

Present at Meeting:

Cheryl Erickson, Chair
James Dewar, Vice Chair
Rich Nawrot
Troy Scripture
Brian Logan
Neil Brandmeir, Alternate #2

Also Present: Town Attorney Brian Reichenbach, Zoning Administrator Scott Olson, Bonnie Rosbozom, Donald Rosbozom, Renee Charbonneau, Tim Charbonneau, Art Dombrowski, Rod and Amanda Trent, Eilene Pucciarelli, Lynn Pucciarelli, Roger Newkirk, Andrew Cappabianca, Colin Dunn, Bernie Hill and Cyrus and Lynda Similly.

Pledge

Review of Minutes: Jim Dewar made a motion to accept the October 27, 2020 minutes as written. Second by Troy Scripture. **ALL AYES.**

NEW BUSINESS:

File # 2020-08 AV
Tax Map # 72.13-2-44
ADK Leisure Properties LLC
7027 State Route 8
Brant Lake, NY 12815

Requesting an Area Variance from **Section 8.09** for dock surface area of 72 square feet where 400 square feet is the maximum and a dock length of 96' where 40' is the maximum.

Roger Newkirk owner of this property spoke about his proposed variance for dock surface area. The current zoning ordinance for docks creates a practical difficulty not created by the property owner or any predecessors in interest of the property. The total square footage and distance from shore requirement prevent the intended use of the property. Attached to this letter is an outline of the intended uses of this property composed from the deeds of the 12 parcels with deeded rights to the property. We are asking for relief from the total square footage of dock and Town approved dock layout requirement because the intended use of multiple deeded docking and mooring rights would not be possible and would diminish the value of those properties. We also ask for relief from the 40' distance from the shore requirement because the unique and unusual lake bottom conditions that exist at the property. We are located in a bay on the lake that has very shallow water depths. Most power boats require 24" to 26" of water depth to navigate safely. Our bay does not reach this depth until approximately 44 feet from the shore making it difficult to navigate and avoid damage to a boat inside of the 40' requirement. By using the proposed dock modification layout submitted with our dock application, we feel we are asking for the minimum relief to accommodate sufficient dock space and water depth for the multiple families that have deeded rights to the property. By using the proposed dock modification layout we can use the exact same spot as existing dock that has been there for decades and it will only extend 15' further than the existing dock. Boats will enter the bay from the sides.

Rich Nawrot asked if Roger was including mooring as docking.

Roger responded "Yes, we are also counting the mooring as docking. There are 14 parcels that includes docks and mooring.

Chairperson Cheryl Erickson asked how many docks currently exist.

Roger stated right now 5 and they will be adding 9. There are 11 parcels, 12 including the beach parcel. I own the beach parcel and another parcel with a single-family home on the mountain. There are 10 other parcels, 12 parcels in total. Currently they are using 5 docks slips because that was what's there. Now everyone wants their deeded rights to have docks since they were purchased in the 1960's and 1970's prior to Zoning Law. They are now looking to get the variance in order for the other parcels to have what they were deeded.

Chair Cheryl Erickson asked Roger if he could go back and get all of the deeds for the other parcels showing they have docking rights prior to 1973.

Roger stated he is not sure about the date, but the original owner subdivided according to Art Dombrowski back in 1968.

Scott Olson stated that there was never an official Subdivision created. It is not a Homeowner's Association nor a recognized Subdivision in the Town.

Chairperson Cheryl Erickson stated that the original owner chopped up the property into 11 parcels and the beach and sold them off with docking and mooring rights.

Brian Logan asked if there are 4 houses next to your beach.

Roger stated that they have 550' of shoreline. There is one parcel the Whites live in and our parcel runs from the White's house to Scott's house. There is 600' of road frontage.

Brian Logan asked about 4 houses on the little jut right there.

Scott Olson stated there are 2 properties on the point.

Brian Logan asked how that affects those houses.

Scott Olson replied it doesn't.

Rich Nawrot asked how close the nearest house to the dock is.

Roger responded it is 66' from the dock to the property line. It is 440' in the other direction.

