

**VILLAGE OF ELLICOTTVILLE  
ZONING BOARD OF APPEALS  
MEETING MINUTES May 2, 2023**

**PRESENT:** Fred Musolff, Chairman  
Dan Mergenhagen, Member  
Michael Painter, Member  
Lisa Saunders, Member  
Harry Weissman, Member

**ALSO PRESENT:** Gregory Keyser-Village Planner, Kelly Fredrickson-CEO, Aaron Tiller-Architect, Jennifer Courtney-Applicant, Nigel Hall-Applicant, Chad Neal, Caleb Henning-MDA Consulting Engineers, John Gaughan, Phil Tripi

Mr. Fred Musolff, Chairman called the meeting to order at 5:30 p.m. and opened the public hearing for **VZP-2023-119, 39 Martha Street, Daniel & Laura Rifkin, area variance for the expansion of a non-conforming building.**

Mr. Keyser advised that the applicant is proposing to expand the existing building by adding a 14 foot rear addition, enlarging the second story, and replacing existing porches with a new 8 foot wrap around porch. The current structure is a non-conforming building that does not meet the minimum front yard setback requirement. The proposed improvements expand a non-conforming building, which has the potential to affect the current non-conformance and creates a second non-conformance by exceeding the maximum height requirement. The variance requests are:

1. Front yard setback requirement 25 feet, proposed 11.3 feet for a 13.7 foot variance.
2. Maximum Height allowed 28 feet, proposed 28.8 feet for a variance of .8 feet.

Mr. Musolff asked for questions or comments from the people attending.

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

**Moved by Mr. Painter to close the public hearing for VZP-2023-119, 39 Martha Street, Daniel & Laura Rifkin area variance for the expansion of a non-conforming building. Seconded by Mr. Mergenhagen. Ayes all. Carried.**

The Minutes of the April 4, 2023 meeting were read. Corrections were made.

**Moved by Mr. Painter to approve the Minutes of April 4, 2023 as corrected. Seconded by Ms. Saunders. Ayes all. Carried.**

Mr. Musolff presented VZP-2023-119, 39 Martha Street, Daniel & Laura Rifkin, are variance for the expansion of a non-conforming building for discussion.

Mr. Caleb Henning, representing the applicants presented proposed plans to add an addition to the rear of the existing dwelling and to remove the existing front porch and add a new wrap around porch which will extend across the front of the house. He noted that the new porch sets back further than the existing porch. The addition extends the second floor with attic space for a total height of 28.8 feet.

Ms Saunders asked how much closer is the current porch to the front yard setback?

Mr. Henning said the existing porch is 14.3 feet from the right of way. The new porch will be 15 feet from the right of way.

Ms. Saunders noted that extending the porch across the front is adding more structure to the setback area even though it is set further back.

Mr. Weissman asked, is there any way to build the addition at the 28 feet maximum height?

Mr. Henning said that they are only asking for 9 inches to the height. The plans are drawn to remodel the entire interior including the attic space which will have a craft room and other spaces. He would have to ask his client if they are willing to redesign to meet the 28 foot maximum height.

Mr. Mergenhagen asked, what is the ceiling height in the attic space?

Mr. Henning said he does not have that information

Mr. Fredrickson noted that if there is a third floor with living space, New York State Fire Code requires a sprinkler system.

Mr. Weissman asked, should we act with the condition that it may be redesigned to meet the height requirement?

Mr. Keyser noted that the ZBA can act on SEQR now and has 62 days following the close of the public hearing to act on the variance requests if you need more information on the ceiling height.

Mr. Henning asked that the application be tabled pending contact with the client to discuss reducing the height and the potential requirement of a sprinkler system.

Ms. Saunders noted that since the difficulty is self-created the variance may be denied.

**Moved by Mr. Weissman to table VZP-2023-119, 39 Martha Street, Daniel & Laura Rifkin, area variance request for the expansion of a non-conforming building to the June 6, 2023 meeting, allowing the applicant time to consider redesigning the project. Seconded by Ms. Saunders. Ayes all. Carried.**

Mr. Mulsoff presented VZP-2023-139, 38 Monroe Street, Nigel Hall, area variance for the expansion of a non-conforming building.

The applicant's representative presented the plans to construct a 569 square foot second floor addition to the existing dwelling. The roof will be reframed to accommodate the second floor addition, but the height and footprint of the house will not change. What is non-conforming will remain non-conforming. We are not increasing the non-conformance.

Mr. Keyser noted that the variance request is to Section 3A.2.C.4 Rear Yard Setback: Required is 35 feet, proposed is 9.5 feet for a variance of 25.5 feet. If the ZBA feels it has enough information for a meaningful public review a public hearing can be set for the June meeting.

**Moved by Mr. Weissman to set a public hearing for VZP-2023-139, 38 Monroe Street, Nigel Hall, area variance request for the expansion of a non-conforming building for June 6, 2023 at 5:30 p.m. Seconded by Ms. Saunders. Ayes all. Carried.**

Mr. Musolff presented VZP-2023-143, 16 Mechanic Street, Jennifer Courtney, area variance for the expansion of a non-conforming building for discussion.

