

Holland Township Board of Adjustment

Minutes of the May 27, 2020

The meeting was called to order by the Chairman, William Martin:

“I call to order the May 27, 2020 Meeting of the Holland Township Board of Adjustment. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Planning Board Secretary on December 13, 2019 by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Published in the December 13, 2019 issue of the Hunterdon County Democrat
3. Faxed to the Express Times for informational purposes only.

HOLLAND TOWNSHIP BOARD OF ADJUSTMENT

PUBLIC NOTICE

TOWNSHIP OF

HOLLAND

NOTICE OF CHANGE OF FORMAT OF REGULAR HOLLAND TOWNSHIP BOARD OF ADJUSTMENT MEETING AND PUBLIC PARTICIPATION FOR THE MEETING SCHEDULED FOR 7:30 PM WEDNESDAY MAY 27, 2020

PLEASE TAKE NOTICE.

THE MEETING FORMAT HAS BEEN CHANGED FROM IN-PERSON ATTENDANCE AT THE MUNICIPAL BUILDING, 61 CHURCH ROAD, TO TELECONFERENCE DUE TO COVID-19 OUTBREAK AND THE STATE OF EMERGENCY DECLARED BY GOVERNOR MURPHY.

IN LIEU OF IN-PERSON ATTENDANCE, THE PUBLIC MAY ATTEND THIS MEETING VIA TELECONFERENCING AND COMMENT DURING THE DESIGNATED PUBLIC COMMENT PORTION IN COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT.

OFFICIAL ACTION TO BE TAKEN.

All attendees will enter a waiting room when they first sign in. Once admitted to the meeting, they will be muted.

To make a comment during a Public Hearing or the Public Comment portion of the meeting please use the “raise your hand” function and the host will unmute you during your comment.

Join Zoom Meeting

<https://zoom.us/j/92648505307?pwd=RjdDUHY4WktQVTVNVGluOGltMUgwZz09>

One tap mobile

+16465588656,,92648505307#,,1#,243384# US (New York)

Meeting ID: 926 4850 5307

Password: 243384

Flag Salute:

Chairman Martin asked all too please stand for the Pledge of Allegiance.

Identification of those at the podium for the benefit of the recording machine:

Present: Jerry Bowers, Bill Ethem, Peter Kanakaris, William Martin, Gail Rader, David Pierce, Esq., Robert Martucci, Engineer, Darlene Green, Planner, Court Reporter Donna Mackey for Lucille Grozinski, CSR and Maria Elena Jennette Kozak, Secretary.

Absent: Ginger Crawford, Kelley O’Such (recused) and Michael Welsh

Guest present: Tom Welsh, representing the Holland Township Volunteer Fire Company and 2019 Fire Chief.

Let the record show there is a quorum.

Minutes: A motion was made by Gail Rader and seconded by Jerry Bowers, to dispense with the reading of the February 26, 2020 regular meeting minutes and to approve as recorded. All Present were in favor of the motion.

Completeness

There was no completeness scheduled to discuss on the agenda.

Public Hearing

Lawrence Seibel – Block 13 Lot 23 – Old Farm Road

Variance Relief – Direct issuance of Permit for a Lot Lacking Street Frontage NJS 40:55D-35. Rec'd into our office February 5, 2020. The 45-day completeness review deadline is March 21, 2020. Completeness review scheduled for February 26, 2020. Public Hearing scheduled for March 25, 2020. Due to COVID-19 Pandemic, an extension was granted to May 27, 2020. Board Action needed.

Present for the Applicant included:

Attorney Doug Cole, Applicant Lawrence Seibel, Engineer Chris Nusser, Realtor/Resident William Penyak and a few other people from the engineers firm.

The Proofs of publication were scanned to Attorney Pierce and the board has jurisdiction. Hard copies were delivered to Town Hall for the file.

Planner Green explained that she had a prior commitment and would not be in attendance until 8:00pm.

Attorney Cole presented to the board that the driftway is a common drive shared between lots.

Witness #1 – Christopher Nusser – Engineer with E&LP (Engineering & Land Planning) in High Bridge NJ – sworn in by Donna Mackey. Chris Nusser has appeared before this board and has and will continue to be recognized as an expert witness. Mr. Nusser was involved with the plans submitted, has reviewed the material and is familiar with the project.

