

MINUTES OF A HEARING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

April 20, 2023

CASE #1432-Michael Anderson/Abstract Architecture PC a/a/f Dan & Joanna Morrison
1047 Willardshire Road, (PO Orchard Park) Town of Aurora, NY

The hearing was called to order by the Chairman Paul Ernst with the following Board members present:

Nancy Burkhardt
Rod Simeone
Ray Wrazen, Alternate

Excused: Davis Heussler
 Mandy Carl

The notice of the Public Hearing was read by the Deputy Town Clerk. The notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked as exhibit 1. The Affidavit of Posting was marked as exhibit 2. The ZBA Application was marked as exhibit 3. The Owners Authorization was marked as exhibit 4. The Petitioners Letter of Intent was marked as exhibit 5. The ECDP Form and Response was marked as exhibit 6. The Building Departments letter of determination was marked as exhibit 7. The Short Environmental Assessment Form was marked as exhibit 8. The Copy of the Survey was marked as exhibit 9. The Copy of the Proposed Site Plan was marked as exhibit 10. A Copy of the Deed was marked as exhibit 11. A Copy of the ODA Resolution was marked as exhibit 12. The List of Abutting Property Owners was marked as exhibit 13. A Letter of No Objection from C&R Skalski was marked as exhibit 14. A Letter of No Objections from T & N Cariffe was marked as exhibit 15.

The Chairman opened the hearing with the Pledge of Allegiance to the Flag and stated the purpose and procedure of the hearing. Following the hearing a meeting would be held to render decision for a front yard setback variance for a single-family residence at 1047 Willardshire Road, (PO Orchard Park), Town of Aurora, NY.

Anderson Michael Anderson with Abstract Architecture, PC, 313 Broadway Buffalo, NY 14204. This is a young couple, and they are building a single-family home of about 3,400 sf. They found this lot and they really like it. They walked it and it is beautiful and plan on it to be their home for the foreseeable future. This was a subdivision that they purchased and there was additional deed restriction on the front yard setback. They were extended beyond what is in the zoning for this property type of 150 feet in the back and 160 feet for the front setback and 75 feet on the driveway side of the property. With the size of the house and the orientation we are a little deficient. We are asking for 10 feet on the front setback. That in itself is a little deceiving with the angle of the house we are

asking for about 185 feet of the 2.3-acre property. The orientation of the house- the stupid architect in me- believes that houses should be orientated towards a street. With it being a flag lot, we have the house between us and the street, so we chatted with our client about orientating it towards the shared driveway and that also had some advantages to them and believe the neighbors as well. There is a future plan that this house will have some solar. There is a natural berm on the south side and then there is a very good amount of mature vegetation, mature trees. This orientation allows them to have a rear yard that would be back off the stone patio in the back of the house and save a large amount of natural trees. They want to be good neighbors. They did speak to the neighbors prior to the hearing, and I don't know if anyone is here from the front or back properties. With discussions all along about the orientation of the house were designed to be good neighbors. Our rationale on the orientation was that we had the berm that protects the houses to the south from average noise and were able to keep as much of the natural foliage to protect the house from behind and in the front. The orientation of the house also provides some protection for the neighbor to the north and to the east as well. Beyond that I am here to answer any questions that you may have.

Ernst There are letters of no objections but there are concerns. They are concerned about the trucks.

Anderson Between the back yard and where the house is going to go is the area around the site that we plan to clear. Our conversation with the contractor is that those areas will be staging any construction. I have spoken to the owner at the back that is the primary owner of the driveway, and our clients understand that they are liable for any repairs to the driveway from the construction vehicles. It is a blacktop driveway, and we have money in the construction budget for its repair. The construction site should be remediated, and the parking area and material storage should be limited to the big area that was cleared for the yard and the house.

Ernst How does that work, you say they own the driveway?

Anderson They have a legal easement for its use.

Ernst They have to pay an annual fee?

Anderson I'm not privy to the agreement but I do know having talked to Dan that they do contribute. I don't know if there is an actual signed agreement. Maintenance and snow plowing, my understanding is that they are involved in it.

Ernst It is a beautiful site.

Anderson Its magnificent. I think part of things that attracted to them and something that I definitely love about the site is particularly with the berm. The natural vegetation that is growing up there it is almost impossible to remove it has to stay. There is

some really nice space on that lot, and you don't have to be right on top of your neighbors to enjoy it.

Ernst It's a large property with very little buildable area. It's very strange. So, it's 150' and 150'.

Anderson Yes that is what we are requesting the 10' relief from the front of 160' to 150'. It's really a smaller relief than that because of the angle of the house. There is a natural swale on the north side of the driveway already and as my truck found out there is a significant size one on the south side of the driveway as well that we are going to have to deal with. We did have a civil engineer look at it for the drainage and we are not anticipating any drainage off the site. That is another reason I talked to them about maintaining as much of the natural vegetation so it would absorb.

Simeone That is what your colleague said that you were going to remove as few trees as possible. He pretty much said that what was already down is going to be it.

Anderson Nick is pretty confident that he could build the house and put the septic in without taking anything else down.

Wrazen The septic is going to be behind and there are a lot of trees in that area are you going to be about to save a lot of those too?

Anderson We think so. He is confident.

Simeone From your colleague you will have to run a separate line back, you can't tie into the other one?

Anderson No that is an expense that we talked to them about. There is an existing water line, but we don't believe that it is of capacity. We are running power, so we are trenching from that.

