

# **Zoning Board of Appeals October 27, 2020 Minutes**

Chair Douglas Purcell opened the public hearing at 7:10pm.

Members of the public in attendance: Matt Cooper

Chair Douglas Purcell announced that the meeting would be recorded. He said the meeting is being conducted as a teleconference in compliance with New York Governor Andrew Cuomo's Executive Order of March 12, 2020, Number 202.1 and extended through November 3 with 202.67.

Chair Douglas Purcell asked for a roll call.

Chair Douglas Purcell: Present.

Frank Malagisi: Present.

Kathleen Ellerby: Present.

John Byrnes: Present.

Kenneth Coirin: Present.

Quorum was established.

Chair Douglas Purcell said: For the ease of publishing minutes for tonight's meeting, this session will be recorded.

Chair Douglas Purcell said the meeting minutes of September 3, 2020 were published to the web previously. He asked if there were changes or correction to the minutes from that meeting. Hearing none, he asked for a motion to approve the minutes.

Kathleen Ellerby moved to approve the September 3, 2020 minutes. John Byrnes seconded the motion. All were in favor. None were opposed.

Kenneth Coirin recused himself from application Z2020-08, as he is the applicant.

Application Number [Z2020-08](#) by Kenneth P. Coirin, PO Box 316, Caroga Lake NY 12032, is for the property located at 145 Scott Road and identified as parcel [83.15-1-1](#) in Caroga LFA zoning district, APA Hamlet district.

The property owner proposes to build a 16 foot by 24 foot (384 square foot) garage on the front side of said property. [Article 4, Section I, Subsection B; District Regulations](#). The allowed Front Yard Setback for this property is 25 feet. Proposed setback is 14 feet: therefore a 11 foot variance is being requested.

Chair Douglas Purcell said we have one application before the board tonight. He said this will be two-part hearing for the application; a public and a closed. He said we will first hear from the applicant and we will entertain comments from the public and hear any correspondence. He asked those speaking to address all comments to the board. He said during this time, the board will refrain from questions or comments as this will be done in closed session. He said once all parties have had an opportunity to speak, the Board will go into closed session.

Chair Douglas Purcell said at this time we will hear Application Z2020-08, by Ken Coirin for the property located at 145 Scott Road and identified as parcel 83.15-1-1. He said the property owner proposes to build a 16 by 24 garage on the front of said property. He said the front yard setback is at issue. He said, as per the Denial Notice for this application, the required front yard

setback for this parcel is 25 feet and the applicant proposes to build the garage 14 feet from the road, requesting relief of 11 feet. He said he wanted to make a correction: He looked up the definition of a non-complying lot in the ordinance:

A lot lawfully in place prior to the adoption of the updated Town of Caroga Zoning Ordinance on 1/1/19 or any amendments which does not comply with the area, space, frontage, location or other provisions of the Zoning District in which the lot is located.

Chair Douglas Purcell noted that the lot size in LFA is 25,000 square feet minimum and the lot size of this lot is 17,675 square feet, the subject property is a noncomplying lot. He read from the Zoning Ordinance, in accordance with [Article 9, section VI\(A\)](#):

If a lot of record, duly existing prior to the adoption of this Ordinance or any applicable amendment thereto, fails to meet applicable density, set back or lot size standards as set forth herein, the lot may be developed with any allowable use listed for the zoning district in which such noncomplying lot is located provided that such lot has sufficient width, depth, and area to undertake development that will meet at least two-thirds (2/3) of the current minimum yard setbacks, and other dimensional requirements.

Chair Douglas Purcell concluded that the the minimum setback requirements would be 2/3 of the allowable normal setback requirements, or 16 feet 8 inches. He said therefore the requested relief is not 11 feet as noted in the Denial Notice. He said it was

actually 2 feet 8 inches. He then asked the applicant to describe the project and the reason for the requested variance.

Kenneth Coirin said he wishes to construct a garage 16 foot by 24 foot to store vehicles, snow removal equipment, snow blowers, lawn mowers, gardening equipment, shovels, and wheel barrels. He said they are presently stored outside under tarps. He wants to get them under cover. He needs the garage for winter storage to protect the pieces of equipment he owns. He claimed he met all the other requirements except the front setback.

Chair Douglas Purcell asked for the justification for the variance.

Kenneth Coirin said he doesn't have room to move it any further away from the edge of the road. He said that to move it further back would mean the removal of several large trees.

Chair Douglas Purcell asked the secretary if there was any correspondence.

Secretary James McMartin Long said there was no correspondence.

Chair Douglas Purcell recognized audience member Matt Cooper.

Matt Cooper stated that there is enough room, but the trees are the issue.

Kenneth Coirin said, yes, the trees are the issue and if he gets any further into the lot, there is a septic distribution tank that he wants to avoid.

Matt Cooper said he did not see that in the application.

Kenneth Coirin conceded that he neglected to put that in his application.

Matt Cooper said he sees a lot of people cut trees down. He asserted trees grow back and can be replanted and landscape can be done to meet the setback. He wondered why Kenneth Coirin was not just cutting the trees and adjusting the property. He observed that there is 68 feet between the house and the proposed site and that was quite a bit of space.

Kenneth Coirin agree there is quite a bit of space, but his proposal is over 13 feet from the road and the Highway Superintendent does not have an issue with this location. He said the Superintendent feels there is plenty of room for snow from the plowing without creating any problems at all.

