdivide, right now there's a hunting cabin that is shared basically by three brothers, and they want to subdivide it, so that the hunting cabin will be on the lot by itself, and then each of the three brothers will have a lot. All of those lots are serviced by the same private road. The difficulty is, under the current zoning, in order to use that road and get that subdivision approved, they would have to bring that road up to town specifications, and part of that road is used by other folks, and it would be a substantial undertaking, that I would believe that the applicant would indicate, would be unreasonable, under the circumstances. So, they're looking under the zoning section, 280A, I believe it is, under the town law section 280A, they're seeking a variance from the road requirements. It effectively becomes an area variance, so that's why the criteria that they are reviewing is the area variance.

Jim Harrington: The area that you are subdividing, are you putting buildings on them?

Nicholas Olenick: No.

Jane Lord: It's a way of taking care of an estate in advance.

Nicholas Olenick: Yes, exactly. Now the camp, the ten acres will be, and three of them will remain and we will have three 120 acre lots, and each will go to myself and my two brothers.

Jim Harrington: But you're not building on the lots.

Nicholas Olenick: No, we've been up there since 1980, and haven't done anything since then.

Jim Harrington: That doesn't mean anything.

Nicholas Olenick: No, there's no plans.

Martin Smith: I have a question, are we asking for a variance from the zoning law...

Glen Plotsky: Section 280 of the town law gives the ZBA the ability to grant permission to have this private road. So, that's why they're before this board, they're asking you for permission for this private access to their lots.

Jim Harrington: If it's a sub-standard road now, what are you going to do with it?

Nicholas Olenick: We have no problem getting in or out, even with the big truck, but it's not up to town specifications.

Jane Lord: See, the town wants them to make a road like...

Jim Harrington: I understand, I understand.

Gerald Cedrone: I'm a little hard of hearing, which of the Olenicks are you?

Nicholas Olenick: I'm Nicholas.

Gerald Cedrone: Okay.

Nicholas Olenick: And number two, whether the benefit achieved by the applicant can be achieved by some other method feasible for the applicant to pursue, other than the area variance. The answer is no. Three, whether the

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requested area is substantial? I don't believe so, we're not changing anything, we're just asking to subdivide ten acres. Whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district? The answer is no to that. Whether the alleged difficulty was self-created, which shall be relevant to the decision of the zoning board of appeals, which shall not necessarily preclude the granting of the area variance.. It wasn't self created. I've covered them all.

Jim Harrington:: It was not self-created?

Gerald Cedrone: Any further questions?

Jane Lord: You put the road in?

Nicholas Olenick: That road has been there for 100 years.

Jane Lord So, the road was there when you got the land?

Nicholas Olenick: Yes.

Jane Lord: So, you didn't self create it.

Glen Plotsky: Just so we're clear. It's self created, to the extent that they're now working to change the configuration of the lots that they own, and they don't want to change the road. But they did not create the road specifications that they're trying to avoid, nor were they the ones who initially created the road the way it is. The road was there when they first got the property. Nothing is changing except for ownership of one part of one parcel. Basically, again all they are wanting to do, right now there is a hunting cabin there, and they want to subdivide a small parcel, ten acres, so that that particular structure can be shared by three families, three brothers and their families. They then have approximately 360 acres, which is already existing as three 120 acre parcels, and they are simply going to do deeds, so they all end up with their parcels. Ms. Lord, you got it right, it's basically breaking it up for eventually estate planning purposes. It's exactly what it is, so they're not looking at this point, they've indicated no indication to the planning board or anyone else, that I'm aware of, to actually make any changes,, physical or otherwise. It just has to do with legal deeding. And just so this board is aware of, and their view toward disclosure, I will tell you that one or more of the Olenicks has met with one of my partners, essentially just to prepare, so he knows what it is that he has to talk to you folks about. So, his assertion is that it is not self-created, frankly, I think in the findings it is self-created, because they're looking to do this subdivision...

Jane Lord: They're not going to put a bulldozer...

Glen Plotsky: Exactly right.

Jane Lord: They just have to not make a road, like Port Orange Road, or these smaller town roads that require 12 feet and two car passings.

Glen Plotsky: Exactly correct. That's exactly what it is, they just don't want that type of cost, because of the length of the road. And for what it's worth, you can make the determination, whether you believe that the variance is substantial or not. I would indicate that it is, in terms of cost, because it's going to save them a whole lot of money, if it's granted. But it really isn't, because as Mr. Olenick has indicated, he's not changing anything.

Jim Harrington:: And it's access to the other lots.

Nicholas Olenick: It already does. Yes, and included in addition to another 100 acres beyond this.

Martin Smith: I make a motion we close the public hearing.

Jim Harrington: I'll second that motion.

Gerald Cedrone:: All in favor

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Jim Harrington: Aye.

Dan Witt: Aye.

Martin Smith: Aye.

Jane Lord: Aye.

Gerald Cedrone: Aye.

Motion carried.

Public hearing closed at 7:45 p.m.

Respectfully submitted,

Barbara Brollier, ZBA secretary