

**TOWN OF ELLICOTTVILLE
ZONING BOARD OF APPEALS
Thursday April 7, 2022 at 6:00 p.m. at the Town Center**

PRESENT: Cindy Dayton, Chairperson
Kathy McGoldrick, Member
Gail Scheeler, Member
Harry Weissman, Member

ALSO PRESENT: Kelly Fredrickson- CEO, Carol Fisher Linn, Dennis Linn-Applicants
Steve Crowley, Cheryl Crowley

Ms. Cindy Dayton, Chairperson called the meeting to order at 6:00 p.m. and opened the public hearing for ZBA -2022-088, Dennis Linn, 5074 Bryant Hill Road, an appeal for an area variance to Section 3.2.D.(3) side yard setback to construct an addition to the garage. The 26,100 s.f. property is located in the Agriculture-Residential District. The proposal is to construct a 20' x 10'8" addition to the north side of the existing 20' x 20' garage. Accessory structures are permitted uses in the A-R District.

The Zoning requires a 30 foot minimum side yard setback. The applicant is requesting a 20 foot setback to allow for the 10 foot addition or a variance of 33%.

Ms. Dayton asked the applicant to present his plans.

Mr. Dennis Linn advised that he has a home shop in the existing building and needs additional space for storage. The existing roof is flat, but he will replace it with a new metal peaked roof over the garage and addition. The east side of the building is on the uphill and he would need to excavate at least 6 feet into the hillside to do the add on. All the land east of the building is on shale and not stable for building.

Ms. Dayton asked, does the topography affect building on the east side?

Mr. Linn said yes.

Ms. Dayton asked for questions from the Board members?

Ms. McGoldrick asked which way will the new roof be pitched?

Mr. Linn said it will pitch both ways, peak in the middle and slope down on both sides to match the roof on the house. There is 8 feet between the building and concrete pad where I can address drainage of the runoff.

Ms. Dayton advised that one letter was received in response to the public hearing notice which was published in accordance with local law.. She read the 3/22/2022 letter from Steve and Cheryl Crowley of 5080 Bryant Hill Road. They share a driveway with the Linns and have concerns with the negative effect this will have on their property, including diminished

value, parking issues, snow removal constraints, stormwater runoff impact on their side of the driveway and lawn and the effect of any additional lighting.

Mr. Steve Crowley stated that the proposed addition will make a tight situation even tighter. The houses are 47 feet apart. The property line runs down the center of the driveway.

Ms. Dayton asked if there was a plan for outside lighting?

Mr. Crowley stated that they have a motion light.

Ms. Fisher Linn said they also have a motion light.

Mr. Linn said he has no plans for additional outside lighting.

Ms. Dayton asked for questions or comments from the people attending? Nothing was submitted.

Moved by Ms. McGoldrick to close the public hearing for ZBA-2022-088, 5074 Bryant Hill Road, area variance request. Seconded by Ms. Scheeler. Ayes, all. Carried.

The Minutes of the March 3, 2022 meeting were read. Corrections were made.

Moved by Mr. Weissman to approve the Minutes of March 3, 2022 as corrected. Seconded by Ms. McGoldrick. Ayes all. Carried.

Ms. Dayton presented ZBA-2022-088, Dennis Linn, 5074 Bryant Hill Road, area variance request for discussion. She noted that prior to granting an Area Variance, the ZBA must weigh the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood or community if the variance were to be granted. In making its decision, NYS Town Law requires that the ZBA consider five criteria and also to grant the minimum relief necessary. She presented the five tests and staff analysis for consideration.

1. Will the variance produce an undesirable change in the character of the neighborhood or a detriment to nearby property owners?

No the garage addition is consistent with the character of the existing property in a rural setting.

Mr. Weissman stated that this is an unusual setting for a rural area with two houses close together with a shared driveway and the neighbors' negative opinion of the project.

Ms. Scheeler said it is a difficult situation.

Ms. Dayton asked how the drainage will be handled?

Mr. Linn said he planned to have a gravel ditch along the side of the building to catch runoff which he will connect to the house drainage system.

2. Can the applicant achieve similar results through another feasible method? Are there alternatives to the variance request?

