

A regular meeting of the Town of LaGrange Zoning Board of Appeals was held on Monday, October 5, 2015 at the LaGrange Town Hall, 120 Stringham Road at 7:30 p.m. Chairman Paul Bisceglia called the meeting to order. Board members Nancy Swanson, Sandy Lane, Christian Rohrbach and Alternate Leana Cropp were present. Mark Christenson was absent

Ms. Cropp became a full voting member for this meeting.

Mr. Bisceglia made a motion to accept the minutes of September 14, 2015 as submitted. Mr. Rohrbach seconded and the motion carried with Ms. Lane voting aye. Ms. Swanson and Ms. Cropp abstained because they were not present at the September 14, 2015 meeting.

#### OLD BUSINESS:

9-14-03 USE VARIANCE: GARY E. BECK JR., Z3 CONSULTANTS (OWNER, JAMIE TURELL), 275 EMANS ROAD, LAGRANGEVILLE, NEW YORK  
Grid No. 6559-01-465994

Seeking a use variance in order to permit light industry in an R-120 zoning district. Chapter 240-27 Schedule of Permitted Uses & Special Use Permits does not permit light industry in an R-120 zoning district. (*Zoning District designation changed pursuant to Town Resolution on September 10, 2014 from R-120 to RLD*)

Mr. Bisceglia said that this application had been adjourned to October 5, 2015 at the request of the applicant. Mr. Bisceglia made a motion to adjourn this application for 30 days so that they could receive clarity on this application. Ms. Lane seconded and the motion carried unanimously. APPLICATION ADJOURNED TO THE NOVEMBER 2, 2015 MEETING

10-15-01 AREA VARIANCE: FLOYD SCHOLZ, 26-28 OLD NOXON ROAD, TOWN OF LAGRANGE Grid No. 6360-04-960085

Seeking relief from §240-29 F.(1) which states that *Any nonconforming use of land shall not be enlarged, extended or altered, and any building or any structure or part thereof devoted to a nonconforming use shall not be enlarged, extended, reconstructed or altered, except where the result of such changes is to reduce or eliminate the nonconformity* in order to renovate and expand one of the pre-existing nonconforming dwellings.

Brian Stokosa, P.E. of the firm of M. Gillespie & Associates was present with the owner, Floyd Scholz. He produced a reduced version of the plan for the property and explained that his client has purchased the property and there are two dwellings on it. There is a larger house of about 2,900 sq.ft. and a secondary dwelling of about 950 sq.ft. Both structures were built around 1911. The parcel is about 4.4 acres in size and it fronts on Old Noxon Road with a small portion on Noxon Road. The applicant's son lives in the larger house and they would like to re-model and slightly expand the cottage. The parents will live in the cottage and the kids and grand kids will live in the larger residence.

Mr. Stokosa showed a few pictures of the cottage. He said it looked like there were a couple of additions to the cottage over the years. They would like to take down some of the aspects of the cottage as the foundation is in poor condition. They will pour foundation footings, slab on grade and then expand from that. There are two bedrooms in the cottage right now and

they will keep the same bedroom count. They will expand the kitchen and provide a bigger dining room and family room. The total addition size will be 600 sq.ft.

Mr. Bisceglia asked when the property was purchased. He was told it was in July 2015. Mr. Bisceglia asked if the structure has always been used as a second dwelling. Mr. Stokosa said that to his knowledge there have always been bedrooms in that second cottage. Mr. Bisceglia asked if there was a basement. Mr. Stokosa said it was slab on grade. Mr. Bisceglia said it seemed to him that it was some kind of barn that was transformed into a residence. He asked if there were any violations on the property. The secretary said that to the knowledge of the Town there were no violations.

Ms. Swanson asked when the cottage was last inhabited. Mr. Scholz said the brother of the prior owner lived there. His name was John Crocker. He moved to Pleasant Valley. Mr. & Mrs. Crocker moved to Vermont and John lived there until Mr. Scholz bought the property. He wanted to stay but Mr. Scholz said he and his wife will live in the cottage for part of the year while his daughter, son-in-law and grandchildren will live in the main house.

