

Chairman Richard Onorati read into the record the comments received from Orange County Planning Department which were left up to local determination.

Mrs. Lewis explained to the board that they want to turn their legal Mother-Daughter in to a two family residence. Mrs. Lewis said that she would like to discuss the area variance criteria first and go through those criterions.

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance – Mrs. Lewis explained that the building itself will not be changed as there already exists separate unit entrances as it is already a legal mother-daughter. The house will look exactly the same so there will not be any changes to the character in that particular neighborhood, even though it is zoned TC-Town Commercial, it is in a section where there are five homes right in a row and if the house were sold to someone else the new owner could put in the use allowances for a McDonalds, cemetery, a large retail store and so many more options, and those uses would largely alter the character of the neighborhood. So changing the mother-daughter into a two family is not changing the character of the neighborhood.
- Whether the benefit can be achieved by some method feasible for the applicant to pursue, other than an area variance- Mrs. Lewis explained that the benefit we are looking for is to rent out the two units. It's not possible right now with the current mother-daughter status and it's not feasible without the variance to make it a legal two family.
- Whether the requested variance is substantial – Mrs. Lewis explained that we will not need to change anything to the septic, etc. as we have been using the residence as a mother-daughter with three to four residents for the past 7 years. With a two family the amount of residents would be the same if not less. Therefore not impacting the environment
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance - Mrs. Lewis explained that when the circumstances presented itself to make it a mother-daughter for my Mom to live with us after my Step-Dad passed, we put all our resources into remodeling it and making it a nice comfortable residence for my Mother. Now we would like to take the resources we put into the house and get them back by selling it as a two family – my daughter is here with me because she would like to purchase it as a rental.

Mrs. Lewis continued on to the Use variance criteria;

- The applicant cannot realize a reasonable return, provided the lack of return is substantial as demonstrated by competent financial evidence – Mrs. Lewis explained that the current zoning does not allow the two units to be rented out. We are losing the economic benefit of selling it as a two family which would bring more economic value to the sale of the home, especially since it was remodeled as a mother-daughter. Also in today's market, it is much harder to sell a Mother Daughter than a two family.

Mrs. Lewis presented testimonial evidence by way of a letter to the board with regards to the property. They sought a professional opinion on 3008 Rte. 6 from Better Homes and Gardens / Rand Realty who is a local realty which said, "That in their professional opinion, the property's best use would be a residential multi-family property. The rental market is very strong, especially in the sought after Minisink Valley School District, where inventory is low. The property offers plenty of parking for tenants. Marketing a mother/daughter property has become more difficult due to Fair Housing Act's advertising guidelines prohibiting licensed real estate brokers to advertising describing the property as "mother/daughter". The broker said that they could not even list it as a mother daughter.

Current Zoning does not allow the two units to be rented out. We are losing the economic benefit of selling it as a two family which would bring more economic value to the sale of the home. Also, in today's market it is much harder to sell a mother daughter than a two family.

We would have to sell it as a three bedroom home. If you were to look at it you would see that it is actually two apartments. The one is a two bedroom, one kitchen, two bathrooms and the other is a one bedroom, one kitchen and one bathroom. It would be a hardship, because it can't be advertised that way. So while we are still here that residence is empty now because my Mom passed away and we should like to be able to rent it out. I can't rent it out; it's a waste of space. We put a lot of money into fixing it up and making it a mother daughter.

Chairman Onorati said, that when you receive the previous variance a couple of years ago, wasn't that for an accessory apartment? Because that is what the town allows? Chairman Onorati explained that mother-daughter is very vague because obviously the courts have a problem defining what a family is. What the code says – you are allowed to have an accessory apartment if you have two acres and live on the premises.

The Secretary explained that the approval was actually given as a mother-daughter because the accessory apartment criterion was not what it is today.

Attorney David Bavoso explained that the accessory zoning apartment request has to be owner occupied so you can typically rent out the apartment, usually there approved for a family member that needs the apartment separately, or something like that but the bigger requirement is that it has to be owner occupied for the accessory apartment.

Mrs. Lewis explained that the other hardship they face is if we weren't able to put it into a two family we would basically have to rip out a beautiful kitchen and basically convert it back to a single family home.