Secretary insert....

Board Engineer Robert Martucci of Martucci Engineering LLC, prepared an advisory memo dated February 24, 2020 for the board to review. The applicant also received a copy of the advisory memo. The secretary had to convert the memo for the minutes but it basically is as follows:

Memorandum

To: Holland
Township
Zoning Board
81 Church
Road
Milford, New Jersey 08848

Attention: Maria Elena Jennette Kozak

From: Robert Martucci, P.E. BOA Engineer
February 24, 2020

Reference: Variance Relief - Direct Issuance of Permit for a Lot
lacking Street Frontage NJS 4:55D-35
Block 13 Lot 23, 177, Mount Joy Road
Holland Township Hunterdon County, New Jersey

Dear Maria:

Our office is in receipt of the following documents on the above referenced application:

1. Application and completed application checklist.
2. Confirmation that taxes were paid on the subject property.
3. List of all properties within 200 feet of the subject property.
4. Certification of Ownership.
5. Site Walk Authorization
6. Fee Calculation form and checks for the Application and Escrow fees.

7. Deed of record for the subject property.
8. W-9 Form
9. Letter to Holland Township Fire Chief from Engineering and Land Planning Associates.
10. Waiver Request from Checklist items from Engineering and Land Planning Associates.
Limit of Disturbance Metes and Bounds prepared by Engineering and Land Planning Associates.
11. "Variance Plan" - 6 sheets prepared by Engineering and Land Planning Associates dated January 10, 2020. The plan includes a site survey prepared by Wayne Ingram, P.E./P.L.S.
12. Photographs of the subject property.
13. Soil Logs and Permeability Tests for the subject property.
14. A letter (email) has been provided by the Fire Chief for the subject property dated September 20, 2019.

The proposed project is for the construction of a single-family dwelling and associated improvements to an existing vacant lot. The lot has no frontage on a public road. An easement for access has been deeded for this lot. A variance and approval of the plans are required from the Zoning Board prior to issuance of a building permit. The applicant is requesting a C variance under a hardship and plan approval. The application is scheduled for a completeness hearing on the next Board Meeting on February 26, 2020.

In order to the Board to hear the application, a completeness determination must be completed. Please be advised that our office has completed the Completeness Review and notes the following deficiencies/comments in **Bold:**

1. Item H-2, Financial Disclosure Statement has been checked "Not Applicable". **Our office concurs with this notation as the applicant is not a corporation or partnership.**
2. Item H-5 Hunterdon County Health Department Construction Permit Referral Form has been checked as "Not Applicable". **This item must be completed, or a temporary waiver could be granted by the Board provided the applicant notes the reason for the waiver request. The soil testing and septic design should be approved by the Township and County Board of Health prior to approval of the plot plan.**
3. Items H-25 and H-26 Floor plans and building elevations for the proposed building must be provided. **A Waiver is requested by the applicant for the proposed dwelling. Architectural plans were noted to be provided as part of the plot plan approval. I have no objection to granting this waiver provided that the number of bedrooms is noted in testimony and no other bulk variances are required as part of the plot plan approval.**
4. Item H-27 Highlands Planning Area Exemption must be obtained. **The applicant noted that this qualifies for exemption #2 from Highlands planning Area. I concur with this item.**

Based on the above, I recommend this application be deemed as incomplete unless temporary waivers are granted by the Board for

items H-5; H-25 and 26. Item H-2 is not applicable and H-27 is subject to the waiver to be granted.

Other Comments:

1. Stormwater management must be addressed as part of the plot plan approval. Our office shall review and approve the plot plan for this prior to signing of the plans. This shall include hydrologic and hydraulic calculations, swale design, and flared end section scour whole sizing.
 2. Retaining wall design shall be approved by our office prior to signing of the plans.
 3. The application must be approved by the Hunterdon County Soil Conservation District.
 4. Applicant shall complete required improvements as noted in Fire Chief Tom Welshs email to the Board Secretary. All improvements shall be noted on the plot plan and our office, and the Fire Chief must review and approve same prior to issuance of a certificate of occupancy. Any maintenance and repair agreements for the access drive must be provided (if noted in book 596) or obtained subject to Board and Attorney comment.
1. Application subject to other agency approvals and comments from the Board Planner and Attorney.
 2. Application subject to other engineering comments as required during review of plans and property.

