

**TOWN OF ELLICOTTVILLE
ZONING BOARD OF APPEALS**

Thursday, October 5, 2023 at the Town Center at 6:00 p.m.

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

PRESENT: Gregory Keyser-Town Planner, William Gilbert-Applicant, Eric Mucha-Applicant, Frank Anap-Applicant

Ms. Cindy Dayton, Chairperson called the meeting to order at 6:00 p.m. and presented the agenda.

The Minutes of the September 7, 2023 meeting were read. Corrections were made.

Moved by Mr. Weissman to approve the Minutes of September 7, 2023 as corrected. Seconded by Ms. Scheeler. Ayes all. Carried.

Ms. Dayton presented TZP-2023-304, 6690 Poverty Hill Road, William Gilbert, Area variance to the front yard setback.

Mr. William Gilbert presented his plan to construct a 24 foot by 24 foot pole barn 29 feet from the front property line. The location of the septic system prevents moving the building further back. A creek and wooded area on sloped land prevent using that area for the barn. The wood and metal structure will be used for vehicle storage.

Mr. Keyser presented his staff report on this appeal to zoning permit denial requesting area variance from Section 3.3(D)(1) to allow the construction of a 24 foot by 24 foot pole barn less than the minimum required distance from the front property line. The required front yard setback is 50 feet. The proposed location of the barn is 29 feet for a variance of 21 feet.

The proposed project meets the definition of a Type 2 Action involving the construction of an accessory residential structure. Part 1 of the Short EAF has been provided. However as a Type 2 Action no further environmental review is required. The Board should classify the project as a Type 2 Action before acting on the variance request. No referral to Cattaraugus County Planning Board is required. If the Board members feel the application is complete a public hearing can be set for the November meeting.

Moved by Mr. Weissman to classify the project as a Type 2 Action involving the construction of an accessory residential structure. No further review under SEQR is required. Seconded by Ms. McGoldrick. Ayes all. Carried.

Moved by Ms. McGoldrick to set a public hearing for TZIP-2023-304 6690 Poverty Hill Road, William Gilbert, area variance request to the front yard setback for November 2, 2023 at 6:00 p.m. Seconded by Ms. Scheeler. Ayes all. Carried.

Ms. Dayton presented TZIP-2023-307, Irish Hill Road, Eric Muca, area variance request to the side yard setback for a driveway.

Mr. Eric Mucha, representing the applicant, presented the variance request to allow the construction of a 10 foot wide driveway to access the property. The project site is approximately 4.65 acres of undeveloped land in the Agricultural-Residential District.

Mr. Keyser referred to his staff report noting that this is an appeal to a zoning permit denial request for two area variances from Section 5.6(C) to allow the construction of a 10 foot wide driveway to access the property. The zoning definition of a structure includes a driveway exempt from setbacks. It also requires a 10 foot setback for driveways. The variances requested are: (1) Section 5.6.C(1) -Driveway setback north side, required 10 feet, proposed 5 feet, variance 5 feet.

(2) Section 5.6.C(1)- Driveway setback south side, requested 10 feet, proposed 5 feet, variance 5 feet.

The project meets the definition of a Type 2 Action involving the construction of an accessory residential structure. Part 1 of the Short EAF has been provided. However as a Type 2 Action no further review under SEQR is required. The Board should classify the project as a Type 2 Action before acting on the variance request. The project is exempt from referral to the Cattaraugus County Planning Board under Item 1 of the referral exemptions agreement. If the Board members feel the application is complete a public hearing may be set for the November meeting.

Moved by Ms. McGoldrick to classify the project as a Type 2 Action involving the construction of an accessory residential structure. No further review under SEQR is required. Seconded by Mr. Weissman. Ayes all. Carried.

Moved by Ms. Scheeler to set a public hearing for TZIP-2023-307, Irish Hill Road, area variance request to the side yard setbacks to allow construction of a driveway for November 2, 2023 at 6:00 p.m. Seconded by Ms. McGoldrick. Ayes all. Carried.

Mr. Weissman noted that the Neff family split the lot in 1983 into 2 parcels. The zoning allows one split every 3 to 5 years without permission. We need to prevent landlocked parcels.

Ms. McGoldrick asked should we ask people purchasing property if they are full time residents? Do we have any regulations preventing corporations from buying up properties for AirBnBs?

Mr. Keyser said this is a valid concern. Real Estate agents promote sales as a resort community. How do we preserve the Town of Ellicottville as a residential community?

Ms. McGoldrick said her fear is that if we allow corporations to purchase property we will only have AirBnBs.

Mr. Keyser noted that perhaps AirBnBs should be treated as a commercial use. Commercial uses are not allowed in the residential district.

Mr. Weissman asked should they be one year rentals? What is considered short term?

Mr. Keyser said long term rentals are different for each community. Usually any period more than 30 days is long term.

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

The meeting was adjourned at 6:45 p.m.