

Zoning Board of Appeals - September 26 2022
337 county road, John & Michelle Dembrowski
(map 11 – parcel 93.2)

ZBA Members Present: Alan Pease, Garry Baer, Justin Baer, Matt Johnson
Attendees: John Dembrowski, Carol Lileasus(sp?) , Steve Dubous (sp?), Cathy
Kristofferson

Meeting open at 7:01pm

John Dembrowski presented the variance application:

- Garage is a 20'x30' metal building, 5' overhang, spiked to the ground, building permit issued;
- Building is not attached to house;
- Current offset is 34' to centerline of County Road;
- ConsCom did a site review, could not locate the building as proposed, so location was changed;
 - o Building inspector was never aware of change, but ConsCom did note it on the building permit;
- No other sites were feasible (due to septic system, gas line, existing buildings in rear);
- Request is for 16' variance (from 50' setback from road);

Questions:

- (garry) ?does the building have electric and water? A: yes;
- (alan) ?what is the current use? A: operates a auto detailing service, hours & days vary;
- (alan) ?there is a noise complaint on file? A: working to address (compressor, limit hours, turn down radio);
- (matt) hearing is focused on the building variance, not on usage;
- (alan)? Building permit appears to be issued based on original location, was the BI notified when the location changed? A: assumed ConsCom and BI had spoke to each other (they did not);
- (alan) ?What the amended plan ever refiled with the BI? A: no;
- (alan) ?could you have situated the building to the other side of the driveway? A:no, there is a gas line there and the grading required would be significant because of the land topology;
- (matt) it is the applicants / permit holder responsibility to ensure all zoning codes are met, that why many homeowners hire a GC.
- (alan) homeowner cannot create their own financial hardship (E.G. cost to move/alter the building to meet setback)
- (alan) in order to find for the applicant 4 findings must be met:
 1. Special circumstances related to soil or topography,
 2. Special circumstances are related to THIS parcel and do not generally affect other neighboring parcels,
 3. Literal interpretation of zoning would involve a substantial hardship to applicant,
 4. Granting the variance would not be a substantial detriment to the public good / neighborhood,

Public comments:

- Cathy/ConsCom: she did the site review and recommended the applicant could not locate the building in proposed location due to wetlands. BI should have seen the noted site change before issuing the building permit, at minimum should have been caught on final site inspection before closing the permit ;
- Carol Lileasus: the applicant could have located the building on the adjacent lot which they also own. She does not like looking out her window and seeing the new building. She also contacted the BI (mid-2021?) about the building location. Also in late fall 2021, she filed a nose complaint with the BI about the auto detailing business being run, BI said he would follow-up (no evidence on-file. presented the BI followed-up);
- Steve Dubois: Auto detailing business operates all hours of the day & night, 7 days a week;
- Letter #1 submitted (read by Alan)
- Letter #2 submitted (read by Alan)

Public hearing closed at 8:20pm

Deliberations:

The Special circumstances are that the BI should have reviewed the changed site location, and/or caught the issue when the building permit was closed, but there was no record of either happening;

1. Special circumstances related to soil or topography: (YES)
 - a. **Vote: motion by Garry, 2nd by Justin, 3 votes YES; condition met;**
2. Special circumstances are related to THIS parcel and do not generally affect other neighboring parcels: (YES, the BI should have caught the issue after ConsCom change and/or at final permit signoff)
 - a. **Vote: motion by Garry, 2nd by Justin, 3 votes YES; condition met;**
3. Literal interpretation of zoning would involve a substantial hardship to applicant (YES)
 - a. **Vote: motion by Justin, 2nd by Garry, 3 votes YES; condition met;**
4. Granting the variance would not be a substantial detriment to the public good / neighborhood (NO)
 - a. **Vote: motion by Garry, 2nd by Justin, 3 votes YES; condition met;**

Garry made a motion: **put a note in the variance (addressed to the Applicant and BI) that the auto detailing business needs to apply for a SP (home business) so that the complaint on-file can be properly addressed (noise, hours of operation, etc...)**

Motion to “approve the Variance, with recommendation (listed above) added:

- Motion by Garry, Justin 2nd, 3 votes yes, variance is granted