Ms. Swanson asked if there was functional plumbing and electricity. Mr. Scholz said there was. There is a separate meter and a separate address. There is a working bathroom, laundry room and kitchen. Ms. Swanson asked if the septic and water are separate from the main house. Mr. Scholz said they are. There are two wells on the property and one septic for each dwelling. Ms. Swanson asked how long has the cottage been used as a residence. Mr. Scholz said as far as he knows, it has been forever. He said the neighbors behind him had friends who lived there and rented it. The Town does not have a record of any improvements that would have needed building permits.

Ms. Swanson said she noticed on the plan a reference to 395 sq.ft. to be removed. Mr. Scholz said on the north side when they put that on, it was 2 steps down and was just sitting on the ground and they poured concrete on it, and the whole thing heaved to the right side. The roof line at the end of the roof is probably 4 feet high.

Mr. Bisceglia asked the size of the septic system. Mr. Scholz said he did not know the size. He showed the board on the map the location of the septic and wells. Mr. Bisceglia asked if there was Health Department approval for the wells and septic. It was stated that, due to the age, there was probably no Health Department approval.

Mr. Bisceglia read from the code that refers to the relief the applicant is seeking. The zoning there is RMD, requiring 80,000 sq.ft. per lot. The property consists of 4.4 acres. Mr. Bisceglia said that in order to eliminate the nonconformity the property needs to be subdivided with a shared driveway in. Mr. Scholz said each dwelling already has its own address and its own meter. Mr. Bisceglia said if you are adding to an existing nonconforming structure you are going against the code.

Mr. Bisceglia asked for comments from the board. Mr. Rohrbach asked if the plan to expand was going to keep this as a single floor. Mr. Scholz said yes, it would remain one floor. Ms. Swanson asked if Mr. Scholz had explored dividing the property into 2 lots. Mr. Scholz said he had not. His understanding was that there were already two numbers, why would it need two lot? They are just trying to make the cottage livable. Ms. Swanson explained that the

Town only allows one principal structure on a lot. Mr. Bisceglia said they are trying to eliminate nonconformities that exist in the Town and this is one of them.

Mr. Bisceglia then made a motion to open the public hearing. Mr. Rohrbach seconded and the motion carried unanimously.

Sheila Burke of Debra Hill, the cul de sac behind the property in question. She has lived there for 44 years. She is well aware of the prior owners, the Gillmans and then the Crockers, at which time there was always a tenant. She did not understand why this has not been picked up before if it is an issue. Ms. Burke said she did not see a problem with the new owners using the structure.

Dianne Weber, 15 Old Noxon Road asked if the board received enough responses to have a legal basis for the meeting. Mr. Bisceglia explained that the application had been advertized and all the adjoining property owners had been notified of the date and time of the meeting. Ms. Weber asked how many residents had been notified. Mr. Bisceglia said 13 property owners had been notified. Ms. Weber asked what was the distance from the property that the neighboring properties had to be notified legally. Mr. Bisceglia said 150 feet.

There were no further comments from the public.

Mr. Bisceglia asked for comments from the board.

Ms. Swanson said her feeling was that it is a large parcel and has been used as a residence. It is not a huge addition that is being proposed and it wouldn't create real change in the use of the property so she would be inclined to vote for the variance.

Mr. Rohrbach said he tended to feel the same way. He said from the description of the building as it stands right now it appears that something needs to be done to make it properly livable. Perhaps the standard of what was acceptable at the time this building was built has changed over time so the question in his mind was whether the expansion is an acceptable amount. He said they are not adding bedrooms and they are not making additional areas that would change the character of the building. Mr. Bisceglia asked the size of the addition. He was told 600 sq.ft. was being added and that is on one level.

Mr. Bisceglia asked if there was adequate parking available. Mr. Stokosa showed on the plan where the driveway was located.

Ms. Lane said the board had received a letter from the next door neighbors. She said if anyone would be impacted it would be them and they don't seem to have a problem with it. She said it seems from testimony from other property owners that it has been used as a second residence and that use will be continued. It seemed obvious to her that the structure needed to be updated.

Because of the ages of the houses there are no C.O.'s. Mr. Bisceglia said if they receive the variance and carry out all the work, the building will be safer than it is right now and a C.O. will be issued.

