

Brighton Zoning Board of Appeals 12/04/19

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT
2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON DECEMBER 4TH,
2019 AT APPROXIMATELY 7:15 **P.M.**

December 4th, 2019
Brighton Town Hall
2300 Elmwood Avenue
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRPERSON
DOUGLAS CLAPP
KATHLEEN SCHMITT
JUDY SCHWARTZ
ANDREA TOMPKINS WRIGHT
JENNIFER WATSON

PETER DOLLINGER, ESQ.
Acting Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:
JEANNE DALE

REPORTED BY: RHODA COLLINS, Court Reporter
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive
Batavia, New York 14020

Brighton Zoning Board of Appeals 12/04/19

CHAIRPERSON MIETZ: Good evening. I'd like to call to order the December session of the Zoning Board of Appeals.

Rick, was the meeting properly advertised?

MR. DiSTEFANO: Yes, Mr. Chairman, it was advertised in the Brighton-Pittsford Post of November 28, 2019.

CHAIRPERSON MIETZ: Will you please call the roll?

MR. DiSTEFANO: Please let the record show Ms. Dale is not present.

CHAIRPERSON MIETZ: Just for the record, this is Mr. Dollinger's associate who is going to be representing tonight if we have any legal questions. His name is Peter Dollinger.

Okay. Do we want to review the minutes, Judy?

MS. SCHWARTZ: Yes. Page 10, Line 12, the word should be subsequent years.

On Page 30, Line 20, please insert the word t-o after them.

Page 31, Line 9, the second to last word should be won't, delete just.

On Page 63, Line 19, the second word should be

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stories.

Page 65, Line 20, the third to last word should be keeping.

Page 66, Line 6, it should be a side, instead of aside.

Page 67, Line 18, the last word in the part of the sentence should be bath.

Page 79, Line 6, please delete the word up.

Page 105, Line 25, the fourth to last word is choice.

And lastly, Page 5 in the decisions, Janice this was yours, Line 21, you can all take a look at this. It says, no other alternative can be to decipher the opportunity.

CHAIRPERSON MIETZ: Cross out the word decipher in Line 21, no other alternative can create an opportunity to allow for --

MS. SCHWARTZ: So we're deleting be to and decipher.

On Page 8, in Decisions, Line 14, sort of half of the sentence, the word should be tent.

And Page 10, Line 14, the word is requested.

And the same thing on Page 11, Line 4; then

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still Page 11, Line 20, I think it should be property laden.

MS. TOMPKINS WRIGHT: It stems from the property being laden.

MS. SCHWARTZ: Page 18, decisions, Line 20, the middle of the sentence the word should be proportionally and Page 19, Line 3, the third word is formerly, and that's all I have.

CHAIRPERSON MIETZ: All right. Anyone else have anything? Okay. Do we have a motion for the October amended minutes as corrected?

MR. CLAPP: So moved.

(Second by Ms. Tompkins Wright.)

(Mr. Clapp, yes; Ms. Schwartz, yes; Ms. Tompkins Wright, yes; Mr. Mietz, yes; Ms. Watson, abstain; Ms. Schmitt, yes.)

(Upon roll call, motion to approve with corrections carries.)

APPLICATION 12-A-01-19

12A-01-19 Application of Isaac Jones III, owner of property located at 230 Rich's Dugway Road, for an Area Variance from Section 203-2.1(B) to allow a detached garage to be located in a front yard in lieu of a side or rear yard as required by code. All as described on

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application and plans on file.

ANDREW SPENCER: Good evening, my name is Andrew Spencer with BME Associates, I'm here to represent Isaac Jones. With me this evening as well is Mr. Paul Johnson. He is working with Mr. Jones in redevelopment of the property at 230 Rich's Dugway.

Just want to -- everybody familiar with the site? Everybody drive by the site? Rich's Dugway is a road that extends from North Landing Road down to Blossom Road and this property is right at that bend in the roadway. It's roughly half an acre in size, it is within the RLC low density zoning district.