Robert Martucci, P.E., C.M.E.

Secretary insert...at the February 26, 2020 meeting:

“A motion was made by Jerry Bowers and seconded by Peter Kanakaris to grant permanent waivers for Checklist items H5, H25 and H26. At a roll call vote, all present were in favor of the motion. Motion carried.

Some more discussion took place about shortcomings expressed pertaining to emergency vehicles on the land and Attorney Pierce reminded everyone that the board can impose improvements on the property but not the lane. Testimony on the existing lane will be helpful but it's the property driveway the 2020 Fire Chief is talking about.

A motion was made by Jerry Bowers and seconded by Ginger Crawford to deem this application complete and schedule the public hearing for Wednesday March25, 2020. At a roll call vote all present were in favor of the motion. Motion carried. “

Board Planner Darlene Green of Maser Consulting, prepared an advisory memo dated May 18, 2020 for the board to review. The applicant also received a copy of the advisory memo. The secretary had to convert the memo for the minutes but it basically is as follows:

May 18, 2020

PLANNING REPORT

Board of Adjustment Township of Holland 61 Church Road Milford, NJ 08848

Re: Lawrence Seibel

Old Farm Road

Block 13, Lot 23 Review Letter #2

MC Project No. HLZ-007

Dear Board Members:

Lawrence Seibel, the Applicant, seeks approval to construct a single-family dwelling on the subject site. Lot 23 does not have frontage on a public road but is accessed by a common driveway. N.J.S.A. 40:55D-35 (MLUL) states “no permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or

structure.” N.J.S.A. 50:55D-36 states that where enforcement of Section 35 would cause difficulty or undue hardship, the Board of Adjustment can direct the issuance of a permit subject to conditions that will provide adequate access for emergency vehicles for the protection of health and safety. The Application requires variances, which are detailed in Section B. The following documents, which were submitted in support of the Application, have been reviewed:

1. Plans entitled “Old Farm Road”, prepared by Wayne J. Ingram, P.E. of E&LP, dated January 10, 2020, revised through May 8, 2020, consisting of 6 pages.
2. Planning Board & Board of Adjustment Application Form, no date.
3. Board of Adjustment Checklist for Determining Completeness of Application, no date.
4. Letter entitled “Variance Application”, prepared by Derek Ranger of E&LP, dated January 10, 2020, consisting of 1 page.
5. Letter entitled “Variance Application”, prepared by A. Derek Ranger, P.E. of E&LP, dated May 8, 2020, consisting of 2 pages.
6. Document entitled “Board of Adjustment Section H Checklist”, prepared by E&LP, dated January 10, 2019, consisting of 1 page.
7. Letter entitled “Adamic Hill Road....Block 13 Lot 23”, prepared by Maria Elena Kozak Land Use Administrator, dated January 14, 2020, consisting of 1 page.
8. Document entitled “Description of Limit of Disturbance”, prepared by Wayne J. Ingram, P. L.S. of E&LP, dated January 10, 2019, consisting of 2 pages.
9. Document entitled “Schedule ‘A’ (Deed #90770)”, recorded on October 17, 1975, consisting of 1 page.
10. Site Walk Authorization, dated January 31, 2020.
11. Email correspondence between the Applicant and Tom Welsh, Holland Fire Chief, dated September 20, 2019.
12. Hunterdon County Health Department Application for Permit to Construct/Alter/Repair An Individual Subsurface Sewage Disposal System, Forms 2b and 3c, dated November 15, 2019.
13. Packet of Photographs, prepared by Larry Seibel, received on February 13, 2020, consisting of 8 pages.
14. Copy of Deed from Riegel Paper Corporation to N.J. Power & Light Company, dated 1940, consisting of 2 pages.