Jim Dewar stated the 550 square feet is pre-existing non-conforming and you are looking to expand to 721 square feet which will be an additional 271 square feet.

Roger stated yes that is correct and it will extend 15' further out into the water than the original dock. However, the width of the dock has been the same for decades.

Brian Logan asked if he is moving out due to the depth will he have enough depth at the dock space.

Roger responded yes we are trying to get more boats into the slip and pushing it out to get 26" of water.

We know the maximum is 100' and are trying accommodate as many people as we can within the 100'. We realize that you cannot pull a full size motor boat into 4 of the docks.

Brian Logan stated that you are not an Association so you cannot put guidelines down to state you cannot have a boat over 20'.

Chair Cheryl Erickson asked if each of the parcels have an assigned dock.

Roger responded right now we only have 5 docks assigned; however, now we are trying to accommodate all of the parcels that have docking rights. They never exercised their rights when purchased parcels so we want to get that all set up now.

Brian Logan asked if there is a reason there is not an Association. How do you manage behavior?

Roger responded we just help each other out.

Chair Cheryl Erickson asked if these parcels are grandfathered in and if the Board members could get a copy of all the deeds. Now you need a total of 14 docks.

Roger responded yes we have those and can get them to the Board members.

Jim Dewar asked if they will be using a bubbler.

Roger responded yes they have been using a bubbler with no problems and will continue to do the same.

Brian Logan asked how did you handle the storm last year with the docks out.

Roger responded fine.

Being no further questions Jim Dewar made a motion to deem the application complete and set a Public Hearing on December 15, 2020 with the deeds requested be presented to the Board at the Public Hearing showing docking rights. Second by Rich Nawrot. **ALL AYES.**

PUBLIC HEARING:

File # 2020-01 Use Variance
Tax Map # 88.-1-3 and 88.7-1-1
Mill Pond ADK Holdings LLC (Drew Cappabianca)
Echo Mountain Road and 3 New Street
Brant Lake, NY 12817

Requesting a **USE Variance from Section 15.70 Use Variances** to build up to four tent camping platforms.

Chair Cheryl Erickson stated that a use variance is very different from an area variance and what we will be discussing will be different from an area variance. We have several extensive letters from people who live along New Street with objections to the proposed tents. We will be talking a lot about finances and Drew has the burden of proof to show he warrants a Use Variance.

Drew Cappabianca came back before the board to speak about his financial evidence. He wanted to know if anyone on the Board that has questions for him.

Chair Cheryl Erickson read aloud the **Section 15.70** for a Use Variance from the (Horicon Zoning Law page 87) to the Board members, the applicant and the Public present. She went on to state that no such Use Variance shall be granted by the Zoning Board of Appeals without showing by the applicant that this Zoning Local Law has caused

unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals: (a) that for each and every permitted use under this Zoning Local Law for the particular district where the property is located the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (b) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.

Drew stated that those campsites are hundreds if not thousands of feet away from neighboring properties. There will be no change to the character of the Mill Pond District, and this is completely in line with the Town's Comprehensive Plan. If you look at the map provided tonight is from when we built the trails. If you look at the area this is the only place that is feasible to put the tents. In regard to the financials, I did provide you with projections. If it is not physically possible to obtain the Use Variance, then it is not financially possible. Regarding the projections. The first page submitted, reflects a perfect year if everyone pays their rent and minimal expenses it still loses a couple of thousands of dollars a year. The Town built the fishing area access on the pond with the material he donated, all of the stone on the bank was donated to the Town by my company and the Town uses his parking lot for parking as well with no expense to the community for the fishing area. By allowing me to lease the property to put a small "glamping" operation it will allow me to offset some of the costs. The other financial document provided shows that this past year he had an awful tenant situation in which I was stiffed rent and had damages that cost him thousands of dollars. That lot is also used for the Food Truck Friday crew by the Town. I feel it preserves the character of the Mill Pond and brings business to Horicon. The other uses for that property are building single family homes on the property; however, it not feasible from a financial standpoint because the cost of building exceeds home values. There are a number of conditional uses that I feel would negatively affect the Mill Pond area as well. One accepted use is a mobile home which would negatively affect the pond and I don't feel that the 4 "glamping" tents would affect the area negatively.