And one of the things I want to make sure that you understand is some of the constraints on this particular site. I've provided, and I apologize, I provided everybody with a packet of additional information. There's some photographs, there's a small rendered site plan, and some architectural plans of the proposed garage for the structure.

I want to point and bring your attention to a few things on the site. The house is existing, this is the existing location and the building is being rebuilt in that exact location. The rear of the property goes to Ellison Park area to the north east here, and there is a steep slope

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EPOD area in this generalized zone. There's a fence on the property and if you take a look at your renderings the fence line basically is the top of that slope. And then there's a steep slope that extends to the north.

But more importantly is the lighter colorations through the center of the parcel. This is actually a sanitary sewer easement that goes through the parcel and cuts the parcel off from the frontage of Rich's Dugway to the rear of the parcel. It's a 30-foot wide easement, the sewer is roughly 20 to 24 feet in depth. So they needed a 30-foot wide easement, so if anything had to occur and they had to replace anything they needed that much space.

So it restricts where we can develop a new garage on the site, so it brings us to the site plan. We've positioned the garage outside of the easement, roughly three to five feet to the south of that easement. That's so we can actually construct the foundation for the garage and build it up outside of the zone. We have also proposed a driveway to approach the garage from the northwest going to the southeast. So the garage door will actually be facing the house.

And provided a drive area that we feel will

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accommodate turning movements within the site so they can actually turn vehicles around so they can pull out straight ahead, forward onto Rich's Dugway, so we won't have cars backing out onto Rich's Dugway. There maybe occurrences where that does occur, we're trying to design it so we minimize that to the best we can.

So with those few -- the other reason that we're here this evening as well is although this may not look like a corner lot, it has been determined that this is a corner lot. So we do have front setbacks all the way across the property here. The existing house has a front setback of approximately 11.4 feet and what we are looking for for a 600 square foot accessory garage is 16.9 feet from the west end and approximately 15.7 from the eastern end, so 16.9 feet here and 15.7 feet here.

The few lines, the red lines you see on the plan, again, to get you familiar with the layout of the lot. The overall poly line that goes around the site, that is actually the land within the lot. There is another line which shows where the right of way is, and that is this area right here. So actually a portion of Rich's Dugway comes into and through the site.

So what we're looking for is a reduction in

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the front setback to that 15.7 feet to allow the accessory structure to be built on the site. We have provided a letter of November 12th, with the six different factors that this Board is responsible for taking a look at and reviewing prior to making their decision.

Rich's Dugway is a relatively narrow street. Most of the home on the street are very, very close to the street. You can see by the aerial photograph some of the homes to the northwest are almost as close as the existing structure is itself, so it's in keeping with the neighborhood. We don't have any other location to put this garage to the rear of the house outside of the front yard because of the easement that courses through the site and some of the grade considerations we have.

The applicant contends that this will not be a detriment to the change in the neighborhood. It is in keeping with the character and actually the architect of the structure, albeit not typical of this architectural style is in keeping with the structure that is being built there today. If you flip through some of the photographs I believe on the second page of the photographs, Photo Number 3 shows what the roof lines are of the home, and kind of the window placement is such. And the garage has been designed with the

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roof line to be in keeping with the rest of the structure on the site.

MS. TOMPKINS WRIGHT: Just real quick, when you said -- so the setback is fine, it's just the fact that it's in the front yard?

MR. DiSTEFANO: Yes. Because a detached garage is a minimum setback of five feet from a side or rear lot line. Because this is in a front yard there's no -- and say if it was closer than five feet to the front lot line, would be requesting that variance also. But it's just the fact that it is in a front yard is the request here.

MS. TOMPKINS WRIGHT: What would be the front yard setback if this were a primary structure?

MR. DiSTEFANO: 40 feet.

ANDREW SPENCER: The second factor we have to review is what the difficulty is and why we're asking for this. I think I just kind of gave you the lay of the land why we're looking for this variance. And is it substantial? I guess you could consider this is substantial because no garage is allowed within the front yard. However, the lot configuration, the lot determination that it's a corner lot and the constraints that we have, we can't put a garage in any other location here within the rear yard or outside of

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the front yard.

