

**VILLAGE OF ELLICOTTVILLE
ZONING BOARD OF APPEALS
MEETING MINUTES SEPTEMBER 8, 2021**

PRESENT: Fred Musolff, Chairman
Dan Mergenhagen, Member
Mike Painter, Member
Harry Weissman, Member
Donna Baldwin, Secretary

ALSO PRESENT: Gary Palumbo-Village Planner, James Mulka- Mulka Design, Alan & Sarah Elia-Applicants, David Parker- The Villager

Mr. Fred Musolff, Chairman called the meeting to order at 5:28 p.m. He presented the agenda noting that the meeting date should be changed back to the first Tuesday of the month.

Moved by Mr. Mergenhagen to change the meeting date to the first Tuesday of the month starting with October 5, 2021 and to approve the agenda Seconded by Mr. Weissman. Ayes all. Carried.

Mr. Musolff opened the public hearing for VZBA-2021-100, 19 Elizabeth Street, Alan and Sarah Elia, for an area variance request to the floor area ratio for a proposed addition to a single-family home.

Mr. Palumbo presented his staff report on this application for an appeal to Section 3A.2.C.6 - Floor Area Ratio. The applicant seeks to construct additions to the existing single family residence. The proposed 2-story additions are located on the sides and the rear of the house for a total floor area of 2,639 s.f. per the applicant or 2,771 s.f. per staff calculation. The existing garage will be removed. The existing house is in the VR District where a single family detached dwelling is a "Permitted" use.

The existing house has a floor area ratio of 1.4 (based on the existing 1,800 s.f) 27%. It appears that a portion was cut off the main house second floor plan and main house first floor plan. Lacking complete floor plans with dimensions makes it difficult to confirm the applicant's floor area (FAR) calculations. A conservative calculation by staff results in a total floor area of 2,771 s.f. and a FAR of at least 2.2. The application materials result in a calculation of 2.1, which is still in exceedance. The maximum floor area ratio allowed is 2.0 or 2,511 s.f.. The proposed FAR is 2,771.s.f for a variance of 260 s.f. or .3%.

Mr. Palumbo advised that there is a moratorium on establishment of accessory apartments or lockout rooms. He asked Mr. Mulka, Architect to confirm that the addition or the new detached garage would not be used for apartments, which he did.

Mr. Palumbo stated that the public hearing notice was published in accordance with local law and an email from Christina Gentz Elia of 9 Elizabeth Street was received in support of the project. The applicant submitted a letter from Shelley Chew of 21 Elizabeth Street also in favor of the proposed project.

Mr. James Mulka, Architect for Alan and Sarah Elia stated that they purchased the house last year and now need to add on to the house to be used for a permanent residence. The plan adds a master bedroom and bath, 2 bedrooms, expands the kitchen and dining room. The existing house had two bedrooms upstairs. The proposal meets the zoning except for the FAR. The existing garage will be demolished and a mudroom and entry will replace it. A new detached garage with storage area will be constructed at the rear of the property.

Mr. Palumbo noted that the Moratorium Committee is working on changes to the Zoning Code. There may be changes that will affect the future use of properties with regard to accessory buildings.

Ms. Elia said that she will be living in the house full time and needs more room for the family. They have four children who come to stay and they need more bedrooms. Currently there are no closets in the house.

Mr. Mulka presented his analysis of the five criteria that the Board is required to review. There is no character change based on the proposed garage and additions. A 2-car garage at the rear of the property is typical in the Village and we are matching existing style and finishes. The current position of the garage and adjacent house does not allow for a reasonable entry with typical winter activities. Additional sleeping areas are needed for family members. The requested 260 s.f. variance is not substantial and the neighbors welcome the project. There are no adverse effects to the neighborhood with the additions and garage which is in keeping with the conditions that are found on this street.

Mr. Musolff asked for questions or comments from the people attending? There were none.

Mr. Mergenhagen said we need to verify your floor area ratio on the plans with what Mr. Palumbo calculated.

