

TOWN OF NEW BALTIMORE ZONING BOARD OF APPEALS
Regular Monthly Meeting
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The meeting was called to order at 7:30 p.m. by Pat Linger, Chair, followed by the Pledge of Allegiance. Other Board Members in attendance were Craig Albano, and Jeff Carlson. Mike Meredith was absent due to vacation and Denise Taber was absent due to illness.

Minutes

It was moved by Albano and seconded by Carlson to approve the minutes of the December 6, 2018, Regular Monthly Meeting as presented.

AYES: Linger, Albano, Carlson

NAYS: None

ABSTAINED: None

ABSENT: Meredith, Taber

Correspondence

1. 5/31/2018 letter from CEO Jourdin, re: Rudolph Hildebrandt Building Permit Application denial.
2. Variance Application from Rudolph Hildebrandt

Old Business

New Business

Rudolph Hildebrandt – Application for Area Variance

Mr. and Mrs. Hildebrandt were present. It was noted that the Board has a copy of the denial letter and the Building Permit Application containing plot diagram reflecting that the proposed garage would be west of the house.

Variance Application is from Rudolph D. Hildebrandt; address 1223 County Rte. 26, Climax. Property acquired by the applicant on March 12, 2014, bears Tax Map #27.04-2-1. Area Variance is requested. Need for area variance is: This is replacing a building that was a part of the original homestead. Moving it would place it on leech field or septic tank.

1. ***What practical difficulties would arise if the area variance is not granted?*** – My wife is handicapped and can't use her walker to go down a hill to get to car, especially in winter.

2. ***How would the variance affect the character of the district?*** – There wouldn't be any adverse effect to district. We would be re-establishing the historical value, simply keeping it as original as possible.

It was noted that this property is in the R/A District; accessory structures are permitted there so a Use Variance is not needed.

Garage will be 20x18 feet. Building taken down was almost 25x20'. Mr. Linger questioned how far back is the end of your leach field or your septic tank to the road that prevents you from going the 40 feet? Mr. Hildebrandt explained if I go back 40 feet, I would be just on the tip of the leach field. Like the back of the building if I put at least the 40 feet where he wants it, I will be half way in the leach field and I cannot do that. He then said go to the right and I said I can't. The septic tank, a 1,000 gallon concrete tank, is there. Mr. Linger commented and that would be on the other side of the driveway. Mr. Hildebrandt responded that it would be.

Mr. Linger explained for the Public Hearing, he felt it would be beneficial to know how far back off the road your leach field ends. He further explained if you can get an idea of where the leach field ends, that would probably be beneficial for the public. Mr. Hildebrandt questioned where it ends or begins? Mr. Linger responded whatever is closest to the road.

Mr. Linger explained part of the job of the Zoning Board in granting any area variance is to grant the minimal variance necessary. If your leach field, the last line of your leach field let's say is 50 feet from the road and you have a 20-foot building, then you would be able to come back 30 feet off the road. That

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is what is meant by the minimum variance required.

Mr. Hildebrandt continued if I went back to the 20-foot line where he wanted me to go, I can guarantee, because I put that field in and the tank, I would be on top of the leach line and the distribution box; and then I would be half way into the leach field itself. Mr. Linger questioned the end of your building is then 60 feet back? Mr. Hildebrandt responded absolutely, the back side of it, yes. Mr. Linger continued if we have an idea of where that leach field ends, it will be a little bit easier decision for us in knowing where you could and could not go. I understand there was a building there quite a while back, well for years anyway and I am guessing the house must be fairly close to the road as well. Mr. Hildebrandt explained it is just about 15 feet and then you had the big wooden porch, which is now replaced by a concrete slab.

Mrs. Hildebrandt added where the guy wants it, there are two gigantic pine trees. We would have to have someone come in and cut all of that down but it also floods there from across the road and comes right under a culvert pipe and it floods us out. It would be so soggy there that you cannot put anything there. There is a hill that kind of goes down right like that and that is where he wants it put.