A. Existing Zoning and Surrounding Land Use

The property is located in the R-5 Residential District to the southeast of Mount Joy Road. The property does not front on a street and is accessed by a common driveway, known as Old Farm Road, shared by other lots. The property is surrounded by residential uses and is extensively wooded to the east and south. See the image on page 3 for the general location of the site. 1 As per Section 100-46, the bulk requirements for the R-5 District are as follows:

Minimum Lot Area – 5 acres

Minimum Lot Width – 325

Minimum Lot Depth – 350

Maximum Building Height – 35 feet

Maximum Stories – 2.5

Minimum Setback (from the street line) – 75 feet

Minimum Rear Yard Setback – 75 feet

1 Image courtesy of https://www.highlands.state.nj.us/njhighlands/gis/interactive_map/

Minimum Side Yard Setback – 75 feet



B. Variances

The Application requires the following variances:

1. N.J.S.A. 40:55D-35 – Relief for building lot not abutting a street. Section 36 of the MLUL permits the Board of Adjustment to direct the issuance of a building permit for a lot not abutting a street if the enforcement of Section 35 (street frontage requirement) would be practically difficult or result in unnecessary hardship. This potential relief is subject to conditions that will ensure adequate access for firefighting equipment, ambulances, and other emergency vehicles.

The Applicant proposes to construct a home on a lot that does not have street frontage. The Applicant proposes an 11-foot to 15-foot-wide driveway on his site, but no information has been provided on the width, slope, etc. of Old Farm Road, which is the common driveway that accesses the subject site to confirm the site has adequate emergency access.

2. Section 100-111A – Variance for lot frontage. The Ordinance permits lots with a single-family dwelling as a principal use to have no street frontage as long as the lot has at least 500 contiguous feet of frontage along a drift way.

According to Sheet 1, the property has 44.42 feet of frontage on the drift way. And per Mr. Ranger's May 8, 2020 letter, the common driveway is "considered a drift way".

3. Section 100-161A (2)(a) via 100-111A – Variance for width. Section 100-111A permits lots fronting on driftways if they have 500 feet of frontage on the drift way and if the driftway meets the standards in Section 100-161. This particular section requires proof that the owner of the subject lot has approval to use the driftway to a width of at least 40 feet between Lot 23 and the public street.

This office has not received any information that indicates the Applicant has approval to use the driftway and that the drift way "right-of-way" is at least 40 feet.

4. Section 100-161A(4) via 100-111A – Variance for frontage along the driftway. The Ordinance requires at least 500 feet of frontage along the driftway. It appears from the plans the Applicant either has eight feet or just over 44 feet of frontage.

5. Section 100-161A(5)(a) via 100-111A – Variance for traveled way of driftway. The Ordinance requires the traveled way of a driftway to be a minimum of 18 feet in width. The plans do not illustrate the entire length of the driftway, but the traveled way is measured at two points, which indicate a width of eight feet and 11 feet.

C. Variance Proofs "C" Variances

N.J.S.A. 40:55D-70(c) sets forth the criteria by which a variance can be granted from the bulk requirements of a zoning ordinance. The first criteria is the C(1) or hardship reasons including exceptional narrowness, shallowness or shape of a specific piece of property, or exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or extraordinary and exceptional situation uniquely affecting a specific piece of property. The second criteria involves the C(2) or flexible "C" variance where the purposes of the MLUL would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.

D. Design Waiver

The Application does not require any design waivers.

E. Comments

Based on our review of the above-referenced materials, we offer the following comments. Note that new comments and the current status of existing comments are provided in italics.

1. The Applicant's professionals must provide testimony to support the grant of the variances required by the Application. Testimony must address both the negative and positive criteria requirements of the MLUL.
2. It is unclear if the common driveway to access the site qualifies as a driftway. Testimony shall be provided, which may eliminate Variance #2 on page 3. Mr. Ranger's response letter, dated May 8, 2020, indicates the common driveway is considered a driftway. However, upon review there are several requirements for a driftway that are not met or full information has not been provided.

3. N.J.A.C. 40:55D-35 requires buildings or structures to have street access before a permit is issued. However, if the enforcement of Section 35 would “entail practical difficulty or unnecessary hardship”, then N.J.A.C. 40:55D-36 permits the Board of Adjustment to “direct the issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances, and other emergency vehicles necessary for the protection of health and safety”.

Based on the Site Plans submitted, it is unclear if the proposed 11-foot to 15-foot-wide driveway and its associated 28-foot grade change provides adequate access for fire truck, ambulance, and other necessary emergency vehicles. No information was provided on the common driveway’s width, slope, etc. Therefore, it is unclear if a firetruck can navigate the proposed driveway slope or other emergency vehicles can access the common driveway. Testimony shall be provided.

