

TOWN OF ELLICOTTVILLE
PLANNING BOARD MEETING MINUTES
Monday, November 22, 2021 at the Town Center at 6:00 p.m.

PRESENT: Sherri Barrera, Vice-Chairperson

Caitlin Croft, Member

Bonnie Koschir, Member

Gary Mathe, Member

Robert Poole, Member

Timothy Zerfas, Member

ALSO PRESENT: Gary Palumbo-Town Planner, Kelly Freedrickson- CEO, James Fittante-Architect, Kathy Kellogg-Ellicottville Now

Ms. Sherri Barrera, Vice-Chairperson called the meeting to order at 6:00 p.m. and opened the public hearing for **TPB-2021-174**, Anthony Vallani, 2 Rogers Road, a Special Use Permit for an accessory apartment.

Mr. Palumbo presented his staff report on this application for an accessory apartment to be built above a detached garage as part of a new single family dwelling. Rogers Road is part of the 1987 Rogers Subdivision. The house (not subject to this SUP application) will be located off Rogers Road, at the top of the property. The proposed garage fronts on Sugartown Road at the bottom of the hill. According to the revised site plan and floor plans, the 34' x 56' /1,904 s.f. footprint of the second floor apartment above the garage is now exactly 1,199 s.f., just under the maximum (1,200 s.f.) permitted for an accessory apartment.

Ms. Barrera asked for questions or comments from the people attending.

Mr. Palumbo advised that no written or verbal comments were received in response to the public hearing notice which was published in accordance with local law.

Mr. Mathe referred to the elevation drawings and asked about the location of the stairs to the garage and apartment.

Mr. Fittante, Architect, representing the applicant, presented the drawings and pointed out the location of the stairs and access to the second floor apartment.

Ms. Barrera asked why is there a door at the rear of the garage?

Mr. Fittante said that is access to the first floor garage. The stairwell to the second floor is enclosed but on the outside of the building.

Ms. Koschir referred to the site plan and asked why the distance between the garage and the house?

Mr. Fittante said the location is because of the topography. These are the two flat areas.

Ms. Barrera asked if adequate parking is provided?

Mr. Fittante said yes there are spaces inside the 3-car garage and additional spaces outside.

Moved by Ms. Koschir to close the public hearing for TPB-2021-174, 2 Rogers Road, Special Use Permit application for an accessory apartment. Seconded by Mr. Zerfas. Ayes all. Carried.

**TPB-2021-174, 2 Rogers Road, Accessory apartment
Special Use Permit**

Ms. Barrera presented TPB-2021-174, 2 Rogers Road, Special Use Permit application for an accessory apartment for discussion.

Mr. Palumbo advised that the 5-acre lot is located in the Agricultural-Residential (AR) District where single-family homes are allowed as a Permitted Use and accessory apartments require a Special Use Permit. Accessory Apartments also must meet the requirements of Section 12.11:

- A. *Where permitted in Article 3 of this Law, an accessory apartment may be allowed as an accessory use to a lot containing one single family home.*

The standard can be met provided the garage apartment meets all the dimensional requirements and is clearly incidental and secondary to the main house. It is now labeled an “in-law accessory apartment”, and assumed not to be for short-term rentals, which are allowed in the Town.

- B. *All accessory apartments shall comply with the following standards.*

- (1) *There shall be no more than one (1) accessory apartment per lot.*

This standard is met.

- (2) *The applicant shall demonstrate that the existing sewage disposal system and water supply are adequate to serve the accessory apartment.*

The adherence to this standard will be determined by the Town Engineer or Code Enforcement Officer and the Cattaraugus County Health Department.

- (3) *The applicant shall show that there is adequate off-street parking for the occupants of the accessory apartment, in addition to the parking required for the primary residence.*

This standard is met.

- (4) *An accessory apartment may be located in a freestanding building, in a garage, or in an addition to the principal dwelling on the site. If an accessory apartment is located in the principal dwelling unit, the entry to such unit and its design shall be such that, to the maximum degree feasible, the appearance of the building will remain that of a single-family dwelling.*

This standard is met, as the garage and house are separated and located together on the same lot.

- (5) *The minimum gross floor area for an accessory apartment shall be three hundred (300) square feet. The accessory apartment shall be no larger than 1200 square feet.*

The four separate attic spaces are now re-labeled as “Non-habitable attic not conditioned” and it appears that this space is met at 1199 square feet.

- (6) *Mobile homes and/or manufactured homes shall not be allowed as accessory apartments.*

This standard is not applicable.

- (7) *Legal title to the accessory apartment and single-family unit shall be held in the same name.*

This condition must be met, a condition of approval should be included to prohibit further subdivision in the future. It should be built at the same time or after the principal unit to ensure it is secondary to the main house.

