

**VILLAGE OF ELLICOTTVILLE
ZONING BOARD OF APPEALS
MEETING MINUTES, MARCH 5, 2024**

PRESENT: Fred Musolff, Chairman
Mike Painter, Member
Lisa Saunders, Member
Harry Weissman, Member

ALSO PRESENT: Gregory Keyser-Village Planner, Kelly Fredrickson-CEO

Mr. Fred Musolff, Chairman called the meeting to order at 5:30 pm. and presented the agenda for changes, additions or approval.

Moved by Mr. Weissman to accept the agenda as submitted. Seconded by Ms. Saunders. Ayes all. Carried.

The Minutes of the July 5, 2024 meeting were read.

Moved by Mr. Painter to approve the Minutes of the July 5, 2024 meeting as read. Seconded by Mr. Weissman. Ayes all. Carried.

Mr. Keyser advised that there are no new applications, but there is a request to discuss the variance granted for 29 Elizabeth Street.

Ms. Lisa Saunders stated that she lives next door to the Jeff Hayes property and after returning from a two week absence was surprised to see a 2 story house that was as high as her house. She thought the variance granted was for 3 feet, but the house is higher than that. She presented photographs of the original house, the house with the roof off the main structure and the main structure with the new roof.

Mr. Kelly Fredrickson noted that the variance was for 3 feet, but that the roof height is measured from mid-point which was raised by 3 feet, but the peak is higher. The change in the pitch of the roof makes it look higher. However, Mr. Hayes lowered the pitch.

Mr. Weissman said that the variance was granted to raise the roof to allow for the second floor.

Mr. Fredrickson advised that he verified the plan, but did not know if the actual height of the house was verified.

Ms. Saunders stated that she feels the Board needs to know the exact height of a structure not just to the midpoint.

Mr. Fredrickson said that in that case the definition of height with a maximum of 28 feet in the Zoning Code needs to be changed.

Mr. Weissman said there is no definition of roof peak.

Mr. Keyser noted that part of the review would be to ask questions in order to grasp the actual rendition. The Zoning Code addresses height by limiting the number of stories in a structure. The ZBA can only grant a variance per the dimensional standards in the Zoning Code. You could request the overall height be provided.

Ms. Saunders said her concern was that she did not understand that the 3 foot request was actually more than 3 feet in the end.

Mr. Weissman stated that we can ask for elevation drawings of the existing structure and the proposed structure for a visual impact.

Mr. Fredrickson noted that the rear addition ended up 18 inches higher due to miscalculation by the engineer. Mr. Hayes deleted the second story in the addition.

Mr. Keyser advised that the burden of proof is on the applicant. If the proposal does not rise to your level of satisfaction you can deny the application.

Ms. Saunders stated that going forward she will want more information before acting on a variance request.

Mr. Keyser noted that when an application comes in he asks questions of the applicant and tries to encourage them to make changes so that the proposal meets the dimensions and setbacks in the zoning to reduce or eliminate the need for a variance. The ZBA has to follow the zoning and rationale in making a decision.

Ms. Saunders said that the non-conformity of an existing structure creates issues for neighbors.

Mr. Musloff asked, do we have recourse if the applicant does not comply with the approved plan?

Mr. Keyser said that he or Mr. Fredrickson can issue a cease and desist order. The applicant can apply for an amendment to the approved plan.

Mr. Fredrickson said, if you have concerns, call me.

Mr. Keyser noted that Jeff Hayes stated that if he knew about the problems he would encounter he would have demolished the house and proposed a new structure.

Ms. Saunders said it was startling what happened to the house.

Mr. Keyser noted that a variance should be the exception not the rule. If the ZBA is granting a lot of variances, there is an issue with the zoning.

Ms. Saunders noted that she felt that she now knows the questions to ask going forward.

Mr. Keyser reminded ZBA members that they need to complete four hours of training. There are online seminars available and Houghton has a conference in May that will provide eight hours of training. He will provide the information.

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

The meeting was adjourned at 6:25 p.m.