Chair Cheryl Erickson corrected Drew Cappabianca because the area is the Mill Pond Overlay zone which is more restrictive and takes precedent over the CR 20,000 zone and he would not be able to put a mobile home on that parcel.

Rich Nawrot asked Drew Cappabianca if the cash flow statements provided include the anticipated income for the project and how much income he would receive from leasing the property for this project.

Drew Cappabianca responded it will vary based on occupancy but less than 10,000.

Rich Nawrot asked if that amount is for the season.

Drew Cappabianca stated it will get us into a cash flow positive.

Chair Cheryl Erickson asked Drew Cappabianca if he has a permitted use inside the CR 20,000 zone for the Hub and the rentals.

Drew Cappabianca stated he has a Conditional Use for those businesses.

Chair Cheryl Erickson asked if this parcel is in the LC-10 zone and the CR 20,000 zone. So, part of this is located in the LC-10 zone.

Drew Cappabianca stated most of the parcel is LC-10 except for the Mill Pond Overlay zone and the easiest thing to do would be to move the tent sites up; however, it's not possible because there is impassable ledge rock.

Drew Cappabianca responded that it's not physically possible so it can't be financially possible. All the money in the world cannot achieve something that is physically impossible.

Brian Logan stated that this year has been particularly hard due to the Covid-19 virus and like you said with the rent and damage problems. How were last year's numbers?

Drew Cappabianca responded that the one I gave you is ideal. It's never positive and the most ideal is that we are always negative a couple of grand.

Brian Logan asked about 25 Market and 27 Market rents what are those?

Drew Cappabianca responded one is the Hub and one is the two-family.

Rich Nawrot asked about the second page of where the rent for 25 Market and 27 Market St. is that the same?

Drew Cappabianca responded no, the first page is an ideal scenario and the second page is the reality of what happened in 2020.

Brian Logan asked if the idea for the tents came from a demand.

Drew Cappabianca responded yes it came from demand from the hikers and bikers who use the trails.

Brian Logan asked which market the demand is coming from.

Drew Cappabianca responded that he does not know. There are more people that hike than bike. There is a general demand for the "glamping" style that is becoming popular and in the county the AIR B&B's are up and doing better than the motels and hotels.

Troy Scripture asked about the building and maintenance costs shown on the ideal year of \$1,000 versus the reality of building and maintenance in 2020 for \$5,500. Will the every year expense now be \$5,500?

Drew Cappabianca responded no, that is just what happened in calendar year 2020 from renters not paying rent and damages.

Chair Cheryl Erickson asked Drew Cappabianca if he could have an income from this property in a different way than the "glamping" operation. How would you manage that?

Drew Cappabianca stated that he is just leasing the land and it is someone else's operation.

Cheryl Erickson asked Drew Cappabianca if he could make money by charging for the hiking and biking.

Drew Cappabianca stated that he cannot charge for the trails what could be charged for the "glamping".

Brian Logan asked about his business partner who will be running the "glamping" operation.

Drew Cappabianca stated he has no partners he is a sole proprietor; this is just an acquaintance that thought it would be a good idea for the area. A new accommodation to offer.

Brian Logan asked who will be responsible for any issues that come up with the people who will be using the tents.

Colin Dunn responded to Brian Logan. He started by explaining to the Board who he is and what his operation is all about. He owns NE Terrain and we do trails, we do real estate and now do "glamping". He has a "glamping" site in Saratoga, NY at a winery. He has a cottage in Hague, NY that he is at all during summer months. This business is not for college kids. He rents to young professionals, between the ages of 25 to 45 years old. He is not low-end and is a high-end operation. The tents include very expensive furniture and charges between \$300.00 and \$500.00 for a two night minimum stay. It is for folks looking to get out of the city and looking for adventure. He does have insurance and liability on the business.

Rich Nawrot asked how he will screen his potential tenants.

