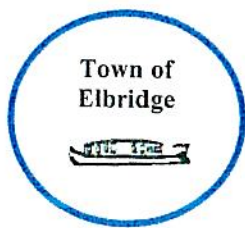


Town of Elbridge Zoning Board of Appeals



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TOWN OF ELBRIDGE ZONING BOARD OF APPEALS Meeting Minutes December 2nd, 2022

MEMBERS PRESENT: Chairman Timothy Gannon, Joanne Spoto Decker, Eric Matthews, Tracy Resch, John Tambroni, Paige Boratko ZBA Secretary/Alternate, ZBA Attorney Joe Frateschi

Others Present: Loren Barrigar, Cassie Osgood for Loren Barrigar,

Open meeting

Chairman Tim Gannon called the meeting to order at 7:00 p.m. and after the Pledge of Allegiance; opened the hearing for Mr. Loren Barrigar: 404 State Route 31, Jordan NY. The legal notice that was posted in the Post Standard on 12/08/2022 was read.

HEARING#1

Area Variance from minimum lot size

Requesting relief of .51 acres

Town of Elbridge Zoning Laws Chapter 265-14(7-a)

TM #030.-02-03.0

Loren Barrigar

404 State Route 5

Jordan, New York 13080

Purchased 12/23/2020

Zoned – B-1, GML-239- Required & submitted to OCPB 11/03/2022 for meeting Date of 11/30/2022

The applicant appeared before the Town of Elbridge Planning Board on October 11th, 2022. The planning Board directed the applicant to the T.O.E ZBA to obtain an area variance for the required 1 acre lot. Once the variance is obtained Mr. Barrigar will return to the planning board to proceed.

Applicant is requesting an area variance regarding minimum lot size to allow a residential use on a 0.49-acre parcel where a minimum of 1-acre is required, in a Business (B-1) zoning district and within 500ft of State Route 31. It is predominantly a rural area, with both commercial and residential uses abutting the 0.49-acre parcel. The property contains an existing residential building with a large asphalt parking area in front of the entrance and a driveway onto Route 31

Chairman Timothy Gannon requested that Loren Barrigar come forward and explain to the board the reasons for this application.

Loren Barrigar: The property is zoned business, but we would like to live there and run a business. There are three entrances lots of square footage. We would like to put a liquor store in front, with a residence in the back. We currently have an applicant with the TOE Planning Board for a special permit for a home occupation in that B-1 district. The Planning Board sent us here first for the variance. We are just trying to go through the proper channels to get this business in motion.

Attorney Frateschi stated that the Code has a provision allowing for indoor sales and also allows for a residence. Both Attorney Frateschi and Codes Officer Howard Tanner agrees this would be indoor sales and not a home occupation.

§ 265-14 Business (B-1) District.

A. Statement of intent. These districts are for those areas where it is appropriate and suitable to locate retail stores, and personal service establishments.

(7)

Single-family dwelling after approval of the site plan thereof by the Planning Board pursuant to § **265-80** of this chapter. When considering the site plan for a single-family dwelling, the Planning Board shall satisfy itself that the following conditions exist:

[Added 9-27-2018 by L.L. No. 7-2018]

(a) The lot upon which the single-family dwelling is being proposed contain a minimum of one acre of land; and

§ 265-9 Preexisting nonconforming lot of record.

[Added 12-13-2018 by L.L. No. 8-2018]

There exists in the Town of Elbridge a significant number of undeveloped parcels that were created lawfully prior to the adoption of zoning regulations in the Town, or at a time when their dimensions complied with the then applicable zoning regulations, which parcels do not now comply with the geometric requirements of the zoning district in which they are located. These parcels are known as preexisting nonconforming lots of record.

A.

No variance required. Subject to the limitations set forth in Subsections **B** and **C** below, no preexisting nonconforming lot of record will be required to obtain an area variance to address a geometric or numerical deficiency in said lots, size, shape, frontage, depth, width, coverage percentage or similar deficiency in order to obtain the right to be developed with a conforming use in said district.

B.

Current compliance required. Notwithstanding the elimination of the requirement for variances in order to be able to develop a preexisting nonconforming lot of record, any proposed building or structure on such a lot shall still be required to comply with all current setback or other geometric or numerical requirements applicable to said proposed buildings or structure's location on said lot

C.

Single and separate ownership required. The exemption created by this section for the need to obtain variances shall only apply to those preexisting nonconforming lots of record which are and have been held in single and separate ownership since the date that said lot became nonconforming. That is, where a landowner owned or owns land contiguous to one or more preexisting nonconforming lots of record, said owner shall be required to combine such other land with the preexisting nonconforming lot or lots of record so as, to the maximum extent possible, end up with only lots that conform to the current zoning requirements. Ownership in this context shall include legal, equitable or otherwise beneficial ownership.



