

Zoning Board of Appeals March 30, 2021 Minutes

Chair Douglas Purcell opened the public hearing at 7:05pm.

Members of the public in attendance: Brian O'Connor, Mark Candela, Thomas and Joan Eckler, Tony Sturchio, Jim Stewart, and two unidentified attendees.

Chair Douglas Purcell announced that the meeting would be recorded. He said the meeting is being conducted as a teleconference in compliance with NY Governor Andrew Cuomo's Executive Orders 202.1 and 202.15, and extended through April 16, 2021 with Executive Order 202.97.

Chair Douglas Purcell asked for a roll call.

Chair Douglas Purcell: Present.

Frank Malagisi: Absent.

Kathleen Ellerby: Present.

John Byrnes: Present.

Kenneth Coirin: Present.

Quorum was established.

Chair Douglas Purcell said the meeting minutes of October 27, 2020 were published to the web previously. He asked if there were changes or correction to the minutes from that meeting. Hearing none, he moved to waive the reading of the minutes and to approve the October 27, 2020 minutes as published. Kenneth

Coirin seconded the motion. All were in favor. None were opposed.

Chair Douglas Purcell said we have two applications before the board tonight. These will be two-part hearings for each application; a public and a closed. We will first hear from the applicant and we will entertain comments from the public and hear any correspondence. I would ask those speaking to address all comments to the board. During this time, the board will refrain from questions or comments as this will be done in closed session. Once all parties have had an opportunity to speak, we will go into closed session. We will review the applications to be heard in the order received. At this time, we will hear Application [Z2021-01](#), by Mark Candela for the property located at 109 Channel Road and identified as parcel [53.17-3-2](#). The property owner proposes to build a 24 foot by 29 foot detached garage with a 10 foot carport on the gable wall facing north. The side yard setback is at issue. The denial notice associated with this application stated the required side yard setback for this parcel is 13 feet 4 inches and the applicant proposes to build the garage at 3 feet from the side yard, requesting relief of 10 feet 4 inches. Mark [Candela, the applicant], I see that you are with us so I would ask you to describe to the board the project and justification for the requested variance.

Mark Candela indicated original proposal was for a 24 foot by 29 foot garage with a 10 foot carport. He based that based on the way the property lays out, where his leach field is on the other side. He had the civil engineer come out who originally did the site plan along with his architect. It was decided that it was best to go with west side of property. He has three collectible cars he wants to put in an enclosed facility. He wants a structure with a 12 foot ceiling height to stack two cars on one side and one on the other. He as

three cars in other peoples' storage facilities. He sold his home in Long Island in December.

Chair Douglas Purcell asked if there was anyone in the audience who wanted to speak concerning this application.

Thomas Eckler spoke. He owns the property next door that would be infringed upon by the massive garage. The well is right next to the property line. The building will trample his well. It will flood the well and destroy the well.

Chair Douglas Purcell said the ZBA also has their letter which he intends to have read into the record. He asked if there was anyone else who wanted to speak. He gave Tony Sturchio the floor.

Tony Sturchio tried to speak but had technical problems with his microphone.

Chair Douglas Purcell asked the clerk if the letter from Thomas and Joan Eckler was readily available.

Clerk said yes.

Chair Douglas Purcell asked the clerk to read the letter in case Mr. Candela had not seen the letter.

The clerk read the letter from Thomas and Joan Eckler:

Sent: Thursday, March 25, 2021 4:57 PM
To: Jennifer Blowers
Subject: Candela proposed building

To the Town of Caroga

We (Thomas and Joan Eckler) have recently been informed of our neighbor Mark Candela's plans to build a garage 3' from our property line. We strenuously object for a number of reasons.

His property and ours were originally one parcel with our home being the primary structure on the property. The lot was later subdivided into two parcels, with our home being on one parcel, and a vacant lot being the other parcel. Mark purchased the vacant lot and built a home. Because of this our existing well is close to the property line.