Mr. Linger explained so from our perspective, the requirements from the State for the Zoning Board on an Area Variance, things that we need to consider, not necessarily for you to have all five or don't have all five but they have to be considered by the Zoning Board.

- 1. Whether an undesirable change will be produced in the neighborhood, in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance;***
- 2. Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.***

Such as moving the building back, which we will get to.

- 3. Whether the requested Area Variance is substantial;***
- 4. Whether the proposed Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and***
- 5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.***

Mr. Linger further explained that is what we are going to go through at the Public Hearing. The Board will discuss each one of those points and see where this lines up. Mrs. Hildebrandt questioned if the Board actually goes to the location to see what they are talking about. Mr. Linger responded that the Board does not generally. He sometimes would go by but not go on the property without permission. In this case, it is very close to the road, right near the Medert Barn, which was a blacksmith shop at one time. We are probably looking at a similar distance, perhaps a little bit further back but not much. Mr. Albano advised that he was familiar with the property.

Mr. Linger advised that Route 26 is a highway by use. From the County's perspective on a County highway, the County will only claim what they maintain. Anything beyond that is really not an effect on the County highway. Mr. Hildebrandt questioned how much it had changed from years back. Mr. Linger explained the Town Code can change as far as what the Town will allow or have for a setback. The way it is set up now is basically 15-foot setback all the way around; but in the front, it would be measured 15 feet after the right-of-way. So generally, you will have a 25-foot right-of-way and then your setback would be 15 feet. So your setback in the front is theoretically 40 feet, 25 right-of-way, 15 is set back, setback on the sides is 15 feet from the property line. The setback from the road is for maintenance of the road. They need room to clean out ditches, to put snow. For the Zoning Board to approve a Variance very close to the road, all those things have to be considered. The Board is not here to make a problem for someone 20 years from now.

Mrs. Hildebrandt explained the garage will be set back further than the actual porch; it will be even with the back of the porch, the front of the house. The porch comes out really close to the road. Where the

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previous building was, it came right out even with the front of the porch. The garage will be back at least six feet further than the original building. You will see the porch before you see the building. Plus, there is a tree line there. You won't even see the building unless you are coming the other way.

In response to the Hildebrandts' question if they would like them to take pictures to show how the grade goes down and where the septic system is located, Mr. Linger responded that any information is beneficial.

Required Public Hearing on the application was scheduled for 7:30 p.m., August 1. Blue form outlining the Public Hearing certified letter notification process was provided. Mrs. Hildebrandt questioned even though it is our property. Mr. Linger explained your neighbors have a right to come to hear what you are doing. This gives them the opportunity to comment, whether positive or negative. We listen to everyone because in the end, it has to be good for what the Town Code wants, what the Comprehensive Plan is. It is usually a very simple process. We hear positive comments, we heard negative comments; but in the end, it is this Board that is going to sit down, put it all together and say all right, what do we think. If the Board can minimize the Variance, that is what we are required to do. The Board will send the required 239 to the County since the property is located on a County Road.

Mr. Hildebrandt advised the Board in closing that he wanted to make his point clear in that he wanted to keep the building as original as possible. It broke his heart to take the old building down three/four years ago but it was in dangerous condition. The new garage is to be constructed in such a manner that there will be a breezeway in between and they can go right in the back door of the garage. Due to limitations, Mrs. Hildebrandt cannot walk down the grade to where the garage would have to be placed if placed to meet required setback.

Selection of Vice Chair

It was moved by Linger and seconded by Carlson to select Craig Albano as the Board's Vice Chair for the 2018 year.

Ayes: 3 Nays: 0 Abstained: 0 Absent: 2

Adjournment

At 8:07 p.m. it was moved by Linger and seconded by Albano to adjourn the meeting.

Ayes: 3 Nays: 0 Abstained: 0 Absent: 2

mbl