Colin Dunn responded that he cannot legally screen people. He will have a king size bed in each tent and will only allow two people in the tents. It is for folks looking to go hiking and biking and stay in a luxury tent. The only way he can screen is making it such a niche market that others are not interested.

Rich Nawrot stated right now the proposal is for 4 tents and are you looking to expand anymore tents in the future.

Colin Dunn responded he has no intention of adding anymore tents.

Brian Logan asked about the campfire situation or cooking.

Colin Dunn responded that they are partnered with Bio Lights Energy, a company from Brooklyn that offers smokeless fire pits. You can cook on them and they are the safest we can get. They are usually used on apartment balconies and can be purchased at Crossroads located in the Town.

Brian Logan stated then there is no exposed fire.

Colin Dunn stated no, there is a fire encapsulated to keep it going all the time.

Troy Scripture asked how it's fueled.

Colin Dunn responded that it's fueled by 3 (5" to 18") pieces of wood that will burn for about 16 hours. We provide "white-glove concierge service" and we will use Kingswood out of Ticonderoga, NY.

Rich Nawrot asked if any power will go to the tents or on the property.

Colin Dunn stated that the heat from the stoves conducts electricity via USB boards to the lights that hang from the center of the tents.

Rich Nawrot asked if there will be any water on the property.

Colin Dunn responded no, only in the restrooms.

Chair Cheryl Erickson asked the restroom location.

Colin Dunn responded the restroom will be located as shown on the map provided to the Board on the northern end of the parking lot.

Chair Cheryl Erickson asked the reason to place the restroom in that location.

Colin Dunn stated he wanted to keep it away from the restaurant and it will be hidden and won't be able to see it.

Chair Cheryl Erickson asked the reason for placing the restrooms in that location.

Colin Dunn responded to hid it from the street.

Chair Cheryl Erickson asked if the neighbors who live next to it will see it.

Colin Dunn responded they won't be able to see it. These are the best restrooms that money can buy. They cost 72,000.00 dollars. He thinks the first house is about 75'-100' away.

Rich Nawrot asked if the residents will be able to hear it or smell it.

Colin Dunn sated the restrooms will be serviced every two weeks and the residents will not be able to smell anything.

Brian Logan asked if anyone can use the restrooms.

Colin Dunn responded no, they will have a key pad for guests to use their key provided to them.

Rich Nawrot asked the number of nights people can rent these tents.

Colin Dunn stated there is a 2-night minimum.

Brian Logan asked Colin Dunn how the business is doing in Saratoga, NY.

Colin Dunn responded that this will be their first year down there. I have run my own businesses for 14 years since he was 22 years old. All have been well run companies and he does not expect this to be any different. This is not going to be your average "glamping" operation.

Rich Nawrot asked Drew Cappabianca to indicate where on the map the residences are located and Drew pointed out their locations. He pointed out the closest residence.

Being no further questions for Colin Dunn, Chair Cheryl Erickson asked if any members of the Public would like to speak on this proposal.

Lynn Pucciarelli who lives at 27 New Street, four houses away from the location of the proposed tents spoke and she stated that this sounds like a great idea but she does not love the fact that it is located in a Residential Area. She does not like the fact that a porta-potty will be used even a fancy porta-potty because it will be located only 75 'from the nearest residence. She referenced **Section 15.70 (b), 2** of the Local Zoning Law and she does not think Drew Cappabianca can prove financial hardship. What she heard tonight was Drew had financial hardship this year due to renters not paying rent and damages and Covid, she feels this does not meet the definition of unnecessary hardship. She did not hear a lot of evidence that it won't alter the character of the neighborhood. There are a lot of campgrounds in Warren County and all have problems. The local police and DEC are frequently called to these locations. She is concerned about the residents' safety and safety of their properties and did not hear a lot from the applicant regarding these issues. She wanted to know if someone would be on call 24/7. She is concerned about the traffic that will increase in the area which will pose a problem for the residents, their children and animals. To her understanding this is a residential area.