The building that Mark is proposing will end up being quite close to our well. We are concerned about run-off from his roof (snow and rain), which will obviously be sloughed directly onto our property, affecting not only our well, but the integrity of our property.

Also, the 'garage' that he is proposing is so large as to be the equivalent of a two story house with an additional carport on the end. The entire length, 39', of the building would be along our property line. With a 25' setback from the road, it would put the end of the building 63' feet into his property (again, along our property line). Our driveway comes in from County Hwy 111, facing his property, so every time we drive in our driveway we will be facing the back of a massive building, less than 3' from our property. That is not acceptable. We live in the Adirondacks because we value our privacy and our space. A huge building in our faces every time we walk out of our house is not our idea of privacy and space. We are also wondering what he intends to do with all of that space: does he plan to open a business restoring cars? Again, not acceptable.

Mark mentioned that we have a garage on our property. That is true. It meets all setback requirements and is a normal 1 1/2 car garage. It is not 29' long by 24' wide by 19' 8" high (the height of a 2 story building) with a 10' carport on the end. Also the building has an 8" overhang putting it even closer to our property, not to mention that the 3' clearance starts at the wall of the building which means that the footer would be much closer. Again, not acceptable. Also, we noticed that the site map that we were provided does not appear to be accurate. Perhaps it should be reviewed.

We would have to assume that in order to build this massive building, trees and vegetation on our side of the property line would have to be removed to make clearance for them to build. Definitely not going to happen.

The most logical thing for Mark to do would be to follow in the footsteps of other people on the lake that have the same space problem as Mark. They purchased vacant land nearby and built their garages there.

In closing, we have lived in the town of Caroga for 30 years and have enjoyed our privacy and space, and the laid back way of life afforded here. We want to stress that this massive building on our property line will be a major encroachment on our privacy and that way of life that we love and will have a negative effect on the integrity of our well and our property.

Chair Douglas Purcell asked if the applicant wanted to respond to the letter.

Mark Candela responded saying that he has had good relations with his neighbors. He never had a problem with Mr. and Mrs. Eckler. He is willing to make compromises. He said he needed to get this done. He is willing to make compromises. He denied that the Eckler's well would be impacted. He proposed dry well for his roof runoff. He suggested vegetation could be planted to mask the building. He said the structure was not garbage: it is high-end, class-looking garage. He went with seven pitch to improve drainage. He denied that it was a two-story structure. He said he could go with a five pitch and lower the height. He wanted to know what it would take to make this happen.

Chair Douglas Purcell asked the clerk if there was any more correspondence.

The clerk said there was none.

Chair Douglas Purcell asked if there was anyone else who wanted to speak. Hearing none, he closed the open session for this application and the board will we go into closed session to discuss the application. He asked Kathleen Ellerby if she had any questions.

The public session closed at 7:24 pm.

Kathleen Ellerby asked about the carport.

Mark Candela said says that the carport will be for one of his two every-day vehicles.

Kathleen Ellerby asked, looking at the picture, if the carport could be swung around in the back.

Mark Candela replied that the width is 24 feet and the length is 29 feet.

Kathleen Ellerby asked about turning the structure or moving the structure.

Mark Candela said it would be in front of his house.

Discussion continued about different siting possibilities that would be within the required setbacks.

Chair Douglas Purcell asked John Byrnes for his questions.

John Byrnes said he had questions question to those asked by Kathleen Ellerby. He asked why couldn't the structure be shifted over towards the driveway. He said Mark Candela answered some of the questions. Being that close to the neighbor's property line is an issue.

Mark Candela responded with a hypothetical side setback of 8 foot instead of 3 foot and then changed to positing moving the structure 10 feet, it would be in the middle of the driveway. He said there was a snowmobile trailer there right now. He then did not think he could carve a new driveway. He is worried about compromising his leach field. It is an Elgin system.

John Byrnes asked is it possible to move the leach field.