The revised Site Plan indicates the common driveway’s width is 11 feet at one point and eight feet at another point. The revised Site Plan also indicates a “-3%”, which we believe reflects the grade. However, the grade for the entire common driveway is not noted and the entire length of the common driveway is not illustrated. Ultimately, we defer to the Township’s Fire Chief regarding the adequacy of access to the property.

4. Sheet 1 of the Site Plans indicates the existing stone driveway (the common driveway) on Lot 22 and/or 2 is to be paved. Has the Applicant received written consent from the owner of Lot 22 and/or 2 to permit this improvement? Testimony shall be provided.

Mr. Ranger’s response letter indicates written approval from the owner of Lot 2 will be provided prior to final approval. With that said, it is unclear how the Board could approve a plan that includes improvements (e.g. paving) on another site where permission has not been granted. We defer to Attorney Pierce if these improvements on Lot 2 and/or 22 requires the amendment of the Application from merely Lot 23 to include these other properties.

5. The Ordinance defines Lot Width as “the straight and horizontal distance between side lot lines at setback points on each side lot line measured an equal distance back from the street line. The minimum lot width shall be measured at the minimum required setback line; provided, however, that the width of the lot between side lot lines at their foremost points (along the lot frontage) shall not be less than 80% of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the lot frontage shall be at least 50 feet”. Due to the unique nature of the lot, it is unclear where Lot Width was measured. Testimony shall be provided.

The Applicant has indicated that the lot width is 1,068.25 feet. However, it appears that the width was measured from the proposed setback line, not the minimum required setback. The lot width measurement shall be amended to align with the ordinance requirement. Despite this discrepancy, we are confident that the lot width will still meet the Ordinance minimum.

6. It is unclear how the 44.42-foot frontage along the drift way was arrived at. The width of the driftway where it intersects with the property line is only eight feet. The Applicant shall provide testimony on the discrepancy.

Should you have any questions with regard to the above comments please do not hesitate to contact my office. We reserve the right to make additional comments based upon further review or submission of revised plans or new information.

Very truly yours,

MASER CONSULTING P.A.

Darlene A. Green, P.P., AICP Zoning Board Planner

Engineer Nusser explained that the frontage is 44’ (feet) and had Secretary Kozak add him as a co-host so he can share the revised plan dated May 8th which was previously submitted to the board for consideration and made public. Some discussions took place regarding property line 22 and the easement on Lot 2 which was addressing discussions expressed by Planner Greens and widening. The drift way should be 18’ and the road currently varies in width. It is a long drift way, approximately .6 of a mile from Adamic Hill to the site and the width varies from 8’ wide to 15’. The ordinance requires 19’ and the narrowness disadvantage is 18’.

Engineer Martucci stated that he walked the site and that Holland Township should have a plan/profile as the drift way is not in a condition to ride on for Fire and Emergency vehicles. There is a stone driveway on the site and when trucks come in to build the driveway would have to be an acceptable driveway.

Engineer Nusser was going to look at the drift way to see if there is a pull off located on it.

There is no way to comply with the 500' requirement to the road as the parcel in question is 28 acres but not the only parcel on the drift way. This parcel is the last parcel to be developed and sits the farthest back. No new lot can be added. Developing the current lot is the only change to the area but will not cause a major modification to the drift way.

The buffer will not be lost as some clearing to build a home is necessary, however there currently is no scenic buffer in existence.

Engineer Nusser reminded the board that the plans submitted for Block 13 Lot 23 shows the lot being 28 acres and at the end of Old Farm Road which is a drift way. The lot is compliant in area. The variance is needed for width and frontage. The lot is not fronting a public street. Some discussion took place with Planner Green explaining the Section 100-1612a is the variance regarding the deviation of width that was being referred to. The applicant has approved Septic Designs for the northern portion of the property which is most level and would make a nice spot for a home as it would also limit the tree disturbance. Regarding relief from section 35 for a lot not having frontage then if an emergency vehicle can get the property then the relief can be granted.

At 8:05 pm Planner Green had to leave the Zoom meeting

Witness #2 - Tom Welsh – Holland Township Volunteer Fire Company and 2019 Fire Chief was sworn in by Court Reporter Mackey.

