

Village of Colonie



ZONING BOARD OF APPEALS

ALBANY COUNTY
NEW YORK

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MINUTES WEDNESDAY, DECEMBER 4, 2019 7:00 PM

The regularly scheduled meeting of the Village of Colonie Zoning Board of Appeals was held on Wednesday, December 4, 2019 at 7PM. The meeting was called to order by Acting Chairman Prevratil at 7:00 p.m.

ROLL CALL:

Chairman:	Lou Van Buren (Absent)
Members:	Frank Prevratil Trevor Normandin (Absent) Joshua Rowinski (Absent) Christopher Larabee
Alternate:	Phil Minissale
Counsel:	Victor Caponera (Absent) Henry DeCotis (Absent)
Liaison:	Trustee Murphy (Absent)

Acting Chairman Prevratil called the meeting to order with the Pledge of Allegiance and indicated the exits.

The minutes from the November 6, 2019 meeting were tabled until the next meeting.

APPLICANT:

**VISION PLANNING CONSULTANTS
557A SAND CREEK ROAD
(AREA VARIENCE)**

Mr. Ted DeLucia came back before the Zoning Board of Appeals to seek a number of area variances for a proposed duplex for the above mentioned address. Mr. DeLucia presented the Board with a cleaned-up and color coded version of the previously presented map so that it may be easier for the Board members to read. Mr. DeLucia then gave the Board and the audience members a recap of the previous meeting.

Mr. DeLucia stated this parcel is 2.24 acres and that he as well as the owner and the potential buyer have worked with the Department of Environmental Conservation as well as the Army Corps of Engineers have worked for two years on this project and the present project is what the combined agencies have come up with and agreed to. Mr. DeLucia stated this Zone allows the use of a two family home, and they have moved the building up as much as possible. Mr. DeLucia stated the building will be 24x48, which is about the minimum for a two family home with housing regulation.

Mr. DeLucia pointed out the back portion of the parcel needs to remain “forever wild” in accordance with the DEC, and there have been discussions with the Village of Colonie Mayor and Board about donating the back portion, as they would be more equipped to ensure the land remains “forever wild,” as it is adjacent to Bauer Park.

A discussion was held on the variances needed for this application. Village Engineer, R.J. Laberge, stated in his September 24, 2019 letter to the Planning Commission this proposal will need a total of 3 variances. From the letter:

Based upon the proposed plan the following variances are required prior to any action being taken by the Planning Commission:

1. Section 242-5.F(1) – required minimum lot frontage is 125 feet. Proposed project has 99.9 feet.
2. Section 242-5I(3)(b) – No two family home shall be placed on any portion of a lot less than 125 feet wide. The proposed lot width at the building is 50 feet.
3. Section 242-5I(4)(b) – The required sideline clearance is 15 feet since the proposed structure is two stories. The proposed project sideline clearance of 13 feet on each side of the proposed building.

Mr. DeLucia stated that while the proposal shows a 13 feet side yard setback, the applicant would be willing to shrink the building so there may be a 14 foot setback on each side, however that would be narrowest they would be able to go with housing regulations. Mr. DeLucia stated the applicant is willing to work with the Planning Commission when it comes to the privacy of the neighbors, suggesting the additions of shrubs or arborvitaes and rearrangement of windows.

At this time, Acting Chairman Prevratil opened up the floor for discussion, stating to the audience that the owner will eventually sell this property and something will eventually be

built there. Acting Chairman Prevratil asked the audience member what they would like to see be built on this parcel.

Mr. Bill Gariepy of 587 Sand Creek Road stated that in addition the already dangerous traffic situation on Sand Creek Road, the people who rent out houses and duplexes don't seem to care about the properties or the dwellings condition. Mr. Gariepy stated that if something had to be built on this property, he'd like to see a garage or storage shed.

Ms. Kathy Syndennis of 508 Sand Creek Road asked the Board how is the lot split and how is this parcel considered 557A Sand Creek Road when the people adjacent to the property are 557 Sand Creek and this is not part of their land. Acting Chairman Prevratil could not give an answer to how the lot has been split, as that information is something that can be found in the deed at Albany County. Ms. Syndennis asked how tenants would access this property. Mr. DeLucia stated cars will have access to the parking lot right off of Sand Creek Road.

Ms. Meg Roberts of 555 Sand Creek Road stated that she likes having the woods surround her property and enjoys the peaceful quietness and the animals that wonder due to the wetlands. Ms. Roberts stated that renters do not seem to care about the properties they live on and that if something had to be built on this property, Ms. Roberts stated she would like to see a small bungalow sized single family home.

At this time, Acting Chairman Prevratil welcomed new Board Member Mr. Christopher Larabee to the Zoning Board of Appeals. Mr. Larabee was appointed by Mayor Sim on Monday night and this is his first meeting.

Mr. Larabee asked the applicant what the price would range of the proposed duplexes, so the Board may understand if these would be high-end or low-end apartments. Mr. DeLucia stated that rent for these apartments would most likely be in the \$1,400.00 range and would be considered in the higher end.

Mr. DeLucia also addressed residents' concerns regarding the renters and lack of care to the property. Mr. DeLucia stated that the property will be owned and maintained by the prospective buyer's corporation, Poleto Development Corporation. Mr. DeLucia stated that Mr. Poleto own numerous properties within the Village and the Town of Colonie and maintains all of them.