Drew Cappabianca wanted to address Lynn Pucciarelli's statement. Regarding the financial statements he provided one is an ideal year and the other is this year due to Covid which is not a typical year. He said that there will not be a porta-potty. It is a 14' trailer that cannot be tipped over. The traffic will be concentrated on 3 New Street which will not go beyond the pond. The traffic on that road is caused by people who don't live on that road and try to pass people on Route 8.

Colin Dunn stated that they offer something like a limo service that will pick people up at the airport in Albany or the train stations and bring them to the site. I will be able to be at the site within 20 minutes and will have 85% control over the site.

Drew Cappabianca stated this is not comparable to a DEC campground.

Don Rosbozom, residing at 13 New Street spoke about his objections to this proposed project. Citing problems with colors of the tents, bathroom/shower trailer, keeping the visual environment and historic character of the Mill Pond area, smelly odors, noise, storm water runoff and traffic in the area. His letter is entered into the record.

Drew Cappabianca responded to Mr. Rosbozom stating that his view is speculative and not based in reality. There is one culvert only that is totally safe, the tent's will be positioned so as not to be able to see them from the road. There is a 40' buffer at the location. The tents will be in a depression and 8' – 10' into the depression. They may see some lights; however; they are not halogen lights.

Troy Scripture asked how tall these tents are.

Colin Dunn responded 16' wide by 8' tall.

Tim Charbonneau, residing at 39 New Street spoke about his objections to the proposed project. He has been visiting here for the last 40 years and he stated that the traffic has increased in the past three years. Throughout the summer he has to answer questions from people coming to the HUB and about 75% of traffic is from lost people asking directions. There will be increased parking which is a concern to him. He feels it will set a precedent and what will then come next. He also stated it will affect the character of the neighborhood.

Renee Charbonneau, residing at 39 New Street spoke about her objections to the proposed project. She stated that they purchased the property in 2017 for the peace and beauty of the area. She has noticed the increase in traffic due to Drews docks and kayaks. As far tents go, she thinks college kids will be glamping here and therefore; will be a lot of noise, high turnover, and garbage. She did not like what Drew said about donating materials to the Town so, she feels Drew was stating that because he wants the Board to give him the variance or else, he will put a trailer on the property. She wants the Board to reject this requested Use Variance in its entirety.

Chair Cheryl Erickson stated there are a few more objections from the neighbors all of whom have the same type of concerns already expressed here tonight. The letters of objection were received from the Tim and Tammy Evans residing at 9 New Street, and Shari Medini, daughter of Tim and Tammy Evans. Also received a letter of objection from Paul Marion, who resides at 47 New Street. All of these letters are entered into the record for this proposed project.

Drew Cappabianca responded to Renee Charbonneau's statements. The comment I made about putting a trailer on the property was not intended to be a tit for tat situation and was intended to get value out of my land because I would be allowed to put a mobile home on the property.. I agree the traffic problem has to be addressed. If I thought this would have a negative impact on the neighborhood I would not be here asking for this proposal.

Don Rozbosom had another comment that he does not want the smells outside, and these are our homes. Drew just works there and goes home. We live there.

Rich Nawrot asked for a point of clarification. Is the HUB not part of Mill Pond Holdings. You are showing loses every year so how you survive. If the Board does not approve this what is the financial hardship to you.

Drew Cappabianca stated that the HUB is a separate entity. He makes money at the other jobs during the winter. If the Board does not approve this request, he will just continue to lose money. He also stated he would be willing to tuck the bathroom trailer behind the HUB or another location so as to not be seen by the neighbors.

Chair Cheryl Erickson wanted to clarify for members of the Public that this type of bathroom is very high-end and upscale. It is not your typical porta-potty. However, you will see it.

Rich Nawrot asked if Drew and Colin are partners in this business.

Drew Cappabianca stated they are not partners he is only leasing the property to Colin. Rich Nawrot asked Drew what percentage of the profits he would receive.

Colin stated Drew will receive a fixed lease payment and a percentage of the profit of his revenue.

Chair Cheryl Erickson closed the Public Hearing and asked the Board members if they want more time to review this proposal. She asked if the Board would like to have a discussion tonight regarding this proposal. The Board members stated that they would like to discuss this proposal tonight.