Based on the application, survey and available plans, it appears that the dimensional standards are met.

Per Section 7.3.C, the Town does not have Site Plan Review jurisdiction for single-family residences. Given the slopes involved, the Town Engineer should review the plans for grading, stormwater and erosion controls as well as for water and sewer.

It is noted that the road linking the 2 buildings is now labeled “stone path. Before a building permit can be issued, the plans and building permit application will have to show how the standards in Sections 12.10 and 12.16 are met. These sections of the zoning code refer to crossing slopes in excess of 25%, grading and fill compaction, retaining walls, drainage cut and fill slopes, stormwater drainage and erosion controls, and driveways. These are typically not Planning Board review items as they are part of the CEO, Planner and Town Engineer’s review of the building permit application. Once Mr. Fredrickson has a Site Plan, he will review it to determine if further review by the Planning Board is required.

A 239-m referral is not required to the Cattaraugus County Planning Board for a single-family house. Permitting for an accessory structure to a single-family home is a Type II (exempted) SEQR action, pursuant to Section 617.5(c)(12) of NYS SEQR regulations. The Planning Board should formally classify the action as a Type II Action for the record.

Based on the information available, it appears the proposal meets the Town Comprehensive Plan and general intent of the Zoning a applicable criteria in Section 6.4.

Mr. John Zrfas asked if there were restrictive covenants put in place in 1987 when the original Rogers Subdivision was approved?

Mr. Palumbo said there were no notes on the original plat reflecting the creation of an Homeowners Association.

Mr. Palumbo offered motions for the Board to consider.

Moved by Ms. Kosher that based on the review of SEQR thresholds in Part 617.5(c)(12) the Planning Board classifies the issuance of a Special Use Permit to establish an accessory apartment as a SEQR Type II Action, and no further SEQR review is necessary. Seconded by Ms. Croft. Ayes all. Carried.

Moved by Ms. Croft to determine that the Action (Special Use Permit) establishing an accessory apartment ancillary to the single family residence at 2 Rogers Road in accordance with the applications and revised plans dated November 1, 2021. This approval is granted with the following modifications and conditions:

- a) As the accessory structure, the garage and apartment shall be constructed at the same time or after the principal residence.
- b) Prior to receiving a building permit adherence to the applicable standards relating to Property in Excess of 25% Slope and Development of Hillside Development (Sections 12.10 and 12.16) must be documented to the satisfaction of the Town Engineer and CEO. If the Engineering Department staff determine all conditions have not been met they may refer the Site Plan to the Planning Board under Section 12-10.
- c) In accordance with Section 12-11.b.(7), this approval does not include authorization to further subdivide the parcel (56001-1-25.8) and legal title to the accessory apartment and single family unit shall be held in the same name.

Seconded by Mr. Zerfas. Ayes all. Carried.

PROJECT UPDATES

Mr. Palumbo advised that he has no new information on Tiny Homes Village. The project is progressing.

Mr. Tim Zerfas presented an update on the DWSP2. They have held 2 meetings and have formulated goals. The grant the Town/Village of Ellicottville received is for the consultant to offer recommendations to the town and village.

Mr. Palumbo noted that the Town Board will receive a recommendation to adopt changes to the Comprehensive Plan.

Ms. Koschir asked is there a time frame?

Mr. Zerfas said about 18 months.

Route 219 Expressway in the Comprehensive Plan

Ms. Croft asked if a letter was written to Mr. Donald Nowak regarding his concern that the Comprehensive Plan Map shows an overlay of all the town's parcels and zoning boundaries

depicting what is labeled as “Freeway Alternative” and that they be removed from the map as he feels the project will not happen.

Mr. Palumbo said he would draft a memo to the Planning Board with regard to the status of the NYS SEIS which can be forwarded to Mr. Nowak.

Mr. Mathe noted that if Mr. Nowak is planning to sell property the line on the map may affect it.

Mr. Palumbo advised that he contacted NYS DOT and the SEIS is still a future project.

Mr. Poole said it could happen in the future.

Ms. Koschir said since Mr. Nowak wrote to the Planning Board that we should respond.

MINUTES

The Minutes of the October 25, 2021 meeting were read. Corrections were made.

Moved by Mr. Zerfas to approve the Minutes of October 25, 2021 as corrected.

Seconded by Mr. Poole. Ayes all. Carried.

Mr. Zerfas noted that the Board reviewed two accessory apartment applications this year and both had issues. We should consider changing the definition of an accessory apartment.

Mr. John Zerfas extended a thank you to Mr. Gary Palumbo for his work as Town Planner as this is his last meeting.

Moved by Mis Koschir to adjourn. Seconded by Mr. Zerfas. Ayes all. Carried.

The meeting was adjourned at 6:55 p.m.