Mr. DeLucia stated the applicant, the DEC, and the Army Corps of Engineers, have explored many options with this property, one of the first options being a 4 unit apartment building. The DEC was not favorable to that proposal, so the applicant had downsized to a duplex.

Acting Chairman Prevratil stated that a duplex would fit in more with the surrounding neighborhood. Acting Chairman Prevratil stated, as someone who grew up in rental properties, he knows it should be important to the owner of the property that they rent to

someone who respect the property so the rent rates will not go down and lower their value.

Mr. Michael Carter, owner of Fiden's Brewing Company at 10 Walker Way, asked what the price range for the rentals would be, with Mr. DeLucia stating it would be a higher-end apartment.

Mr. Gariepy stated that he lives next to already existing duplex and there is constant noise and crowded parties. Mr. Larabee asked if Mr. Gariepy has ever reported this to Code Enforcement or the Colonie Police, with Mr. Gariepy stating no, that he doesn't believe that will solve the problem.

Ms. Diane Welter of 1 Peter Drive stated her concern for the parking situation, noting that there are only 5 proposed parking spaces and if the future tenants have company over they would be parking on Peter Drive. Mr. DeLucia stated the proposal exceeds the code requirement of 4 parking spaces, noting there are 5 proposed parking spaces.

Commissioner Minissale asked the applicant if the builder would be open to a single-family residence as opposed to the duplex currently being presented. Mr. DeLucia stated that a single-family home was considered, however the value could not be met with a single-family home. Mr. DeLucia stated that this current proposal is the final proposal with approval from the DEC contingent on the proper variances from the Zoning Board of Appeals and necessary approvals from the Planning Commission.

Mr. DeLucia stated that the proposed design cannot be changed. Mr. DeLucia stated that one of the original designs had the building sitting farther back from the road to give the property more frontage, however the DEC denied that proposal due to the building's proximity towards the wetlands. The owner of the land, Mr. Mark Sgambelluri, stated that when his father bought the property back in the 1970's, the original plan was to develop the entire lot and have 10-12 full sized homes on the lot. Mr. Sgambelluri stated that other projects took priority over this particular lot, and the DEC changed their laws in regard to wetlands about 10 years ago, so the proposal if the duplex is all that is left to develop on the property with some kind of financial return.

Acting Chairman Prevratil acknowledged the audience's concerns for rental properties but shared that he himself grew up in rental properties with his mother and was grateful that the neighborhood was welcoming of them. Acting Chairman Prevratil encouraged the audience to research Mr. Frank Poleto and the properties that he owns and to see for themselves what kind of rental properties he runs.

Acting Chairman Prevratil stated that the Zoning Board of Appeals would not be rendering a decision tonight, as there are only three members of the Board present. Acting Chairman Prevratil stated they would be closing the public hearing after hearing the testimony of the applicant as well as the audience, and have 60 days to render a written decision. Acting Chairman Prevratil also encouraged those concerned about the traffic

on Sand Creek Road to attend the Traffic Committee meeting next Thursday and voice their concerns.

Ms. Welter stated that there is currently a duplex on Sand Creek Road that has numerous unregistered vehicles on the property. Ms. Syndennis agreed and stated she did not understand why Code Enforcement was not doing anything about the vehicles. Commissioner Minissale asked Ms. Syndennis if she has called Code Enforcement about them, with Ms. Syndennis stating that she felt she didn't need to, that Code Enforcement should see them as they drive by. At this time, Code Enforcement Officer Mike Cerone addressed Ms. Syndennis saying that his department is currently dealing with 45-50 complaints a month and there is a process to remove unregistered vehicles, which can take 30 days or more and could possibly involve litigation. Mr. Cerone explained that the Village of Colonie does not have the legal authority to tow vehicles off people's property. Mr. Cerone also addressed the audience and stated the Code Enforcement Department handles more complaints from single-family and owner-occupied homes than they do rental properties.

Commissioner Minissale made a motion to close the public hearing. Commissioner Larabee seconded the motion.

VOTE: All in favor to close the public hearing.

APPLICANT:

**FIDEN'S BREWING COMPANY
10 WALKER WAY
(Area Variance)**

Mr. Michael Carter appeared before the Zoning Board of Appeals to request a modification to his previously granted variance. Mr. Carter stated about a year ago, Fiden's Brewing Company obtained a variance to sell growlers of beer as well as serve samples of beer for patrons to enjoy in their standing room with the operating hours of Fridays and Saturdays from 4:00PM-9:00PM with Thursdays if need be.

Mr. Carter stated that since then the business has taken off and he is requesting to add barstools to the floor plan, as requested from his clientele. Mr. Carter stated he is also requesting additional business hours should the business demand it. Mr. Carter wished to add Sunday from 11:00AM-5:00PM, and Monday, Tuesday, and Wednesday from 4:00PM-8:00PM.

Commissioner Minissale made a motion to approve modification to the previously approved variance. Commissioner Larabee seconded the motion.

VOTE: All in favor of the motion.

Commissioner Minissale made a motion to adjourn the meeting at 8:05PM. Commissioner Larabee seconded the motion.

VOTE: All in favor to adjourn the meeting.

Respectfully submitted,

Julianne Okun
Zoning Board of Appeals Coordinator