Chair Cheryl Erickson asked Drew if he would flag and pin the point on the property so the Board members can visit the site.

Chair Cheryl Erickson stated that the Board will discuss the Summary of the Use Variance Criteria:

1. Use Variances are defined as the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this Zoning Local Law.
2. No such Use variance shall be granted by the Board of Appeals without a showing by the applicant that this Zoning Local Law has caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals:
 - a. This Use Variance must show that the applicant cannot realize a reasonable return without the variance and that it is an unnecessary hardship and must show competent financial evidence. The applicant was asked to show further competent financial evidence at the next meeting on December 15, 2020 and show that this is an unnecessary hardship.

Town Attorney Brian Reichenbach explained to the Board members how this Use variance should show a unique hardship to applicant and does not apply to the other residents in the Overlay Zone. The topography of the land could contribute to the hardship. It must also show this hardship does not apply to a substantial portion of the district or neighborhood.

- b. Chair Cheryl Erickson stated that this proposal is very unique to your property. The other neighbors have no plans to propose any "glamping" on their residential properties.
- c. The requested variance will alter the essential character of the neighborhood. It will have an effect on not only the neighbors but also the people across the pond as well. Given the transient nature of the

people using this site, and the unsupervised nature of this proposed glamping operation, if a problem were to occur who would they call. There are concerns of strangers on the neighbors' properties. Possible stolen property. Traffic problems.

- d. This alleged hardship has been self-created. Due to the ledge and rocks in the LC-10-acre zone the applicant cannot place the tents in the LC-10 zone and will necessarily be in the CR-20,000 zone and the Mill Pond Overlay zone.
- e. The Board will have to decide if this is the minimum variance necessary and impose any reasonable conditions, which they will discuss on December 15, 2020. Chair Cheryl Erickson stated that they have 11 families on New Street and a majority of the residents that do not want this "glamping" project. They have received seven opposition letters to this proposal which is a majority of the residents.

Being no further questions or comments Chair Cheryl Erickson proposed to table the meeting until December 15, 2020 and asked for additional financial evidence that proves unnecessary hardship, any written agreements between Colin Dunn and Drew Cappabianca and evidence of financial responsibilities.

PUBLIC HEARING: **File # 2020-07 AV**
 Tax Map # 105.2-1-33
 Cyrus G. Similly
 7 Chestnut Drive
 Crystal Lake, NY

Requesting an Area Variance from **Section 6.10** for two front yard setbacks to build a 28' x 28' garage

Cyrus Similly was present to speak about his request for an Area Variance for a 28' x 28' garage. He stated that he and his wife have owned the home in Crystal Lake for 30 years and it was a summer home and now they are retired and live here year-round. He has no place to store things and wants to put his cars away for the winter. He has a storage unit at Exit 18 off the Northway and he would like to empty that out. He is asking for a 45' and 15' variance in order to build the garage.

Chair Cheryl Erickson asked for a clarification on the two front yard setbacks.

Cyrus Similly stated that the road going up the hill to the cabin, Chestnut Drive is the 15' setback and the 47' is from the side of the garage to the other ROW that runs through his property.

Rich Nawrot asked which way the garage doors will be facing.

Cyrus Similly responded they will face Chestnut Drive where he is asking for the 15' setback. He stated that Chestnut Drive goes all around.

Zoning Administrator Scott Olson stated the garage doors will face the 15' variance request.

Zoning Administrator Scott Olson stated that Mr. Similly had come in earlier in the summer. He had a prior relationship with Jim Steen, Zoning Administrator who started the process and Brett Winchip was involved as the engineer, trying to find someplace on the property for the garage. When Mr. Similly came into the Zoning Office I continued to work with him. We tried different placements in order to get the best option. This is the least worse option for his solution.

Jim Dewar had a question on the width of the Right of Way (ROW). He referenced the original, signed, raised stamp seal of the property owners official survey map submitted by the applicant. He referenced the dotted lines on the map. Do all of the properties have deed descriptions that show ROW?

Cyrus Similly stated yes.

