

Planning Board Meeting

December 4, 2019 Minutes

Chairman Kozakiewicz called the meeting to order at 7:00pm.

Roll call:

Al Kozakiewicz — present

Fred Franko — present

Kim Hart — present

Mike Voght — absent

Peter Kiernan — present

Lynne Delesky — present

Rick Gilmour — present

Members of the public in attendance: John Delesky, Nicholas J. Maio, Jr., and Christina M. LaBello.

Rick Gilmour moved to accept the minutes of October 3, 2019 as presented and published. Al Kozakiewicz seconded the motion. All were in favor.

Application P2019-06.

Owners: Nicholas J. Maio, Jr. and Christina M. LaBello, 3 Melody Lane, Schenectady NY 12309, of the property located at: 724 South Shore Road, East Caroga Lake in the Town of Caroga and identified as parcel [SBL#83.13-5-29](#), in Zoning District LF-2.5, for a Special Use Permit as per the Town of Caroga [Zoning Ordinance](#)

Owner Desires to: build an accessory structure. The property owner has already placed a 12 foot by 20 foot shed on this

property. This was done prior to obtaining a building permit or a Special Use Permit.

Special Use Permit required under [Article 4, Subsection II, Paragraph C](#): Accessory structure allowed by Special Use Permit.

Nicholas J. Maio, Jr. said they wanted to build a storage shed and went about it the wrong way. They are trying to rectify it. That's why they are here.

Al Kozakiewicz said there were two pieces of correspondence from neighbors. Both neighbors were supportive of the applicants. Donald and Cheryl Croulet sent a letter in support to the Secretary. Ray F. and Lynn M. Stevens sent a letter of support to the Secretary.

Peter Kiernan asked the applicants if anyone had objected to the shed.

Christina M. LaBello said no.

Fred Franko asked what the setback requirement was on the side.

The board reviewed the Zoning Ordinance.

Al Kozakiewicz asked who wrote the handwritten notes on the drawing.

Nicholas J. Maio, Jr. said he wrote the notes on the survey by Charles Ackerbauer. He was told by Code Enforcement Officer John Duesler that the setback was 14 feet.

The secretary reminded the board that setbacks are reduced by one third on grandfathered lots under our current Zoning Ordinance.

Al Kozakiewicz agreed.

Fred Franko asked again if it complied with the setbacks.

Al Kozakiewicz said yes.

Al Kozakiewicz asked if the woodshed and tool shed are preexisting structures.

Nicholas J. Maio, Jr. said yes.

Rick Gilmour asked what the usage would be: just outside furniture, tools, etc., because he had spoken with Code Enforcement Officer John Duesler today and John Duesler said it was set up like a bedroom.

Nicholas J. Maio, Jr. said it was originally planned for sleeping use, but they have corrected the use. He said that they will only use it for storage.

Rick Gilmour asked if the Planning Board grants this, there won't be anybody sleeping there.

Nicholas J. Maio, Jr. said correct.

Rick Gilmour said installing the shed before getting a permit is not a big seller for the Planning Board. This gave him a bad taste in his mouth.

Peter Kiernan asked when it was built.

Nicholas J. Maio, Jr. said this past summer.

Al Kozakiewicz said he wanted to make a point. The Planning Board the application can not be denied based on the noncompliance with getting a building permit. The Planning Board has to evaluate the application based on the merits of the application and nothing more. The town may take administrative

action if they are able to do so. Nevertheless, it is not up to the Planning Board.

Kim Hart said that we don't approve it because it is already there.

Al Kozakiewicz agreed and said the Planning Board would go through the process for approving it based on what is in the ordinance.

Al Kozakiewicz asked if there were any more questions or should he step through the process.

Fred Franko asked how close is the new shed to the existing buildings.

Nicholas J. Maio, Jr. said it was six inches shy of ten feet between the medium-sized shed and the big shed. He would remedy that.

Fred Franko asked if these structures were on permanent foundations.

Nicholas J. Maio, Jr. said no.

Peter Kiernan surmised that they would be easy to move.

Nicholas J. Maio, Jr. said yes.

Al Kozakiewicz said his opinion was that the other two buildings are older and are grandfathered. You are not required to move them. Nevertheless, the new shed would have to meet the distance requirement.

Al Kozakiewicz asked if there were any more questions.

There were no more questions.

Al Kozakiewicz said here are the criteria:

1. Conformance with Comprehensive Plan:

- a. The use shall be in harmony with and promote the goals and objectives of the Town's current Comprehensive Plan, shall be in compliance with this Article and shall promote the health, welfare and safety of the public.

Al Kozakiewicz said he did not think it does anything to not promote the health, welfare and safety of the public.

2. Compatibility:

- a. The proposed use shall be compatible with the character of neighborhood, the area, the zoning district and the community surrounding the location of the proposed use and will not unduly prohibit or discourage future planned growth in the area.

3. Access, Circulation and Parking:

- a. The proposed use shall have safe and efficient access for pedestrians and vehicles, shall provide for appropriate off-road parking and loading areas.
- b. The interior circulation system shall be adequate to provide safe accessibility to all parking spaces and that adequate and safe integration of pedestrian and vehicular movement is provided.

Al Kozakiewicz said this was not applicable.