Mr. Rohrbach asked what the minimum lot size is in the RMD zoning district. He was told it is 80,000 square feet. Mr. Bisceglia said there are two homes that occupy more than 80,000 square feet each. He said, based on that alone, he is willing to grant the variance. If the property was much smaller he would be more reluctant. Mr. Rohrbach said that the dwelling units will be occupied by members of the same family. He said if it was not for that, he would suggest creating new plots there to fix the problem and he suggested they might consider that in the future in case they would want to sell the property. Mr. Bisceglia said if they grant the variance, the chances of this ever being expanded again, is zero. They are upgrading the building and making it safer without changing the character of the dwelling. Mr. Bisceglia asked if the car port would remain. Mr. Scholz said it will just be a front porch.

There being no further comments from the public, Mr. Bisceglia made a motion to close the public hearing. Mr. Rohrbach seconded and the motion carried unanimously. PUBLIC HEARING CLOSED

Mr. Stokosa said what he had presented was a preliminary sketch and if the board was in favor of it they could then take it to the next step and do the internal design. The exterior footprint would remain the same.

Ms. Swanson asked if it was preliminary, they would not be making it any larger. Mr. Stokosa said that was correct. The size is the size.

Mr. Bisceglia asked if there would be any foundation work. Mr. Stokosa said there were portions of the foundation that deteriorated over time so that foundation would be replaced. Along the northern portion that would be a new foundation.

Ms. Swanson said she visited the site that day. She could not get close to the cottage because a dog was protecting the property.

Mr. Rohrbach asked if the expansion was going to be in the area that the trees had been cut down. Mr. Scholz said yes.

Mr. Bisceglia said that the board had received a letter from Dianne Weber of 15 Old Noxon Road who had noticed that trees had been cut down on the property. This letter does not appear to be an objection.

Another letter had been received from Ken & Barbara Kull of 671 Noxon Road who said they had no objection to the request for the variance.

Mr. Bisceglia then addressed the Record of Findings:

**Character of the Neighborhood and Detriment to Nearby Properties**

The character of the neighborhood is not being changed. Both the houses on the lot have been in existence since 1911. One of the houses is being improved and the footprint is changing slightly. It will be an enhancement. This will not be a detriment to nearby properties. Each house has its own well and septic and electrical meter. The dwelling was inhabited prior to the new owners who purchased the property in July of 2015.

**Alternative Methods for Achieving Benefit Sought by Applicant**

An alternative method would be to subdivide the property so that each dwelling would have its own deed but this would be costly and the family community will be in place as the occupants will be related.

**Effect or Impact on Physical or Environmental Conditions in the Neighborhood**

There is hardly any impact on the physical or environmental conditions. Some foundation work will be done and the groundwater will have to be addressed

**Self-Creation of Difficulty**

The two houses have existed since 1911. There were no violations on the property identified by the Building Department.

**Other Consideration**

Comments had been made concerning tree removal on the property. The board felt this was a normal part of having trees. They need to be trimmed and sometimes cut down as part of normal maintenance.

Based on the Record of Findings, Mr. Bisceglia made a motion to grant Mr. Scholz relief from §240-29 F.(1) which states that *Any nonconforming use of land shall not be enlarged, extended or altered, and any building or any structure or part thereof devoted to a nonconforming use shall not be enlarged, extended, reconstructed or altered, except where the result of such changes is to reduce or eliminate the nonconformity* in order to renovate and expand one of the pre-existing nonconforming dwellings. Ms. Lane seconded and the motion carried unanimously. AREA VARIANCE GRANTED

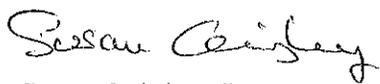
**REFERRAL FROM PLANNING BOARD:**

Mr. Bisceglia said that the board had received a request from the Planning Board seeking a response from the ZBA concerning the Planning Board's intent to be lead agency for the Central Hudson G Line North Transmission Line Rebuild Project.

Mr. Rohrbach made a motion to consent to the Planning Board being lead agency for the Central Hudson project. Ms. Swanson seconded and the motion carried unanimously.

Mr. Bisceglia made a motion to close the meeting at 8:05 p.m. Ms. Lane seconded and the motion carried unanimously.

Respectfully submitted



Susan Quigley, Secretary