Mr. Keyser presented his staff report on the area variance requests to allow the construction of a 594 square foot 2 story addition and extend the existing porch across the front of the existing house. The variances required are:

1. Section 3A.2.C.3-Side Yard Setback: Required 10 feet, proposed 7.9 feet for a variance of 2.1 feet.
2. Section 3A.2.C.4-Front Yard Setback: Required 25 feet, proposed 17.2 feet for a variance of 7.3 feet.
3. Section 3A.2.C.3-Combined Side Yard Setback: Required 30 feet, proposed 22.9 feet for a variance of 7.1 feet.

Mr. Aaron Tiller, representing Jennifer Courtney and Bill Stoll presented the site plan for the proposed exterior renovations. The applicants recently purchased the property which consists of 2 units in the principal structure and 2 units in the accessory structure. The plan is to convert the principal structure to a single-family dwelling and revert the first floor of the accessory building back into a garage.

Ms. Courtney said the side porch will be removed and the addition with the gable centered in the front of the facade will be reconstructed.

Mr. Keyser advised that if the ZBA feels it has enough information for a meaningful public review a public hearing can be set for the June meeting.

**Moved by Ms. Saunders to set a public hearing for VZP-2023-143, 16 Mechanic Street, Jennifer Courtney & Bill Stoll, area variance request for the expansion of a non-conforming building for June 6, 2023 at 5:30 p.m. Seconded by Mr. Painter. Ayes all. Carried.**

Mr. Musolf presented VZP-2023-152, 7 Mechanic Street, Sandra Reed, area variance request to allow the expansion of a non-conforming building.

Chad Neal, presenting the applicant presented the plans to remove the existing front porch and construct a new porch to extend across the full width of the house. When having the

front porch removed considerable water damage to the foundation was discovered which had to be repaired before construction. The new porch will extend 2 more feet into the front yard setback.

Mr. Keyser noted that expanding the porch the width of the house increases the total non-conforming footprint of the structure and requires a variance. The variance requested is:

1. Section 3.A.2.C.4-Front Yard Setback: Required 25 feet, proposed 16 feet for variance of 9 feet.

Mr. Keyser stated that if the ZBA feels it has enough information for a meaningful public review a public hearing can be set for the June meeting.

Ms. Saunders asked that a scaled drawing of the project be provided for the June meeting.

Mr. Mergenhagen suggested that a public hearing be set pending receipt of a scale drawing.

**Moved by Mr. Weissman to set a public hearing for VZP-2023-152, 7 Mechanic Street, Sandra Reed, area variance for the expansion of a non-conforming dwelling for June 6, 2023 at 5:30 p.m. pending receipt of a detailed drawing with dimensions showing the setback form the right of way to the front porch Seconded by Ms. Saunders. Ayes all. Carried.**

Mr. Keyser asked to add VZP-2-023-132, 13 Greer Hill Drive, John Gaughan, to the agenda. He advised that Mr. Gaughan presented his plan to merge 2 adjacent lots in the Greer Hill Subdivision at the Village Planning Board work session. The Planning Board advised that per Section 3A.3: The combination of 2 or more lots to expand the footprint of a proposed development or for the expansion of an existing building structure is prohibited. He then suggested that Mr. Gaughan present his proposal to the Zoning Board of Appeals for a possible area variance.

Mr. Gaughan advised that he owns Lots 11 and 13 with his residence on lot 13. Lot 11 is vacant and he wants to construct a fireplace and patio with landscaping on that lot. He wanted to combine the lots for that purpose and also for tax purposes. He uses the patio area for parking and wants to make it a turnaround for the driveway.

Mr. Mergenhagen asked, can you keep it as 2 lots and build a fireplace and patio?

Mr. Keyser advised that the proposal meets the definition of a structure under the local law and requires an area variance depending on the location of the fireplace on the lot.

Mr. Mergenhagen asked, do you know the variance needed?

Mr. Fredrickson asked, where is the fireplace in relation to the setback line?

Mr. Gaughan said he does not have that information for this meeting.

Mr. Keyser advised that if you provide the setback information and a design for the fireplace that meets the design standards in the zoning you can apply for a Special Use Permit from the Planning Board and not need a variance.

Mr. Gaughan advised Mr. Tripi, the contractor has a schedule and they are trying to meet it in order to complete the work.

Mr. Tripi said that the building season is short and his time frame to do the work is limited.

Ms. Saunders asked, can we set a public hearing for a variance if needed, pending receipt of drawings showing the front yard setbacks?

Mr. Keyser said that is up to the ZBA members. Members agreed to set the public hearing.

**Moved by Ms. Saunders to set a public hearing for VZP-2023-132, 13 Greer Hill, John Gaughan, pending receipt of front yard setback information to determine if a variance is required. Seconded by Mr. Weissman. Ayes all. Carried.**

Mr. Keyser advised that he will email information on the upcoming Government Conference at Houghton which will provide training hours for board members.

**Moved by Ms. Saunders to adjourn. Seconded by Mr. Mergenhagen. Ayes all. Carried.**

The meeting was adjourned at 7:20 p.m.