Chief Welsh talked about the turnaround design requirements with a truck being 35' long. A loop or turnaround is needed and can be a condition of the resolution. The drift way has existed but it can be a challenge to get the trucks in. The overhead clearance is 13' and anything under that should be kept clear. Delivery trucks also need access and the bottom line is that the area needs to be safe and secure.

Engineer Nusser agreed to modify the plans to agree to the Chief's suggestions and agrees to the condition of maintenance of hard surfaces for safety and security.

Engineer Nusser discussed the remaining condition and referenced in Planner Greens memo about frontage. Adding a dwelling is adding to the property. The lot was created in 1958 which was before the Drift way Ordinance. This lot is a hardship by creation. You cannot extend the road to the site without going thru the property of other residents. You can alter the 18' width and increase the length to the requirement of 500' but the question is WHY? If the purpose is to simply pass one another then you would be just adding more impervious coverage for the last house on the drift way to be built.

Engineer Nusser explained that he believes that the items from Planner Green's memo #3, #4 and #5 all go together. C1 and C2 Variance relief is sought. This lot is a particular lot as it was created years ago and does not comply with current standards. Access off the driftway is a shared existing use as other are already doing the same thing. The limited change to the existing lot would be a potential dwelling with another resident living on the driftway. There is NO detriment to the zone or the surrounding lands. The project can be granted.

Board questions:

Jerry Bowers asked Chief Welsh if a 30' space is needed for a turnaround of one truck what would happen if there were several vehicles present and should there be a pull off on the driveway to avoid blocking. Chief Welsh responded that this driftway is a challenge as it is narrow but he does not recall if a pull off is available on a driftway. Engineer Nusser suggested widening the stone driveway to allow space for account for a pull off.

Just to circle back to Planner Green's memo

- #1 testimony given
- #2 testimony given
- #3 the applicant will do the slope – it is about 3%

#4 Fire Chief conversation – applicant agrees and will satisfy – as for Lot 22 and paving the stone driveway - - if lot 22 wants it then the applicant will comply but if lot 22 does not then the gravel will be readjusted.

#5 satisfied

#6 satisfied

Board questions:

Bill Ethem asked for more testimony on the purpose of this project. Attorney Cole stated that the applicant is under contract to buy the lot and that he might build on it at some point. Riegel Paper Company did the subdivision and created the easements. Attorney Cole believes the Planning Board approved the subdivision. The applicant wants to use the property.

Witness #3 – Lawrence Seibel – applicant and proposed buyer. He was sworn in by Court Reporter Mackey. Mr. Seibel explained that he wanted to make sure the lot is a buildable lot for a single family home before he purchased it.

Attorney Pierce identified a new person who had joined the meeting and asked the person to identify themselves. Mr. Kieme the owner of the property since 1975

Witness #4 – KIEME – sworn in by Court Reporter Mackay. Mr. Kieme explained he purchased the land in 1975 and wanted to build but life got in the way. His family is not interested in building on the land so he decided to sell.

There were no further question by the board or professionals.

A motion was made by Jerry Bowers and seconded by Peter Kanakaris to open the public portion of the Public Hearing. All present were in favor of the motion. Motion carried.

The meeting was open to the public. Attorney Pierce asked everyone present, not the board and professionals, if there was any public comment. No one spoke up with a question, statement or comment. Attorney Pierce also identified people in the meeting and asked them individually if they had a public comment at this time. Cathy Miller responded no. JZ and Dereck (part of E&LP) had no response and were never unmuted even when asked if they wanted to be unmuted.

A motion was made by Peter Kanakaris and Seconded by Jerry Bowers to close the public portion of the public hearing.

The board had some discussion at this time. Conditions were discussed and included Attorney Pierce talking about his sample language as well as the conversations of Chief Welsh and the turnaround and pull off zone, reviewing the submitted paperwork regarding the existence of the Right to Use (old deed describing easement). Attorney Cole had sent the title search to Attorney Pierce who just received it and could not review for the meeting. He will review and consult with Engineer Martucci to confirm that Lot 23 has the right of access. The conversation continued to improvement of traveled stone drive with adequate surface subject to Engineer Martucci's approval, improvement on Lot 22 subject to the right to improve the easement and proof of consent or permission which will be sent to the Engineer and Attorney and either to pave it or confirm that adequate hardened surfaces exist to allow passage of equipment. Revised plans will include a turnaround for a 35' fire truck (per Chief Welsh) with approval of Fire Company and engineer, the property owner will keep vegetation clear below 13', add a pull off on lot 23 subject to approval of Fire Company and engineer, plan/profile on Lot 23 as approved by Fire Company and engineer, condition note on plan that an annual inspection will take place at an invitation of the property owner to the Fire Company and the Zoning Officer with an inspection report being submitted yearly.