MR. DiSTEFANO: Touch base on that a little bit, Andy. Along the west portion of the property the west of the house, that is considered from the front of the house going back towards the steep slope that is considered to be a side yard? Why that area wouldn't feasibly work for you.

ANDREW SPENCER: It is because the home is oriented to be east to southeast. The front door is located right here in the corner to the east. The existing driveway and circular driveway that they have right now, which is to be removed is all on the east side of the lot. This is the useable portion of the lot. Entering into the home there's three different -- there will be a deck structure that will be placed against the home. There are a number of sliding glass doors, the whole intent was to provide security for the garage, visibility to the garage, and access to the front, and the front here not on the side.

The grade also drops off substantially on the west side right here. There's got to be at least an eight- or nine-foot elevation difference. The basement elevation here to the first floor is roughly nine feet, and we have that same situation over here. Unfortunately, because of the

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slope we would have to do even more filling and retaining walls and things of that nature to position it in this area.

CHAIRPERSON MIETZ: Okay. Are there any other questions from the Board?

MS. TOMPKINS WRIGHT: Any utilities going into the garage other than electricity?

ANDREW SPENCER: Just electricity. I also just wanted to let the Board know that the series of photographs I have provided and I have provided a location of where the photos are being taken. There was a conversation with Mr. DiStefano about view sheds on Rich's Dugway. I just want to note, I've taken some photos from vantage points just west of the home and along Rich's Dugway, the positioning of that garage we feel will not reduce the visibility around that corner. Especially as it relates with coming from Blossom Road to the west and north.

The park has shrub, brush, things that restrict that view, that garage will not even be visible until you get a little bit closer to the parcel. By that time you are already around the corner. I just want to make sure you understand we don't feel this will create a detriment on Rich's Dugway from a view shed respective. Thank you.

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CHAIRPERSON MIETZ: Any other questions?

Thank you.

Is there anyone in the audience that would like to speak regarding this application? There being none, then the Public Hearing is closed.

* * *

REPORTER CERTIFICATE

I, Rhoda Collins, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated this 14th day of December, 2019.

At Rochester, New York


Rhoda Collins

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2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON DECEMBER 4TH,
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DAVID DOLLINGER, ESQ.
Town Attorney

RICK DiSTEFANO
Secretary

NOT PRESENT:
JEANNE DALE

(The Board having considered the information presented by the
Applicant in each of the following cases and having completed
the required review pursuant to SEQRA, the following
decisions were made:)

REPORTED BY: RHODA COLLINS, Court Reporter
FORBES COURT REPORTING SERVICES, LLC
21 Woodcrest Drive
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APPLICATION 12A-01-19

12A-01-19 Application of Isaac Jones III,
owner of property located at 230 Rich's Dugway Road, for an
Area Variance from Section 203-2.1(B) to allow a detached
garage to be located in a front yard in lieu of a side or
rear yard as required by code. All as described on
application and plans on file.

Motion made by Mr. Mietz to approve
Application 12A-01-19 based on the following findings and
facts.

FINDINGS AND FACTS:

1. The variance request is not substantial since the setbacks on a corner lot are greater than the existing house which mitigates the view.
2. Due to an easement through the property and corner lot situation no other location which meets the applicant's requirements could be found to meet the desired result.
3. The safety of the neighborhood and the area on Rich's Dugway will not be decreased by the placement of the garage as proposed.
4. No negative effect on the character of the neighborhood will result from this approval since similar front yard encroachments exist in the subject neighborhood.

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CONDITIONS:

1. This application is based on the testimony given and drawings submitted, specifically as to the location of the garage on the lot in keeping with the renovated home.

2. All necessary building permits shall be obtained.

3. All necessary environmental protection overlay district (steep slope) permit shall be obtained.

(Second by Ms. Schwartz.)

(Mr. Clapp, yes; Ms. Tompkins Wright, yes; Ms. Watson, yes; Ms. Schmitt, yes; Ms. Schwartz, yes; Mr. Mietz, yes.)

(Upon roll call, motion to approve with conditions carries.)

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I, Rhoda Collins, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated this 14th day of December, 2019.

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