Mark Candela said he would have to be away from the well on Mr. Eckler's side.

Chair Douglas Purcell asked if John Byrnes had anything else.

John Byrnes said no.

Chair Douglas Purcell asked Kenneth Coirin if he had any questions.

Kenneth Coirin said he was concerned about the side setback. The setback is three feet; that is an enormous amount of variance.

Mark Candela asked Kenneth Coirin if he had a recommendation. He wants someone on the ZBA to commit to this application.

Kenneth Coirin said he would like to see at least an eight foot setback on the side.

Mark Candela asked for confirmation on what Kenneth Coirin was proposing.

Kenneth Coirin confirmed. He said that would keep any runoff and any problems from the roof getting into the Eckler's well. He realizes it will push into the driveway. He doesn't see a way around that.

Mark Candela said he thought he could make it work if he took down three tremendous trees.

Kenneth Coirin you could change the driveway to the east side more.

Mark Candela said there was a pipe marking the center of the leach field. The leach field is 10 feet wide by 20 feet long. He said he could add six or seven feet on to the driveway.

Kenneth Coirin had no further question.

Chair Douglas Purcell said most of the concerns expressed were also some of the concerns he had. He said the Eckler's letter questions whether the site plan is actually correct. He said both the neighbors and the applicant speak about how close the well is to the property, but he does not see on the map where their well is and the materials that the applicant should have received for

making an application before the Zoning Board of Appeals state that if a neighbor's septic or well are within 100 feet are to be shown on the Site Plan. They are clearly not.

Mark Candela claimed that the two parcels were always separate and that the well was strategically placed between both dwellings. He said the Site Plan is accurate.

Chair Douglas Purcell said he was not questioning the accuracy of the Site Plan, rather, the Site Plan must show where the neighbor's well is. He said the drawing shows incorrect setbacks because the parcel is nonconforming. The required setback as stated in the Denial Notice is 13 feet 4 inches. He said he looked at the square footage and there is more than enough room, without any variance. He calculated there was about 5,200 square feet area in compliance with the various setbacks (front, side, between unconnected structures, etc.). He said there was more than enough room to put in the structure as described, without any variance.

Mark Candela thought this would be affecting the neighbor's well, but he thought he could make it work.

Chair Douglas Purcell said he went back to the previous variance for the shed and there were concerns about a commercial property and he noted that it was his understanding that these properties were prohibited from being used for businesses. His understanding from the applicant is that the applicant is not planning to use this structure for any commercial purpose.

Mark Candela confirmed there was to be no commercial use in the future and he was willing to sign a document to that effect.

Chair Douglas Purcell said he just wanted to get this into the record.

Chair Douglas Purcell said every ZBA member has had a chance to express his or her concerns. He 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. Therefore the ZBA has no SEQR determination.

Chair Douglas Purcell said there being no additional questions or comments and with a no significant adverse determination by the Zoning Board of Appeals 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;

Kathleen Ellerby said the way everything is right now, yes, it would be a detriment to Thomas and Joan Eckler.

John Byrnes said he agreed, it is a detriment.

Kenneth Coirin said yes, detriment.

Chair Douglas Purcell said based on concerns raised by their neighbor, yes, that's a true statement.

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;

Kathleen Ellerby said yes, if moved over and back towards the house, it would make things a lot better.

John Byrnes agreed with Kathleen Ellerby.

Kenneth Coirin agreed, move it over move it toward the water.

Chair Douglas Purcell said he agreed with his own suggestion.

3. Whether the requested area variance is substantial;

Kathleen Ellerby said yes.

John Byrnes said yes.

Kenneth Coirin said yes.

Chair Douglas Purcell said yes.

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

Kathleen Ellerby said no.

John Byrnes said yes, considering the neighbor's reactions.

Kenneth Coirin said no.

Chair Douglas Purcell said for neighbor, yes, for the neighborhood probably not.

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.

