

## ZONING BOARD OF APPEALS MINUTES

December 2, 2009

4:00 p.m.

Present: Michelle McIntyre, Chairman  
Thomas Danielson  
Douglas Hooper

Joel H. Seachrist, Esq.  
Robert Whitman  
Richard Nygren

A public hearing before the Zoning Board of Appeals of the Town of Busti was held on Wednesday, December 2, 2009 at 4:00 p.m. at the Town of Busti Administration Building, 121 Chautauqua Avenue, Lakewood, New York, to consider the following application:

Revisiting the application of Paul R. Mather, which was tabled at the previous October 28, 2009 meeting, and again at the previous November 18, 2009 meeting; 1062 North Center Street, Corry, Pennsylvania, for variances to build a 19' by 26' garage; an 8' by 19' living space addition to residential dwelling; and a 16' by 19' porch on property owned by Mr. and Mrs. Rick and Helen Willman. (These dimensions are different than those previously submitted.) Property is located at 2450 Lakeside Drive, Ashville, New York, and is in the Multi-Residential District. Property is known as Section 367.20, Block 4, Lot 27 of the official tax map of the Town of Busti.

Paul Mather came forward with a new set of plans based on the prior meeting, which reduces the interior living space addition proposal, but increases the size of the proposed porch, so as to keep the overall dimensions the same. Mr. Mather also offers to change the proposed pitch of the garage roof and the same is discussed, including measurements from property lines. It is determined that the garage height must be no more than 28 feet.

The living room addition issue is raised and it is confirmed that said addition would be 3 feet from both east and west property lines. Mr. Mather does not agree that 47% loss of view would be sustained by Mr. Bruce Johnson, neighbor to the east. A brief description of the construction and materials of proposed porch is submitted. The porch is not to be higher than 2 feet from the ground, with no railing.

Bruce Johnson approaches the board and deliberates on measurements and on the right of way at the road. Zoning regulations are discussed, as well as the "footprint" concern of Mr. Johnson. The fact that granting the variances would be deemed an improvement is addressed by Mr. Willman with respect to the neighboring homes and their similar dimensions.

It is suggested by attorney Seachrist to plot out the variances for clarity. Front yard requirement is 30 feet, which is being requested, so no variance is necessary. Rear yard requirement is 50 feet, and 20 feet is proposed, so a 30 foot variance is requested. The road easement is taken into account with respect to Mr. Johnson's submission that there is only 10 feet. Attorney Seachrist states that the actual edge of the road is used in zoning matters by the ZBA, not the right of way. The side yard regulation is 15' on each side, with 13'9" variance requested. The coverage is 52% including the porch. The limitation is 25%, proposed is 52%, so a 27% variance is requested. Lot width requirement is 125', so variance requested is 100', since Mr. Mather only has the standard 25'. Lot area regulations are 30,000 square feet, variance requested is 26,775'.

The Board reviewed the balancing test for the variances and determined that the benefit to the applicant outweighs any detriment to the neighborhood. Attorney Seachrist alleges that there would be an improvement to the structure aesthetically in relation to the nature of properties already existing in neighborhood; therefore the change cannot be characterized as undesirable. He also states that, however, there is something of a detriment as there is a visual impact to some degree on Mr. Johnson to the east, but the Board must deem the same to be substantial. Attorney Seachrist suggests that the actual variance being granted is read in with the conditions. Robert Whitman made a motion for a variance to build a 19' by 26' garage, with a roofline no higher than 28' and

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to be a minimum of 20' from the road pavement, which would be a 30' rear-yard variance; a 3' minimum to both west and east sides; a 8' by 19' living room addition to the north side of the property, with a 3' minimum to the property line on both sides; and a 16' by 19' covered porch, which is to be 3' from either side of property line. There is to be no enclosure on the porch and it should be constructed low enough so that no railings are required. The porch is to have the same roofline as the existing house. There will also be variances for the total lot coverage of 27% and the total lot area of 26,775'. A lot width variance of 100' is requested. Mr. Mather is to address drainage on both sides. Attorney Seachrist points out that all dimensions as stated are based on the map and the applicant will be bound to the map that was submitted to the Town Clerk on Nov. 23, 2009. All aye.

Upon motion made by Michelle McIntyre, the meeting was adjourned at 4:30 p.m.

Respectfully given,

Dena Hirliman  
Deputy Town Clerk