Staff notes that the garage addition may possibly be done on the south side of the garage, but would involve more substantial excavation and site work.

Ms. McGoldrick asked why is the topography different on each side of the house?

Mr. Weissman said it is the natural slope of the land.

Ms. Dayton asked when was the existing garage built?

Mr. Linn said in 2013. David Golley came in and dug up the property to find the best location for the building off the shale. Everything to the right of the garage is shale and not suitable for building. The shop is on a slab floor and the addition will be on a slab floor.

3. How substantial is the requested variance?

The proposed 10-foot variance encroaches on the side setback by approximately 33% and expands the building side intrusion in the rear setback by approximately 33%. The key factor to evaluating the impact from the addition on the side is that there are immediate neighbors to be affected. The two houses are approximately 47 feet apart and the neighboring house is approximately 17 feet from the property line.

Ms. Dayton stated that we have been asked to entertain larger variances in the past and have granted larger variances.

4. Will granting a variance have an adverse impact on the physical or environmental conditions of the neighborhood or community?

The proposed addition is a permitted use on this existing agricultural/residential property. The space is not currently wooded or in natural vegetation. The variance in itself does not create a significant increase in development over existing conditions. The test appears to be met.

All board members agreed with the staff analysis of # 4.

5. Is the difficulty self-created?

Yes, however, this by itself is not sufficient reason to deny the variance request. It appears that this test is met.

Ms. Dayton said the concerns are parking, drainage, snow removal storage and outside lighting.

Mr. Linn said they park on the concrete pad at the rear of the house. He uses a snowblower to clear the snow and can blow it out of the way and not affect the neighbors.

Ms. McGoldrick asked can we get information from the person who excavated the garage?
Mr. Linn said no,

Mr. Weissman stated that it is easier to excavate on the left side of the garage than on the right side.

Mr. Linn said there is about 2 feet of topsoil over the shale which extends at least 12 feet to the right of the building.

Ms. McGoldrick asked, is the cost of digging on the right side worth the issues with the neighbors?

Ms. Fisher Linn said it is not subjective.

Mr. Linn advised that they have made significant improvements to their house, new siding, windows and a sunroom with floor to ceiling windows. Digging on the right side will impact our view from this room.

Mr. Weissman said his concern is justifying having the existing buildings closer when they are already too close. The 10 foot variance is insignificant.

Mr. Linn stated that the Crowley's have a small shed on their property which is close to the property line.

Ms. McGoldrick asked if there will be additional outdoor lighting?

Mr. Linn said no. We have a motion light at the rear of the house and the Crowley's have a motion light. The proposed addition is for storage only.

Ms. Dayton said the Board can deny, grant or table the variance request. It has 62 days to act on the variance request.

Ms Scheeler said she is fine with granting the variance request.

Ms. Dayton said she is inclined to grant the variance if the applicant agrees that any windows on the side facing the neighbors will be shaded to lessen any impact of lighting spillage on the neighbors.

Mr. Linn said he had planned windows for natural light but can have a solid wall if necessary.

Moved by Ms. Scheeler to determine that the variance requested is a Type II SEQR action, pursuant to Section 17.5(c)(12) of the SEQR regulations. No further review under SEQR is required and that the Zoning Board of Appeals finds that the benefit to the applicants outweighs any detriment to the health, safety and welfare of the neighborhood or community, based on its review of the five tests, and therefore grants a 10-foot variance (33%) to minimum side yard setback allow the the proposed garage addition to be 20 feet from the side property line as requested in ZBA-2022-088 and

shown on the application and plans dated 2/11/2022 with the condition that any windows will be shaded at night to lessen light spillage impact on the neighboring property. Seconded by Ms. McGoldrick.

Roll call vote: Ms. Scheeler-aye, Ms. McGoldrick-aye, Mr. Weissman-eyes, Miss Dayton-aye. Carried.

Ms. Dayton noted there is no new business, other business or correspondence to address.

Moved by Ms. McGoldrick to adjourn. Seconded by Ms. Scheeler. Ayes all. Carried.

The meeting was adjourned at 7:05 p.m.