Joanne M. Mahoney
County Executive

Onondaga County Planning Board

RESOLUTION OF THE
ONONDAGA COUNTY PLANNING BOARD

Meeting Date: November 30, 2022

OCPB Case # Z-22-319

NOW THEREFORE BE IT RESOLVED, that the Onondaga County Planning Board has determined that said referral will have no significant adverse inter-community or county-wide implications and may consequently be acted on solely by the referring board

Chairman Timothy Gannon asked the following questions:

Are there any other questions from the board?

None

Does the board have enough information to make a decision?

Yes

Is there any one to speak in favor of or in opposition?

No one

Chairman Timothy Gannon requested a motion to close the hearing.

John Tambroni made a motion seconded by Eric Matthews to close the hearing for Loren Barrigar. It passed with all in favor at 7:25 p.m.

Open meeting /SEQR Determination

Chairman Timothy Gannon made a motion second by Joanne Spoto Decker to make the TOE ZBA the lead agency for SEQR review.

After a brief discussion the Town of Elbridge Zoning Board of Appeals did a SEQR review for Loren Barrigar for an area variance to be located at 404 State Route 31 in Jordan New York. A motion was made by John Tambroni seconded by Joanne Spoto Decker to issue a:

X *Negative declaration* *Positive declaration*. It passed with 5 *Aye(s)* and 0 *Nay(s)* at 7:35 p.m.

Recorded Vote: (A = Aye, N = Nay)

J. Spoto Decker A, Chairman T. Gannon A, T. Resch A, E. Matthews A, J. Tambroni A

Open meeting

ZBA Attorney Joe Frateschi: In ruling on a variance what we are considering is whether the benefit to the applicant outweighs the detriment to the neighborhood

TOE ZBA THEN REVIEWED THE AREA VARIANCE CRITERIA:

Requesting an area variance from the Town of Elbridge Zoning Laws Chapter 265-14(7-a); to be located at 404 State Route 31 in Jordan NY, - Minimum lot size.

Requesting relief of .51 acres

Town of Elbridge Zoning Laws Chapter 265-14(7-a)

Also Note: 265-9 Preexisting Non-Conforming lot of Record

[Added 12-13-2018 by L.L. No. 8-2018]

AREA VARIANCES. Town Law Section 267-b(3)(b); Village Law Section 7-712-b(3)(b); General Cities Law Section 81-b (4).

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

Response: None detected. The residential use has been ongoing for a period.

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

Response: Cannot change the lot size.

3. Whether the requested area variance is substantial.

Response: The requested variance is a 50% reduction. It is significant but doesn't mean it will fail the application.

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

Response: No adverse or physical environmental impact at all.

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

Response: The reasons for the variance may be self-created but does not preclude the applicant from receiving the variance.

Three Factors way in favor, 2 not in favor

The benefit to the applicant outweighs the detriment to the neighborhood

ZBA DECISION VOTE: -Area Variance -.51 acres

**Requesting an area variance to be located at 404 State Route 5 in Jordan, Town of Elbridge Zoning
Requesting relief of .51 acres**

Laws Chapter 265-14(7-a)

Residential (B-1) District.

Resolved:

Area Variance for Non-conforming lot use. There is .49 Acres for residential use where 1 acre is required.

Town of Elbridge Zoning Laws Chapter 265-14(7-a). Also Note: 265-9 Preexisting Non-Conforming lot of Record

It is the decision of the Town of Elbridge Zoning Board of Appeals that with the evidence presented as set forth in the findings of facts and with the review of the area variance criteria that the detriment to the applicant outweighs the detriment to the neighborhood and that the relief petitioned for by Loren Barrigar be granted. **This approval is subject to site plan approval.**

Chairman Timothy Gannon made a motion seconded by Joanne Spoto Decker to:

X *Approve* *Amend* *Deny* X *Area Variance* *Use Variance* *Interpretation*

It passed with 5 Aye(s) and 0 Nay(s) at 7:41p.m.

Recorded Vote: (A = Aye, N = Nay)

J. Spoto Decker - A, Chairman Tim Gannon - A, E. Matthews - A, T. Resch - A, John Tambroni - A

Approval of Minutes – 02/16/2022

A motion to approve the February 16th, 2022 minutes as written was made by Chairman Timothy Gannon and seconded by Joanne Spoto Decker. It passed with all in favor at 7:45pm.

DISCUSSIONS:

OLD BUSINESS: *None*

ADJOURNMENT: With no further business on the agenda, a motion was made by Joanne Spoto Decker and seconded by John Tambroni to adjourn tonight's meeting. It passed with all in favor at 7:50 pm.

Respectfully Submitted

Paige Boratko- Secretary/Alt. member