Matt Cooper said he was just asking the question and that he was not the Highway Superintendent. He said he was “looking at what the face value of what things are and looking at what the setback is and the management of the property that you have”.

Kenneth Coirin said right, he would prefer not to cut the trees, if at all possible.

Chair Douglas Purcell asked if Matt Cooper had any other issues or concerns. He claimed the ZBA would be making choices on zoning versus personal preference for trees.

Matt Cooper said no, but reiterated his point that trees are trees. He said everyone has to make choices. Separately, in a chat message to Chair Douglas Purcell, Matt Cooper reiterated that with its decision, the ZBA was setting a precedent for granting variances to avoid cutting trees.

Chair Douglas Purcell said “we hear you” and asked if there was anything else.

Matt Cooper said no, that was it.

Chair Douglas Purcell said at this time the Board would go into closed session to discuss the application.

The ZBA went into closed session at 7:19pm.

Frank Malagisi asked about a circle on the diagram.

Kenneth Coirin said he didn’t draw it: It was not on his original diagram.

Kenneth Coirin said it must be the tree. It was a tree appears to have been added later.

Frank Malagisi had no further questions.

Kathleen Ellerby said that was her question as well. She had no further questions.

John Byrnes had no questions.

Chair Douglas Purcell asked about where the septic is located.

Kenneth Coirin said about 30 feet from the house.

Chair Douglas Purcell reconfirmed, about halfway.

Kenneth Coirin said “approximately”.

Chair Douglas Purcell asked about two yellow stakes.

Kenneth Coirin said two stakes he observed had one further back.

Kenneth Coirin said one 15 feet back and the other is 16 feet further back. He said the 24 foot runs parallel to the road.

Chair Douglas Purcell said he could easily go back further or was he worried about root system?

Kenneth Coirin said, yes, and running a line between the two stakes closest to the house, he would end up a foot and a half from the large tree. He is concerned about the root systems.

Chair Douglas Purcell said the diagram shows the road as 18 feet 6 inches wide. He had double-checked that and came up with about the same width. He said that would make the proposed setback from the centerline of the road to be 23 feet 3 inches. He concluded that would make the encroachment from the centerline of the road to be 1 foot 9 inch. He said that in accordance with [Zoning Ordinance Article 11, section III\(B\)\(9\)\(a\)](#), he solicited input from Town of Caroga Highway Superintendent. He said Highway Superintendent Larry Voght inspected the site on October 20th and indicated that he did not foresee a problem with the proposal either.

Chair Douglas Purcell asked if any Board member had any further questions or concerns.

Kathleen Ellerby asked if the 16 foot side was the entrance.

Kenneth Coirin said yes.

Kathleen Ellerby said so shrinking it down would not help.

Kenneth Coirin agreed.

Chair Douglas Purcell asked if there was anything else.

There were not more questions.

Chair Douglas Purcell said the Board needed to do a SEQR determination. He said based on his review, the SEQR determination would fall into a Type II action, 617.5(c)(9) as it is a construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls.

Chair Douglas Purcell said there being no additional questions or comments and with a no significant adverse determination for the SEQR review, the Board will review the criteria for an area variance. He read from the Zoning Ordinance.

In making its determination, on an area variance application the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the ZBA shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

Frank Malagisi said no.

Kathleen Ellerby said no.



John Byrnes said no.

Chair Douglas Purcell said no.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

Frank Malagisi said no.

Kathleen Ellerby said no.

John Byrnes said no.

Chair Douglas Purcell said yes, he could push it back, but he understood not wanting to take the trees out.

3. Whether the requested area variance is substantial;

Frank Malagisi said no.

Kathleen Ellerby said no.

John Byrnes said no.

Chair Douglas Purcell said no, particularly when one considers the applicant gets a relief of 1/3 so that it is now down to under 2 foot 8 inches.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

Frank Malagisi said no.

Kathleen Ellerby said no.

John Byrnes said no.

Chair Douglas Purcell said no.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

Frank Malagisi said no.

Kathleen Ellerby said no.

John Byrnes said no.

Chair Douglas Purcell said no.

Chair Douglas Purcell quoted from the Zoning Ordinance:

The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Chair Douglas Purcell said he would entertain a motion.

Frank Malagisi made the motion to grant the variance. Kathleen Ellerby seconded the motion.

Chair Douglas Purcell asked for a roll call vote and reminded the Board that a yes vote grants the variance and a no vote denies the variance.

Roll call vote:

Chair Douglas Purcell: yes.

Frank Malagisi: yes.

Kathleen Ellerby: yes.

John Byrnes: yes.

Chair Douglas Purcell said the ZBA has granted the variance and as this property is in the land use district of Hamlet for the Adirondack Park Agency, there is no need to refer the decision of the ZBA to the Adirondack Park Agency. He continued by saying once the decision notice is communicated to the Code Enforcement Office, the building plans can be reviewed and a determination made about whether to issue a building permit.

Chair Douglas Purcell asked if there was any other business to be brought before the board.

There was none.

Chair Douglas Purcell requested a motion to adjourn.

Kathleen Ellerby moved to adjourn. John Byrnes seconded the motion. All were in favor.

The meeting adjourned at 7:32pm.

Respectfully submitted  
James McMartin Long

Town of Caroga Town Board Member,  
Zoning Board of Appeals Clerk/Secretary