Chair Cheryl Erickson asked if Mr. Similly had a survey map and asked if we could make copies of the survey.

Zoning Administrator Scott Olson stated that we don't have the ability to copy the large survey map.

Zoning Administrator Scott Olson responded to Jim Dewar that none of that applies to our Zoning and what Mr. Similly is asking for.

Town Attorney Brian Reichenbach responded to Jim Dewar stating that the dotted lines may reference a ROW granted to someone else to cross Mr. Similly's property for someone else's property. That is just a limit of a ROW in a deed description that gives someone a right to cross the property for ingress and egress.

Chair Cheryl Erickson asked Cyrus Similly if he would have to dig into the shoulder of the hill that your house sits on ~~top of~~.

Cyrus Similly replied that he would.

Rich Nawrot asked Cyrus Similly how deep into the hill.

Cyrus Similly responded about 8' from the corner of the post. It will have to be a cement foundation.

Rich Nawrot asked if Cyrus Similly could move the garage closer to his house.

Chair Cheryl Erickson asked if Cyrus Similly has an engineer for the project.

Cyrus Similly responded that he did not hire an engineer yet because he is waiting to see if he gets approval for the project.

Brian Logan asked Mr. Similly how many people use the gravel road through the property.

Cyrus Similly stated 3 families use that ROW.

Chair Cheryl Erickson asked if there are other members of the Public hear to speak about this proposed project. After questioning the others present as to who is a full-time resident it was determined that the Similly's are the only full-time residents in the neighborhood.

Rod Trent stated that they are not sure the Similly's are full-time residents resident because he goes to Florida.

Chair Cheryl Erickson asked Cyrus Similly where their permanent residence is located.

Cyrus Similly stated their permanent residence is in Crystal Lake, NY.

Chair Cheryl Erickson asked if anyone else had questions for Cyrus Similly.

Being no further questions Amanda Trent spoke and summarized the letter both her and her husband submitted to the Board for the record. She stated that her and her husband, Rod Trent live at 11 Chestnut Drive, the next house to the left of the Similly's and then the Pitt's home is next to theirs. Their permanent residence is in Clifton Park, NY. They have owned the property next to the Similly's since 2006. Her family has been coming to Crystal Lake since 1984 when they purchased property. She went on to state that she feels it is her and her husband's collective responsibility to help protect and preserve this area. Due to the impact to their home as well as the surrounding area she feels this variance should not be granted. The cluster of homes on Chestnut Drive is already one of the densest collections of structures in all the Crystal Lake Preserve. The proposed garage would require significant forgiveness of the setbacks and trees would have to be removed in order to build the garage. She stated that variances as this one would serve as an unfortunate precedent.

Rod Trent spoke and summarized his letter that they electronically submitted with pictures to the Board which is entered into the record. It was their best guess based on the information they had. They have great empathy for the Similly's wanting this garage; however, it does change the character of the neighborhood. It places a prominent structure closest to the ROW in Crystal Lake than any other homes in the area. It will have a physical impact because a sizeable amount of trees and vegetation would be removed. He thinks it will have an environmental impact on their well. This variance is 75% of the designated setback and that is a sizeable number to them which results in a structure very, very close to the roadside.

Rich Nawrot stated that he was at the site today and he understands their concerns but he does not think they will be able to even see the garage from their home.

Rod Trent stated he disagrees with Rich Nawrot and said it will impact their view of an open field.

Chair Cheryl Erickson stated that Cyrus Similly is not requesting a side-yard setback and if looking from their house they will still be able to see the field. She stated that he is building a one story garage and it will be low profile. She asked if Cyrus could tell the Board a little bit about the siding and roof colors of the garage.

Cyrus Similly stated that it will be the same color as their home and will be barn and batten just like our house and brown, with a green shingle roof with green trim.

Chair Cheryl Erickson stated that it will be kept in the same style as everything else in that neighborhood.

Cyrus Similly stated that even if he did not build the garage he was planning on taking down the pine trees because they are cracked and dangerous and will need to be cut down.

Rich Nawrot asked if Cyrus Similly has any plans for a buffer around the garage.