Kathleen Ellerby said yes.

John Byrnes said yes.

Kenneth Coirin said yes.

Chair Douglas Purcell said no.

Chair Douglas Purcell said we could have a motion and it is possible to have favorable motions with restrictions on what the applicant can do or we can vote to deny the variance. He entertained a motion at this point.

[Silence.]

Chair Douglas Purcell made the motion to deny the variance.

Kathleen Ellerby seconded the motion.

Chair Douglas Purcell asked the clerk for a roll call vote and reminded the Board that a yes vote means a denial of the variance and a no vote does not grant the variance: it puts it back into further discussion.

Roll call vote:

Chair Douglas Purcell: yes.

Kathleen Ellerby: yes.

John Byrnes: yes.

Kenneth Coirin: yes.

Chair Douglas Purcell suggested to Mr. Candela that, since the ZBA denied the variance, consider some of the reservations about the proposal and look at some of the alternatives. The ZBA isn't saying you can't have a garage, but the ZBA really doesn't want Mr. Candela to have it that close to the property line. He said to take advantage of the nonconforming lot relief of 1/3.

The applicant and the board discussed setbacks and fees.

Chair Douglas Purcell said at this time, we will hear Application [Z2021-02](#), by Brian O'Connor for the property located at 273 Fisher Road and identified as parcel [83.-1-15.5](#). The property owner proposes to demolish and rebuild an existing 120 square foot porch with the extension of said porch 25.5 feet along the front side of the camp. The front and side yard setbacks are at issue. As per the denial notice associated with this application, the required front yard setback for this parcel is 50 feet and the applicant proposes to build the porch 5 feet from the front yard, with a requested relief of 45 feet. The denial notice further states the side yard setback to be 25 feet due to the corner lot. The applicant proposes to build the porch 8 feet from the side yard, with a requested relief of 17 feet. The denial notice states that Highway Superintendent Larry Voght has reviewed the application and inspected the property and "he does not feel this porch would affect the Highway Department in any way from

performing their regular duties.” He observes that the O’Connors are in attendance and he thanked them for their patience. He asked the applicants to describe for the board the project and justification for the requested variance.

Brian O’Connor said he tried to repair the porch that was originally there when he bought the house. He said he was unable to get underneath because the wall that it sat on had moved. He felt was better to rebuild. He obtained a demolition permit. He decided he wanted to make it six feet bigger. He wanted to go to the corner of the house. He thought it would look better.

Chair Douglas Purcell asked if there were any comments from the audience.

The clerk said there were none.

Chair Douglas Purcell asked if there was any correspondence related to the application.

The clerk said there was none.

Chair Douglas Purcell said at this time, he would close the open session for this application and the board will we go into closed session to discuss the application.

The public session closed at 7:52 pm.

Chair Douglas Purcell asked Kenneth Coirin if he had any questions.

Kenneth Coirin said he had no problems with the project. He said the new porch would not encroach any further than the prior porch. He had a question: is the porch going to be at the same level it is now?

Brian O'Connor said it was a few inches below the door. There were two steps or a step and a half to get into it originally.

Chair Douglas Purcell asked Kathleen Ellerby if she had any questions.

Kathleen Ellerby said nothing really. She observed that the porch is the same as where the house is. She has no problems with that at all.

Chair Douglas Purcell asked John Byrnes if he had any questions.

John Byrnes said he agreed, he doesn't have an issue, especially since the highway department took a look at it.

Chair Douglas Purcell said he had a couple questions. He said he needed help understanding how what is proposed results in a 5 foot setback on the front and 8 feet on the side. He said that when he went to the property and looked at the current setback on the front of the corner of Fisher Road and Martha B. Kunkel Lane. He said that by his calculations, the applicant is currently 30 feet from Fisher Road and 21 feet from Martha B. Kunkel Lane. He said a 6 foot addition on the corner, the applicant would be 24 feet, not the 5 feet being requested.