Simeone What I understand the reason for the additional 10' setback is because you approve 40' and you want to go to 50'. What is the orientation of the house twist as so 10' goes over the pre-approved ODA.

Anderson We had looked at it and rotated it 90 degrees so it was more facing towards the street, and it will fit in the buildable area. Everyone's concern is primarily when you start to turn the garage into the side of the house towards the driveway rather presenting a beautiful face to what is really our only active thorough fair on the property. By rotating it 90 degrees we really open it up to both the back lot and the neighbor to the north.

Ernst Visually it seems to gain space in the backyard.

- Anderson The berm on the south side really helps to be a boundary for the yard as well where you just have that to the west. As a client I am surprised how neighborly they want to be. We have discussed this quite a lot. I personally don't like to come for various because I believe there is a solution that doesn't require it at least there should be, and I just wasn't able to find one that I thought ticked all the boxes for this couple.
- Ernst The lot is so large, and a beautiful site all said and done you would never know that you needed a variance.
- Anderson When we first started laying it out and did some posting and tags and we actually liked the idea of the deed restriction because they don't want to be on top of their neighbors. It wasn't until we were getting to this point that we realized that it was a little bit of a pain. They like the separation too.
- Simeone What is your anticipated start date for the project?
- Anderson Ms. Cassidy has all the drawings, and we were waiting to see if we needed to make any changes based on your findings. Our contractors are ready to start digging a hole.
- Simeone I know it's approved with the ODA but with the additional change of 10' you will likely have to go to the Town Board, and they will refer it to the Planning Commission and then back to the Town Board.
- Cassidy I don't know if they will actually refer this to Planning because they are the ones that granted the original front yard setback variance.
- Simeone The point is you won't be able to put a shovel in tomorrow.
- Anderson Liz does a very good job yelling at me letting me know what can be done and what can't.
- Cassidy I will say though that on the original approval the reason for that very large rear yard setback if you look at the overall map of the three lot it evenly spaces out those three houses and it was addressing some issue from the neighbor at 1049 to the left and just evenly giving everybody enough room between the two.
- Ernst I think the biggest issue is finding those trees and addresses.
- Anderson Did you drive by the first time? That is how I found out the ditch was a little deep on the property side.
- Burkhardt Can we go back to the water line just making sure? The current water line is it currently feeding 1045 & 1049?

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Anderson Yes I believe so.

Kossowski We are 1049, we have our own water line and our own water box on the south side which runs on our property all the way down the driveway.

Anderson It's not of a size that we can use it.

Burkhardt Is that ECWA?

Anderson Yes.

Burkhardt That is really my only concern is just that one. A lot of people ran into that.

Ernst Is there anyone that would like to speak on this matter?

Kossowski R Robert & Judith Kossowski 830 Willardshire, Orchard Park. I appreciate the Zoning Board for giving me notification. I was never given notification when the ODA was actually approved. I feel for the person that purchased the lot and their Architect that has to deal with the issues as far as what was done there. The Town Board approved an ODA, and they gave variances for this which basically provided quite substantial relief for what should have never been a buildable lot at that particular point. The horse is out of the barn we just basically make sure that it goes where it needs to go. Myself, I am concerned about the drainage. The previous property in the back drainage onto my property, it should not go on my property. In the SEQR you mentioned that the drainage would all be contained within the property although there is a 20" culvert pipe that I don't know where it is going I only saw what was on the online information. I do like the fact that they did orientate the house the way they did because it gives privacy to the person that will be living there, and it will give privacy to the neighbor behind them as well. I personally would like them to go a little further to the south over there.

Ernst What would be gained by doing that?

Kossowski This way everyone is not in everyone's backyard.

Ernst How many feet would you be talking?

Kossowski It is whatever it is - I would say is reasonable, so it offsets it a little bit. When they are all lined up in a row everyone is in each other's backyard there is lack of privacy and people that purchased it and built where we built, that is what we built there for. We would like to maintain that. What has not been discussed is according to what I read here that there was a deed covenant. The deed covenant (Mr. Marrow's estate) would have to sign off on any type of restriction. The Town Board or the Zoning Board of Appeals would not have any basis if he were to say no way. I think the Town Board made them put that restriction when they

bought it. These people went and purchased this lot in good faith, and they wanted to do that. I am concerned about the drainage and that is really about it. I can't really see it much from my house. It is a pretty big house for shoehorning it in at that particular point.

Ernst What is the size range?

Anderson We are actually in the same range. The house way in the back is the largest.

Kossowski The house way in the back is the largest. The one in the front and my house are both around 2,400sf - 2,900sf. We were hoping it would that it would be fully one story because obviously there is that little swale that comes up over there in a gully.

Anderson It is actually a caldron. The dormers are on the back, so it really is just one level.

Kossowski I can't talk about what has already happened.

Ernst We can't either we are here to strictly look at the variance.

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Decision:

After due deliberation by the members of the Zoning Board of Appeals of the Town of Aurora, County of Erie and State of New York, the following motion was made by Ray Wrazen and seconded by Rod Simeone to approve a 10-foot variance to allow a 150-foot front yard setback for a single-family residence at 1047 Willardshire Road, (PO Orchard Park), Town of Aurora, NY. This variance is being granted in accordance with the testimony and exhibits presented.

Upon a vote being taken:

Ernst	Aye			
Simeone	Aye			
Burkhardt	Aye			
Wrazen	Aye	Ayes-four	Noes-None	Motion carried.

EXHIBITS

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