

# VILLAGE OF DELANSON

## Zoning Board of Appeals

### Minutes of Meeting

September 30, 2019

7:00 PM

Delanson Village Hall

Board of Appeals Chair Lawrence O'Connor called the meeting to order at 7:02 PM.

The following Board Members were present:

- Daryl Risley
- George Martin
- Lawrence O'Connor

Two Board Seats are vacant, however with three members present a quorum was declared.

This meeting was advertised as a Public Hearing for the Rose Street/Railroad Ave Lot Area Variance on the Village website, in the Daily Gazette and on local bulletin boards.

The following guests were present:

- Mayor Gayle Gifford
- Ted Delucia, Vision Planning Consultants LLC
- Stephen Micheli, Property Owner - Appellant
- Jeffrey Iveson, Property Owner - Appellant

The meeting commenced with a Pledge of Allegiance to the Flag.

Minutes of the September 5, 2019 meeting were read. Mr. Risley moved that the minutes be accepted as presented, approved by acclamation.

The Chair asked the Mayor to confirm our understanding that the Board of Appeals and the Planning Board would not perform a coordinated review; that the matter of the area variance could be considered independent of the eventual action of the Planning Board on a site plan.

The application for the area variance was received on September 3, 2019 and a SEQR form was included in the package submitted on August 12, 2019. Mr. O'Connor pointed out that the SEQR form submitted was for the "construction of a commercial building...". The remedy being sought from the Board of Appeals is an area variance for the parcel. A SEQR form is needed for that action.

Mr. Delucia then completed a SEQR application as requested and presented it to the Board. Mayor Gifford witnessed the signature and so annotated the application. (A copy of which is attached to these minutes.)

It was noted that Planning Board had requested proof of ownership for the Parcel. Mr. Delucia presented an official copy of the deed showing that the parcel is jointly owned by Messrs. Iveson and Micheli. A copy of the deed was taken by the Chair (and attached to these minutes).

A motion was made by Mr. Risley, seconded by Mr. Martin that the Board of Appeals shall assume the role of lead agency for SEQR for the purpose of considering the area variance for the parcel. Motion passed - 3 ayes.

The Public Hearing portion of the meeting was opened at 7:28 PM. There being no members of the General Public present, Mr. Delucia was called upon to make a presentation to the Board on the request. The frontage on Railroad Ave is 178.72', per the zoning ordinance the minimum frontage is 200'. Mr. O'Connor asked why the nearly 300' of frontage on Rose St was not considered. The frontage is determined by the street that provides access to the proposed use. Mr. Martin noted that although the frontage was short by 21.28', the next lot is on the other side of Rose St. With the width of Rose Street added to the 178.72', the effective frontage is greater than 200'.

There was some discussion of the fact that this impediment was created by the Village with the enactment of the 2005 Zoning Ordinance - This is not a self-created difficulty. The lot cannot be built upon without an area variance.

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The criteria to be considered by the Board of Appeals in this decision are listed here for reference, as follows:

- (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;
- (2) Whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance;
- (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 an alleged difficulty is self-created.

The action requested is to cure a difficulty imposed by the enactment of the current Zoning Ordinance. The proposed action, the granting of an area variance, is the only matter before The Board of Appeals. The site plan review, of any proposed use, is the purview of the Village Planning Board.

Mr. Martin moved that the Board of Appeals issue a declaration of negative impact, seconded by Mr. Risley; Motion Approved - 3 Ayes

The Village must now circulate the Negative Declaration decision.

The sense of the Board of Appeals is that the variance should be granted. Mr. Risley cautioned that we should not issue a provisional decision and that we should wait for the full SEQR process to conclude before acting. This was agreed to be the prudent course.

The date of the next meeting was set for Monday, October 28, 2019 at 7:00 PM.

There being no other business the meeting was adjourned at 8:07 PM.

Minutes Submitted for Approval.



Lawrence J. O'Connor  
Chair, Board of Appeals