

A regular meeting of the Zoning Board of Appeals of the Village of Cooperstown was held in the Village Office, 22 Main Street, Cooperstown, New York on May 6, 2014 at 5:00 pm. Members in attendance were Frank Leo, Marcie Schwartzman, John Sansevere, and Susan Snell. Also in attendance was Zoning Enforcement Officer – Tavis Austin and Deputy Village Clerk – Jennifer Truax. No members of the public were present.

Ms. Snell called the meeting to order at 5:00 p.m.

### **Regular Agenda**

#### **61 Elm Street (Charle-Pan Dawson) – Preliminary review of application for home occupation**

Ms. Snell reviewed the application to begin the operation of a home occupation consisting of massage therapy in the residence at 61 Elm Street. She stated that the application indicates that no changes will be made to the property and no signage will be necessary. She further explained that Ms. Dawson has stated in the application that the home occupation will have approximately 10 – 15 clients per week with no more than two additional vehicles on the property during the operation of the home occupation.

Mr. Sansevere asked if Ms. Dawson would be residing at the residence at 61 Elm Street.

The board discussed the requirement for the applicant to reside in the home where the home occupation is occurring. They reviewed the definition of home occupation and discussed the possibility of placing a condition on the issuance of the permit which requires that Ms. Dawson reside at the home a certain percentage of the time.

Ms. Schwartzman stated that if the neighbors are not affected by the home occupation a condition requiring the applicant to live at the residence any certain percent of the time would not be necessary.

Ms. Snell set a public hearing for June 3, 2014 at 5 PM or as soon thereafter as possible.

#### **32 Fair Street (Susan Snell for Jocelyn Wittstein) – Preliminary review for an area variance for the distance between a primary and accessory structure**

Ms. Snell recused herself.

Ms. Schwartzman reviewed the application to place an addition on the rear of the existing main structure which would reduce the distance between the main structure and the accessory structure to less than the legally required amount which is equal to the height of the accessory structure.

Mr. Austin stated that this is not a “normal” variance request. He explained that the proposed addition complies with all setbacks but, as defined by the zoning law, is too close to the accessory structure.

Ms. Snell reviewed the drawings of the proposed addition’s footprint and its location in relation to the accessory structure. She stated that the accessory structure is 20’ 6” but the distance between the proposed addition and the accessory structure is 16’ 5” which would then require a variance for the 4’ 1” difference.

Mr. Sansevere asked why this requirement is in the zoning law.

Mr. Austin stated that it was probably initially placed in the law as a safety precaution as a fire break, to reduce the likelihood that a fire in one structure could be contained and not "jump" to the neighboring structure. He further stated that most zoning laws today do not care about the distance between structures on the same property and are focused on the lot setbacks.

Mr. Sansevere stated that he does not see a problem with this request.

Ms. Schwartzman stated that this is an enormous residence. She continued to state that in reviewing the area variance test it may be difficult to justify question number 2 of the area variance test which asks "whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance," given that the residence is already very substantial.

Ms. Snell stated that due to the layout of the home it would be very challenging

Ms. Schwartzman stated that if there is no reason for the distance requirement between a primary and accessory structure on a property and the ZBA is going to just grant variances without regard to this section of the law; then the law should be changed so that these situations do not require a review which takes up the time of the board members.

Mr. Sansevere concurred and stated that he feels that the Trustees should review and make this change to the zoning law.

Ms. Snell stated that the ZBA, any board, or individual can initiate a review of a section of law.

Ms. Schwartzman set a public hearing for June 3, 2014 at 5 PM or as soon thereafter as possible.

### **Other Business**

Mr. Austin stated that he has received from Otsego County Planning Department has requested that the Village renew the existing wavier which exempts the Village from referring certain projects to the County for review prior to action by the Village.

The board reviewed the purpose of the wavier and details of it.

Ms. Snell asked Mr. Austin to forward to the members of the ZBA a copy of the previous application as well as the renewal request for review prior to any action.

Meeting adjourned at 5:30 PM

Respectfully Submitted,

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Jennifer Truax  
Deputy Village Clerk