Brian O'Connor said he went off the survey.

Chair Douglas Purcell said that was one of his other questions. The applications says the property line runs along Martha B. Kunkel Lane. He said that when he looks at the deed, it looks like there are two pieces to the property, one on each side of Martha B. Kunkel Lane. He asked if that was a true statement.

Brian O'Connor said yes it was.

Chair Douglas Purcell said the reason he brought that up was because if that was the property line, realistically the applicant would need to be 35 feet from the side yard, not 25 feet. As long as the side yard goes beyond March B. Kunkel Lane, the side yard setback is 25 feet. He said he does not have any problems with what he sees. He said he had called the Highway Superintendent because he could not believe the Highway Superintendent would have no problem with 5 feet setback, but if it is only 24 feet and he estimates 21 feet, yes a variance is still required but it is no where near as significant a variance.

Brian O'Connor said that when he filled out the application, he took it from the road, not the property line.\

Chair Douglas Purcell asked what was going to be done with the shed.

Brian O'Connor said that was his basement stairs, so nobody could fall in the hole. That is a temporary shed so he can get down into the basement.

Chair Douglas Purcell everyone has had a chance to ask their questions. He 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;

John Byrnes said no.

Kenneth Coirin said no.

Kathleen Ellerby 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;

John Byrnes said no.

Kenneth Coirin said no.

Kathleen Ellerby said no.

Chair Douglas Purcell said no.

3. Whether the requested area variance is substantial;

John Byrnes said no.

Kenneth Coirin said no.

Kathleen Ellerby said no.

Chair Douglas Purcell said it was something he could live with. He said in a more densely populated area he might feel differently about it.

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

John Byrnes said no.

Kenneth Coirin said no.

Kathleen Ellerby had a teleconference technical glitch. Her image froze at this point. She could not participate further in this public hearing.

Chair Douglas Purcell said no.

The clerk offered to telephone Kathleen Ellerby.

Chair Douglas Purcell instead tried to telephone Kathleen Ellerby himself. He was unable to reach Kathleen Ellerby even by telephone and he speculated as to whether Kathleen Ellerby had a major telecommunication outage.

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.

John Byrnes said no.

Kenneth Coirin said no.

Chair Douglas Purcell said no.

Kathleen Ellerby was still out of contact.

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.

Kenneth Coirin made the motion to approve application Z2021-02.

John Byrnes seconded the motion.

Chair Douglas Purcell said a yes vote means the Zoning Board of Appeals grants the variance. A no vote would mean the ZBA denies the variance. He asked for a roll call vote.

Roll call vote:

Chair Douglas Purcell: yes.

John Byrnes: yes.

Kenneth Coirin: yes

Kathleen Ellerby was unreachable due to a telecommunication glitch.

Chair Douglas Purcell said the ZBA has granted the motion, however it needs to be referred by the ZBA to the Adirondack Park Agency. He said the APA has 30 days after it receives a complete referral to reverse the granting of a variance. He asked the clerk if there was still a delay [due to COVID-19].

The clerk said the APA is still on an indefinite delay, but as a practical matter, they were responding within 30 days.

Chair Douglas Purcell asked the applicant if he understood.

Brian O'Connor affirmed.

Chair Douglas Purcell said once we've heard back from the APA, Code Enforcement will notify the applicant, at which time the building plans would be reviewed and a determination about whether or not to issue a building permit. This is just a reminder that the Zoning Board of Appeals is not giving you a building permit, we are just giving Code Enforcement notice that zoning issues have been resolved.

The clerk noted that everything would be posted on the web so that the applicant can track progress.

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

There was none.

Chair Douglas Purcell made a motion to adjourn.

John Byrnes seconded the motion.

All were in favor. None were opposed.

The meeting adjourned at 8:06pm.

Respectfully submitted

James McMartin Long

Town of Caroga Town Board Member,

Zoning Board of Appeals Clerk/Secretary