Mr. Mulka said he used a CAD program which calculated the FAR as 2639 s.f. for the house. The garage was not included.

Mr. Palumbo noted that if the 2639 s.f. is correct and the allowed FAR is 2511 then the variance would be reduced to 128 s.f..

Moved by Mr. Weissman to close the public hearing for VZBA-2021-100, 19 Elizabeth Street area variance request. Seconded by Mr. Mergenhagen. Ayes all. Carried.

Mr. Musolff opened the regular meeting.

Mr. Palumbo asked, if the 128 s.f. FAR is correct, can you redesign the floor plan to lose that much square footage and not need the variance? Can you change the room dimensions? He noted that he is referring to criteria #2. Can the applicant achieve similar results through another feasible method? Are there alternatives to the variance request?

Mr. Mulka stated that the Elia's are trying to utilize the house for their family. Based on the way the house is laid out and based on how it is to be used the 128 s.f. is necessary to meet that need.

Mr. Elia said that the way the house is constructed, this design is the best way to make it less intrusive to the neighborhood. We are removing the deck and building a detached garage.

Mr. Musolff asked if there is a floor plan for the addition?

Mr. Mulka presented the floor plan showing the additions. He noted that there is only a 5 foot bump out and all the setback requirements are met.

Mr. Mergenhagen noted that the Board is required to grant the minimum relief necessary in order for the applicant to achieve their objective.

Mr. Palumbo advised that if the ZBA grants variances and approves the proposed modifications, the project is subject to Site Plan and Architectural Design Review by the Planning Board. If the applicant re-designs the project to meet the FAR, no ZBA action would be required and it would go to the Planning Board.

Mr. Palumbo said that it appears that tests 2 and 5 are not met, based on the information provided, criteria 1 and 3 should also be considered carefully. The question of impact to the neighborhood also relates to increases in lot coverage and massing of structures. The ZBA must consider if exceeding the FAR creates a situation of "over building" on the lot. He recommended that the variance not be granted.

Mr. Musolff asked what are the Board's wishes?

Mr. Mergenhagen noted that the variance request is very small whether we approve or deny.

Ms. Elia said we are not asking for anything excessive.

Mr. Mergenhagen suggested that the Board approve the 128 s.f. variance to the floor area ratio. Mr. Painter and Mr. Weissman agreed.

Mr. Weissman asked if there is living space on the third floor?

Mr. Elia said it is just attic space.

Mr. Musolff asked if the bump out for the pantry space could be reduced?

Mr. Mulka said he could reduce it by about 32 s.f.

Moved By Mr. Weissman that the variance requested is a Type II SEQR action, pursuant to Section 617.5(c)(12) of the SEQR regulations. Seconded by Mr. Mergenhagen. Ayes all. Carried.

Moved by Mr. Mergenhagen to grant the variance to the Floor Area Ratio as depicted in plans and application materials submitted in VZBA-2021-100 for 19 Elizabeth Street. Seconded by Mr. Painter. Ayes all. Carried.

Mr. Palumbo advised that he will verify the floor area ratio of the house clarifying the variance at 260 s.f. or 128 s.f. before issuing the Decision Notice.

The Minutes of the July 7, 2021 meeting were read. Corrections were made.

Moved by Mr. Weissman to approve the Minutes of July 7, 2021 as corrected. Seconded by Mr. Painter. Ayes all. Carried.

Mr. Palumbo presented an update on the Moratorium Committee progress. The Committee met on August 31, 2021. They have given him changes to the zoning and he now needs to do that work and return the proposed zoning changes to the committee for review.

Mr. Palumbo advised that he will provide Board members with materials on training opportunities. Southern Tier West is presenting webinars which Board members can participate in.

Mr. Mergenhagen asked when they will have in person seminars?

Mr. Palumbo said he will find out. He and Mr. Stanton, Village Attorney, are presenting an online session in November.

Moved by Mr. Mergenhagen to adjourn. Seconded by Mr. Painter. Ayes all. Carried.

The meeting was adjourned at 6:30 p.m.