

Hearing of the Town of Pawlet Development Review Board

August 30th, 2018

Members in Attendance:

Keith Mason, chair

James Glick

Gary Baierlein

Sarah Ludlam (alternate, acting as clerk)

Others in Attendance:

Richard Cleveland

Hal Wilkins

Tom Ayers

Hearing called to order at 7:05pm by Mr. Mason. Introduction of new Pawlet Zoning Administrator, Hal Wilkins, who will be playing a larger role aiding the DRB in preparing for upcoming hearings by warning meetings, providing a packet to each DRB member including the application, pertinent laws, letters from neighboring properties, maps, etc. The next hearing will be September 27th and Mr Wilkins will provide documentation for that hearing.

Mr. Mason asked the applicant Richard Cleveland to present his variance application. Mr. Cleveland is asking to build a new garage 9' closer to the road than the current setback. The garage will be 14'x24' with a lean-to added on eventually. If the setback is decreased by 9', the garage will be in line with the current front of the house (main structure, not a porch which sits even further within the road setback). House already sits within 9' of the setback of the state highway or 31', instead of the 40' currently required.

Discussion of the board whether the DRB can determine a zoning variance for a state highway. The Board determined they can address this Variance request based on the town's Unified Bylaws. Whether or not the applicant is in compliance with state setback requirements cannot be determined by this board.

Mr. Cleveland continued that the property has existing conditions that make it extremely difficult to build farther back- there is a severe drop off behind the house and ledge. The Board reviewed an arial image of the property to determine the proposed location of the garage. They viewed the drop off behind the proposed garage site, and discussed the significant added expense to move the garage further back. Already, significant fill work has been done to enable the applicant to build the garage as far back as the current house, or 9' within the road setback. Mr. Cleveland stated that the proposal will not alter the essential character of the neighborhood because the new garage will be in line with the existing non-conforming house. Mr. Baierlein asked Mr. Cleveland if the garage plan is in character with the house style-wise, and is not a large metal or otherwise unattractive structure. Mr. Cleveland stated that it was and would be a Jamaica Cottage Shop structure. The board discussed that this site plan would allow for continued emergency service access.

Mr. Mason asked if this is a situation where the zoning administrator could grant a waiver. Mr.

Wilkins suggested that this might be over the percentage of dimensional requirement allowed for a Zoning Administrator to grant a variance. He noted that there are no neighbors present to provide feedback or request party status. Mr. Cleveland stated he has spoken to the neighbors and all are on board with his structure plan.

Mr. Mason stated that if a request presents no negative impacts to the town or neighbors, then he would prefer to allow townspeople to improve their properties in the way that they are able to. In this case, Mr. Mason sees no negative impacts from the plan, especially new negative impacts since the existing house already sits 9' within the setback.

Mr. Glick asked if this is the only place to put the garage. The applicant stated that any other location would be cost prohibitive. Mr. Baierlein asked if the garage can be attached to the house to minimize the impact. The applicant stated that it would increase the project budget too much.

Mr. Baierlein suggested the applicant discuss this with a state representative before he begins construction to ensure there are no issues with the state, since the property is on a state highway. The board discussed other circumstances of town properties suffering requests by the state to move structures, trees, dinosaur signs, etc from within the state highway right of way.

The Board reviewed Mr. Cleveland's variance application according to the five criteria to grant a variance, as set forth by the Unified Bylaws in Article IX, Section 9:

- Number 1: unique physical circumstances peculiar to the particular property have created the unnecessary hardship. In this case the topography of the lot limits viable locations outside this setback for the structure.
- Number 2: this variance is necessary to enable reasonable use of the property, because the existing structure is already non-conforming, this property cannot be developed in strict conformance with the bylaws.
- Number 3: the unnecessary hardship has not been created by the appellant, it is due to the adverse topography of the lot. The applicant has attempted to minimize the encroachment on the setback by adding fill where possible.
- Number 4: the variance will not alter the essential character of the neighborhood or be detrimental to the public welfare because the structure maintains the setback already created by the original house and will be constructed in a similar character visually to the existing house.
- Number 5: the variance offers the minimum that will afford relief and provide the least modifications possible of the unified bylaws. This variance requests dimensional amendment on only one plane.

Based on those five criteria, Mr. Baierlein moves to grant this variance, conditional on the applicant providing a site plan drawing and visual representation of the structure delivered to the Town Hall within one week of this hearing. Additionally Keith Mason will confirm that the applicant's section of Route 133 is a three rod road and not a four rod road right of way. Motion seconded by Mr. Glick. Voted and carried unanimously.

Hearing adjourned at 8:06pm.

Respectfully Submitted, Sarah Ludlam