Board member Ethem had question about moving forward and pertaining to a dwelling. The dwelling is not part of this application. The dwelling would need to tie to the building envelop but if a deviation is needed then the application would appear before the BOA in the future.

Attorney Cole needed a 5 minute break to talk with Applicant Seibel. Both stepped away from the Zoom Meeting.

Attorney Pierce suggested the board move forward with other business.

Attorney Cole and Applicant Seibel returned to the meeting within 5 minutes.

Attorney Cole asked for clarification regarding the turnaround as to when it needs to be built? Attorney Pierce responded at the time of building the dwelling and issuance of a Certificate of Occupancy however, it needs to be on the plans.

Attorney Cole wanted more discussion pertaining to Lot 22 and the chance that the property owner will say no. The easement is old. It was explained that the Fire Company needs to ensure that Fire equipment can travel safely across Lot 22 to get to Lot 23 if the need arises. The question is legal rights of the property owner? The board needs to know the Right of Way of the Easement and if restrictions are in place. Attorney Pierce needs to see the title package submitted and will review that. The question comes up as to can they maintain the travel way or does it need improvements? The easement is silent but a property owner of a lot benefited by the easement has the right and obligation to maintain the easement.

Variances:

1. Issue: lot has no ~~not~~ frontage on public street. Board has no objection if adequate access is adequate for Fire Company and Emergency vehicles.
2. Lot frontage –
 - a. Lot has no frontage on a public road
 - b. Ordinance allows driftway but 500' conscious footage
3. Frontage – driftway 500' – this is a duplicate conversation
4. Frontage – duplicate' but Lot e conversation
5. Width travel way - 18' however lot 23 has 8' to 11' at entrance and lot 23 is will have 15' to a future swelling. Lot 23 will have a pull off

A motion was made by Jerry Bowers and seconded by Gail Rader to approve the application with conditions and to authorize Attorney Pierce to draft a resolution for consideration which should include language granting said variance(s) and conditions such as: lot not abutting public street, width and frontage, typical conditions, maintained to satisfaction of zoning and fire company with yearly inspection requested by property owner and noted on plans, confirmation that lot 23 has legal access on driftway, improved length of driftway stone on lot 22 to lot 23 with approval of Engineer and Fire Company, adequate proof of right to improve driftway for hardened surface of Lot 22 as approved by Engineer and Fire Company, turnaround to be on plan for a 35' truck approved by Engineer and Fire Company, condition that turnaround not to be installed until dwelling seeks Certificate of Occupancy, owner Lot 23 maintains vegetation below 13', Revised plans with pull off on Lot 23 driveway per the Engineer and Fire Company. At a roll call vote, all present were in favor of the motion. Motion carried.

Some discussion took place about enforcement with the annual inspection and measures to be taken if the owner is out of compliance and it was explained that the Zoning Officer issues a violation. If the violation is not corrected then the violation can go to court.

Resolution

There were no Resolutions scheduled to discuss on the agenda.

Old Business

There was no Old Business scheduled to be discussed on the agenda.

New Business:

There was no New Business scheduled to be discussed on the agenda.

Public Comment

A motion was made by Peter Kanakaris and seconded by Jerry Bowers to open the meeting to the public. All present were in favor.

Bill Penyak – resident and realtor in the area. Stated that he lives on Old Farm Road and has a copy of the Plot Plan showing the 50' Right of Way this was dedeed. Mr. Penyak will work with Secretary Kozak so that the information can be distributed.

A motion was made by Peter Kanakaris and seconded by Jerry Bowers to close the meeting to the public. All present were in favor.

Back to the public hearing.

Board Member Comment

There were no board member comments at this time. Thank you for participating in our first Zoom meeting.

Jerry Bowers made a motion to adjourn. Motion carried.

Meeting ended at 9:15 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak

Secretary