

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

March 2, 2021

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by D. Eskoff, Chair, at 7:00 p.m. On roll call the following members are present: D. Eskoff, N. Toussaint, C. Kolakowski, K. Taub, A. Wine, and S. MacDonald, Alternate. M. Waldron, Zoning Administrator/Code Enforcement Officer is present. This meeting was held via ZOOM.

Minutes

December 1, 2020

MOTION: K. Taub
 SECOND: A. Wine

RESOLVED, The Zoning Board of Appeals waives the reading of, and accepts the December 1, 2020 Minutes.

VOTE: Ayes: D. Eskoff, N. Toussaint, K. Taub, A. Wine, and S. Mac Donald
 Noes: None
 Abstain: C. Kolakowski
 Absent: None

OLD BUSINESS & PUBLIC HEARING

Farfan, M. & E. Case #1025
 TM# 137.6-1-3

Area Variance
 19 Medbury Rd.

Manuel and Elizabeth Farfan are present. D. Eskoff states that this case is a Public Hearing and opens the Public hearing at 7:02 p.m. This is for Area Variances at 19 Medbury Road. D. Eskoff asks K. McMahon if there has been any correspondence. K. McMahon states no. D. Eskoff states that the ZBA referred this case to the Planning Board for an advisory opinion and the ZBA has the Minutes from their meeting and thanks the Planning Board for their response. Hopefully everyone on the ZBA has had an opportunity to review this. N. Toussaint asks if the Town Engineer on the Board received this case for his determination. He does see that JCM Consulting services did have an opinion on this matter. M. Waldron states that he believes that the Planning Board reviewed it and any separation between well and septic which he thought that the Town Engineer would comment on, but he was unavailable for that meeting. He does feel it is consistent with the time frame and given that the information can be provided with the Building Permit verification and under the Town's Appendix 931.3 and Chapter 54. He believes that can be provided at that time. He states that is his determination. He is not speaking on behalf of the Town Engineer, Charlie Baker. D. Eskoff states to N. Toussaint's

point that there is a letter from the JCM Consulting Services and asks the Applicant's if they could comment on this. Mr. Farfan states that in order for them to purchase the lot they had a perc test done. They wanted to make sure everything was fine before they closed on the property. They hired this company Quality Builders to make sure everything was OK. It was done just before September, August 27, 2020. D. Eskoff states that the Planning Board went a little bit further than they needed too. When the ZBA sends a case to them for an advisory opinion the ZBA is looking for their knowledge in what the ZBA does not concentrate on. They did give the ZBA some background that she was not aware of and the members may not have been aware of as well. The ZBA is not looking for them to review SEQRA or to make a positive or negative declaration. The ZBA is looking for information that the ZBA members can make their own determination. What the Planning Board is basically saying is that it comes down to zoning and engineering and she agrees with that. K. Taub states he drove past the site and looking at the other houses in the neighborhood and he knows that he ZBA has certain criteria that the ZBA have to use in making their determinations and that are what he is looking to do in this case. It appears to him that there won't be any undesirable changes to the neighborhood if this if the ZBA grants the Variances. This is a half-acre lot in a neighborhood with other half acre lots with homes on them that were done long before the current Zoning. This house that is proposed is modest in scale and he feels that it will fit well with the other homes in the neighborhood or any determinate to the neighbors. D. Eskoff closes the Public Hearing at 7:11 p.m. K. Taub states that there has been a lot of talk about engineering and the separation of the septic and well. They may need a more sophisticated septic system. He does not believe that is impossible to achieve. Can the Applicant's achieve this by any other method? He does not think that they can. They need to maintain limitations between properties that are zoned for the newer more modern code which has large lots. Had it not been so, there would be no need for these Variances to be granted. The problem is not of their making. He does not feel that there are any adverse effects if the Town approves a valid septic system and well. If it is impossible it won't be the ZBA's issue. It will be the Applicant's. He does not feel that there will be any environmental adverse effects. They are substantial but the numbers that are needed are in keeping with the homes currently in the neighborhood. D. Eskoff states that the ZBA is looking at a pre-existing non-conforming lot. It is in an approved subdivision. It is a half-acre lot in the LDR District. Take the acreage out it is the setbacks that are affected. The ZBA is looking at 18' for both the right and left side yard setbacks and 13' for the front yard setback and 12' back yard setback. It follows the ZBA recommendation and agreed on by the Code Enforcement Officer. She does not feel that they are substantial compared to others that have been approved. She thinks it is a matter of whether the Applicants can accomplish what they need to. That falls on the engineering and the Building Permit process. A. Wine asks the well is proposed 111' from the existing well to the neighbors and he wants verify that is an appropriate distance. M. Waldron states he cannot confirm that number. The Applicant's did an F.O.I.L. request to the property next to theirs for the building plans/permit and he reviewed them and it indicates a septic system that is not compliant with Appendix 931.3 in terms of certification. A. Wine asks if it is a proposed septic system. M. Waldron states that it is a proposed septic system which shows an anchored area and he cannot verify that it is. What he can propose that he will request and require for septic certification through the Building Department is that the septic system and leach field be located and meet all of NYS DOH requirement of Appendix 75 (a) separations for the final survey as well as Appendix 931.3. He would not have accepted the septic certification for 17 Medbury Road from the engineer of record because it is not compliant with Appendix A310 in terms of septic certification as built. He would recommend getting that done before applying for a Building permit. D. Eskoff asks that if the ZBA members feel this is a pre-existing non-conforming parcel so that the Applicants can potentially move forward with their project. The ZBA can make a motion on the outcome of the engineering. N. Toussaint states that he feels comfortable with that and the fact that M. Waldron would request that with the

close out of the Certificate of Occupancy. D. Eskoff states that the ZBA has limitations within their purview and this will be followed up by the Building Department. C. Kolakowski states that he feels K. Taub addressed all of the criteria and he agrees with N. Toussaint. As long as the Applicants can get a Certificate of Occupancy which is up to the engineers, he also feels comfortable with this. The ZBA is only granting setbacks for the house. They are not giving permission to have a well and septic on the property where it is not allowed.

MOTION: K. Taub

SECOND: C. Kolakowski

RESOLVED, that the Zoning Board of Appeals hereby grants approval for the Application of Manuel & Elizabeth Farfan, Case #1025, Area Variance for a single-family dwelling on property located at 19 Medbury Road, TM# 137.6-1-3:

- 18' right and left side yard setback
- 13' front yard setback
- 12' rear yard setback

This approval is based on the following criteria:

- The benefit cannot be achieved by other means feasible to the Applicant, this is a pre-existing non-conforming lot
- There are no undesirable changes to the neighborhood character or detriment to the nearby properties because the property is consistent to neighboring properties and it was zoned one-half acre at the time of subdivision
- The request is not substantial based on the neighborhood and to achieve what is needed by the Applicants, this is a pre-existing non-conforming lot
- There are no detrimental adverse environmental effects of this building on a pre-existing non-conforming lot assuming the septic and well can meet agency requirements and Town building permit approval
- This is not a self-created adversity; this is a pre-existing non-conforming lot and the Applicants had a perc test done.

VOTE: Ayes: D. Eskoff, N. Toussaint, C. Kolakowski, A. Wine, and K. Taub

Noes: None

Abstain: None

Absent: None

Meeting adjourned at 7:19 p.m. All members in favor.

Respectfully submitted by,

Kimberley McMahon
ZBA Administrative Assistant

DRAFT