- If granted we will not alter the essential character of the neighborhood;

We already had a mother-daughter; we are not changing anything to our knowledge. So with the current zoning, so many intrusive things can be put there, a lot more intrusive and WOULD totally change the character of the neighborhood, way more than what we want to do. For instance; a McDonald's fast food restaurant, I don't see a McDonalds going in there in the middle of two houses. A Bank; we already have an empty bank right here in Slate Hill. A Convenience Store/ Mini Mart; there is already one on either side of us. A Motel; we have an empty one on Rte. 6 and one on the end of Rte. 6. A cemetery; not sure the neighbors would appreciate that or a funeral home or a light manufacturing development lab. Some of the uses are way more intrusive and will totally change the character of the neighborhood much more than what we want to do.

Chairman Onorati asked the Board if they had any questions.

Board member Jeffrey Soons asked that if it comes to pass, that you, the daughter live there and rent the accessory apartment.

Larissa Lewis asked if he was asking her if that is possible? Mr. Soons said yes.

Larissa Lewis said that she lives with her Fiancé in the Town of Minisink, and we would live in Minisink.

Chairman Onorati said that if there were no other questions, we will open the public hearing by asking for any questions, comments or concerns.

Let the record show that there were none. Chairman Onorati closed the Public Hearing.

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Chairman Onorati said that he had one comment, and that the saving grace for this request is the fact that the town changed the zoning from Agricultural Residential to Town Commercial where you could have a whole host of businesses that would be more destructive than what their requesting. I have looked into this, and basically what this request comes down to is a name change.

If there are no more questions can I have a motion.

Motion by Raymond Spiak, seconded by Daniel Post to grant the Use Variance from a single family to a two family and the Area Variance request of 2.6 acres in lot size.

VOTE UPON ROLL CALL:

Russ La Spina	AYE
Jeffrey Soons	AYE
Daniel Post	AYE
Ray Spiak	AYE
Richard Onorati	AYE

Chairman Onorati declared the Variance requests granted

II. INFORMAL

Melvin / SBL# 20-5-2 / US Rte. 6 / TC-Town Commercial Zone

Applicant is applying for an Area Variance of 195-17 A (3) (a) Zoning Regulations for less than the required rear yard setback for an accessory structure in order to demolish their existing garage in need of repair and to re-build a new one .

At this time Board Member Bruce Lewis rejoined the board and alternate member Russ LaSpina stepped down.

Mr. Robert Melvin approached the board and explained that he would like to take down his old carriage house that is used as a garage, as it is falling down and put up another one. The existing one is 20x20, he would like to make it just a touch bigger (22ft. deep by 24ft wide) and put it back on the same footprint. The problem is the existing garage (carriage house) was built in the 1850's and is one foot away from the rear property line. I have to spend twenty or so thousand to demolish and put up; I wish to build a bigger one by a few feet so that I can fit two vehicles in it. The reason he want to put it in the same place is there is no other place to move it to because of the septic.

Neighbor Kurt Schneider, who was in the audience spoke on behalf of Mr. Melvin and explained that this is one foot off of his property line and that he does not have an issue with this, Mr. Melvin cannot even use this existing building, it is about to fall down. I do not have a problem with this at all.

Motion by Jeffrey Soons, seconded by Bruce Lewis to set a Public Hearing for November 10, 2016.

All in Favor

MOTION CARRIED

Abruzzese / SBL# 22-1-136 / Horan Road / AR-Agricultural Residential Zone

Applicant is applying for an Area Variance of 195-17 A (7) to allow an existing accessory building to be larger than what the zoning allows. Zoning allows 25 x 50 (1250 sf) and the actual building is 40 x 60 (2400 sf).

Mr. William Abruzzese approached the board and explained that this accessory building already exists on my property. We use this building as a Sports Pad, as a Hockey Rink. There are no sides on it. I have 95 acres of property. My family is into hockey.

Motion by Bruce Lewis, seconded by Daniel Post to set a Public Hearing for November 10, 2016.

All in Favor

MOTION CARRIED

III. OTHER BUSINESS

Approval of Minutes for September 15, 2016

Motion by Jeffrey Soons, seconded by Raymond Spiak to approve the minutes as submitted.

All in Favor

MOTION CARRIED

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The October 13, 2016 Town of Wawayanda Zoning Board of Appeals was adjourned by Chairman Onorati at 7:26 P.M.

Respectfully Submitted,

Patricia Battiato
Secretary to Planning