4. Infrastructure and Services:

- a. There shall be sufficient infrastructure and services, including utilities, public facilities and services, available for the proposed use or that the project extends or provides infrastructure and services for the area where the proposed use is located.

Al Kozakiewicz said this was not applicable

- b. There shall also be facilities and services implemented by the applicant to appropriately control any potential nuisances from the operation of the use such as control of litter or trash, loitering and crime prevention, and any other features or aspects of the operation of the proposed use that may affect the public safety, health and general welfare.

Al Kozakiewicz said this was not applicable.

5. Environment and Natural Features:

- a. The proposed use shall be compatible with, and appropriately protect environmental and natural resources, including the environmental and physical suitability of the site for development and the general landscaping, screening and buffering shall be in character with the surrounding areas, and the risk of fire, flood or erosion and impacts such as emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and welfare shall be minimized to the maximum extent practicable.

Al Kozakiewicz said this paragraph does apply.

6. Long-Term Effects:

- a. The proposed use shall provide positive or beneficial effects on the long-term economic stability, environmental integrity and community character of the town and surrounding properties, districts and uses.

Al Kozakiewicz said this does not apply.

7. Compliance with Supplementary Regulations:

- a. The proposed use shall be compliant with any applicable Special Use Permit criteria or Supplementary Regulations established in Article 5.
- b. any other conditions applicable to achieve the purposes.

Al Kozakiewicz looked and did not see any that applied to this, but he will look again before the meeting is finished.

8. For Class B regional projects the Planning Board must also consider the Development Considerations contained in Section 805(4) of the APA Act.

Al Kozakiewicz said this is not Class B.

B. In granting a Special Use Permit, the Planning Board may impose conditions that it considers necessary to protect the health, safety and welfare of the Town and to achieve the purposes contained in this Article and the Town's Comprehensive Plan. Conditions may include:

1. Increasing dimensional or area requirements.

Al Kozakiewicz said we already discussed that with regard to the ten-foot spacing.

2. Specifying location, character and number of vehicle access points.

Al Kozakiewicz said we don't care about that.

3. Requiring landscaping, planting and screening.

Al Kozakiewicz said we might consider that.

4. Requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space.

Al Kozakiewicz said this was not applicable.

5. Requiring the protection of open space of conservation value using conservation easements.

Al Kozakiewicz said it does not apply to this sort of project.

6. Requiring action by the applicant (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.

Al Kozakiewicz said this might mean requiring a performance bond.

7. Any other condition to protect the public health, safety and welfare and to achieve the purposes of this Article and the Town's Comprehensive Plan.

Al Kozakiewicz said that's pretty much it as far as things to consider.

Peter Kiernan asked if it is stained or painted yet?

Christina M. LaBello said it was not painted yet. They bought it from Chester Yoder, who said not to paint it until the spring.

Peter Kiernan agreed that it should dry out a little.

Kim Hart asked Al Kozakiewicz if they would still have required Planning Board action.

Al Kozakiewicz said yes, the Code Officer would still have denied, but the Special Use Permit would still have been required. There is more discretion with a Special Use Permit.

Lynne Delesky asked the board about the limit on the number of accessory structures and about the existing structures and their impact on this shed.

Al Kozakiewicz quoted from the Zoning Ordinance:

More than two (2) residential accessory structures of at least 200 square feet per structure on a single lot shall require a Site Plan Approval.

Al Kozakiewicz said this is not a residential structure.

Kim Hart restated her question about the total number of accessory structures.

The board discussed the meaning of the limit on accessory structures.

Peter Kiernan asked if it would have passed for a building permit.

Al Kozakiewicz talked about the criteria, including whether it is in keeping with the Comprehensive Plan and whether it is in keeping

with the character of the neighborhood. Those are subjective criteria.

Al Kozakiewicz asked either for further discussion or for a motion to accept the application.

Fred Franko moved to accept the application and add the stipulation that any further adjustments of the distances between the buildings, per the building inspector, be part of the motion.

Al Kozakiewicz said he didn't have any objection to the stipulation, but all the Board is doing is granting a Special Use Permit. That's a prerequisite for the Code Enforcement Officer in issuing a building permit. That building permit would be subject to the existing Zoning Ordinance and any other terms that are part of the building code. The Code Enforcement Officer is going to enforce that, as part of the building permit. He doesn't think it makes a difference one way or the other.

Fred Franko said he was fine with it either way.

Fred Franko asked the board what should be done to prevent building without a permit from happening again.

Al Kozakiewicz said it was on the town website TownOfCaroga.com, which says basically you need a permit for virtually everything except painting.

The secretary (who is also the webmaster) concurred that it says this on the Code Office page.

Peter Kiernan said it was also in the annual town flyer.

Lynne Delesky seconded the motion.

Roll call vote:

Al Kozakiewicz: Yes

Fred Franko: Yes

Kim Hart: Yes

Peter Kiernan: Yes

Lynne Delesky: Yes

Rick Gilmour: Yes.

Al Kozakiewicz said the motion carries.

Al Kozakiewicz will call Robyn Burgess to ascertain whether this requires an APA referral.

Al Kozakiewicz broached the topic of the Dollar General and Bohler Engineering application with the APA.

The board discussed the status of the Bohler Engineering application.

Al Kozakiewicz moved to adjourn. Rick Gilmour seconded the motion. All were in favor.

The meeting adjourned at 7:38pm.