Cyrus Similly stated he was planning on some kind of vegetative buffer.

Chair Cheryl Erickson stated that the character of the cluster of homes in that neighborhood and are very close together and is very different than the area of Crystal Lake Preserve, which is more open.

Troy Scripture asked about the width of the ROW and if he can build near the ROW.

Zoning Administrator responded from the Town's perspective a structure has to be 60' from the centerline of the road and the ROW is a road.

Troy Scripture asked Cyrus Similly if there is a reason he decided to build a 28' x 28' garage.

Cyrus Similly responded he is going by his needs for a work bench and to store the cars for the winter.

Vice-Chair Jim Dewar asked if Cyrus Similly is planning on building the garage himself.

Cyrus Similly stated that probably will build it with his son-in-law.

Chair Cheryl Erickson read a letter received via email from Mr. Robert Slutsky into the record and the questions posed with the answers as follows:

1. Will the garage doors to this piece be on Chestnut Drive and not on Crystal Lake Drive? **Ans.** Yes they will be on Chestnut Drive.
2. Will the building itself be in the same type of architecture as the buildings within Crystal Lake. **Ans.** Yes.
3. Being such a large building will all vehicles be stored within the building and not on its surrounding property. **Ans.** Yes all stored in garage.
4. Will the building be put closer to the residence rather than closer to Crystal Lake Drive? **Ans.** Yes.

There was also a letter of support for the proposed project from Carol and William Harty.

The following letters were entered into the record:

1. Carol and William Harty in support of the proposed project.
2. Myla Pitt e-mail submitted that is opposed to the proposed variance request.
3. Rodney and Amanda Trent e-mail with pictures submitted that are opposed to the proposed variance request.
4. E-mail with questions from Robert Slutsky.

Discussion ensued between Amanda Trent and Cyrus Similly regarding pulling into the garage, walking up to the house and storing the motorcycle.

Being no further questions or comments the Public Hearing was closed.

The Board reviewed the Area Variance criteria:

Chair Cheryl Erickson stated that the Board would now go ahead and discuss the Balancing Test to balance the benefit to the applicant with detriment to the health, safety and welfare of the community.

The ZBA further finds:

1. The proposed project cannot be achieved by other means feasible to the applicants because this is the best option for placement of the garage and based on all the discussion there is no other place on the property based on the land to place the garage.
2. Based on two of the letters from the neighbors they believe there will be an undesirable change in neighborhood character or undesirable change to nearby properties. However, the Board members agreed that it will be in the same décor as the house and is in keeping with the neighborhood. It is not a residence and it is for storage that is very much needed.
3. The request is substantial; however, only from the 15' ROW and it is only 28% on the other side.
4. The request will have some adverse physical or environmental effects: however, they will only have to take down about 4-5 trees; it will be placed on a slab which impacts the surface only so an engineered plan for storm water runoff should be submitted with the Zoning Compliance Application to the Zoning Administrator.

Chair Cheryl Erickson asked alternate Neil Brandmier, who is familiar with storm water runoff his opinion and Neil responded that he would not be so concerned with the storm water runoff.

5. The proposed project is self-created but he needs a garage and it is not an unusual request from a homeowner to want to build a garage.
6. This is the minimum variance necessary for this proposal.

Being no further discussion and based on the previous discussion Vice-Chair Jim Dewar made a motion to approve the requested variance from **Section 6.10** for two front yard setbacks (15' and 47') where 60' is required to build a 28' x 28' garage **with the following two conditions:**

1. A required engineered storm water run-off plan added to construction plans and executed at the time the structure is built.
2. Put in some natural plantings to lessen the impact on the neighbors' view of the side of the garage.

Second by Troy Scripture. **ALL AYES**

Reminders: Webinars for Board members coming up.

Correspondence: None

Public Comments: None

Board Comments: None

Being no further comments Rich Nawrot made a motion to adjourn the meeting. Second by Vice-Chair Jim Dewar. **ALL AYES.**

Adjourn: 10:00 PM

Next meeting date: December 15, 2020

Respectfully Submitted,
Terri Katsch, Secretary