

**MINUTES OF A MEETING AS HELD BY THE  
TOWN OF AURORA PLANNING & CONSERVATION BOARD**

October 8<sup>th</sup>, 2021

Members Present: Donald Owens, Chairman  
Douglas Crow  
Norm Merriman  
David Librock  
Alice Brown  
Laurie Kutina  
Timothy Stroth

Alternate Member: Jerry Thompson  
Richard Glover

Absent/ Excused:

Also Present: Elizabeth Cassidy, Code Enforcement Officer  
Greg Keyser, GHD

Chairman Don Owens presided over the meeting which began at 7:00 p.m. at the Town Hall, 575 Oakwood Avenue, East Aurora, NY. He led the recitation of the Pledge of Allegiance to the Flag.

**PUBLIC COMMENTS:**

Edmund and Pamela Fischer of Boies Rd. Original property purchased in 1984, split in 2009. Property with the dwelling was sold, Fischer's retained the remaining vacant piece which is a flag lot with 20' wide frontage at the road. The Fischer's would like to sell for retirement and were told back in 2009 that 15' would be needed for the driveway. Potential purchasers of the lot are backing out and it will be a hardship if the lot cannot be sold.

Discussion by board members, Liz Cassidy and the Fischer's about the upcoming public hearing regarding the extension of the Moratorium. The hardship clause in the moratorium was also discussed, that the Fischer's can discuss even further with the Town Board in regards to their particular lot. It was suggested that the Fischer's also attend the October 12<sup>th</sup> Town Board meeting.

**OLD BUSINESS:**

**430 Maple Rd. – Referral from the Town Board to review and revise recommendation.**

Frank Russo Jr. is present on behalf of property owner Frank Russo. Mr. Russo begins by asking for clarification on previous recommendation since he was not involved in the original submittal. He runs through the code requirements that are not met and gives a brief history of the property.

Doug Crow clarifies that in 2006 Mr. Russo was given approval only to subdivide the property and each lot requires approval to be built on. Code requirements have since changed

Discussion by Mr. Russo and board members about the history of the property and splits, etc. Further discussion regarding the reasoning behind the changes (ie. safety purposes, development processes.)

Mr. Russo discusses the setback requirements and variances being requested for this application. Mr. Russo reiterates that this is a unique lot and feels strongly that there will not be a lot of lots like this (where variances are needed).

Jerry Thompson asks about the lot and where exactly the boundaries are because it was not clear during the site visit.

Mr. Russo discusses the driveway width; the locations of the power pole, culvert and guard rail all affect the placement and width of the proposed driveway.

Dick Glover recaps the responsibility of the Planning Board. He reiterates that they have reviewed this application several times. The property is zoned R1 (Residence 1) which is higher density. Typical ODA lots are often located in the Agricultural districts where there is less density.

Mr. Russo addresses the neighbor's letter (Mr. Stiller) and discusses the location of the proposed house, the property topography and the side yard setback in regards to proximity with Mr. Stiller's house.

Jerry Thompson asks about the side yard setback (to the property to the South.)

Mr. Russo and Liz Cassidy respond that the setback is impacted by the 100' buffer for the wetlands as required by the DEC. The dwelling could be shifted slightly for a larger side yard setback but still has to conform to the 100' wetlands buffer. Size and orientation of the proposed house will affect that setback as well.

Jerry Thompson reiterates that it's up to the Town Board to issue variances and the Planning Board looks at all of the details in regards to safety issues, etc.

Dick Glover brings up clearing of the property and if there is a limitation as to how much can be cleared.

Greg Keyser states that the completed SEQR form states .4 acres of disturbance. Per desktop analysis and mapping, the (soil) disturbance would most likely be closer to 1.5 acres which will trigger additional storm water review/regulations.

Mr. Russo states that they do not want to clear that much.

Greg Keyser answers the analysis is based on the driveway and the submitted plot plan and where the clearing limits are noted on the submitted site plan.

Mr. Russo states that the driveway area has already been cleared.

Liz Cassidy clarifies there is a threshold with the amount of property (soil) that can be disturbed including from the road (driveway) back to where the house is built. It appears per the site plan that storm water mitigation, erosion and sediment control may be needed.

Greg Keyser explains that fill as well as excavation is considered soil disturbance per state regulations that will be considered for storm water mitigation (retention ponds, ditches, piping) to manage the storm water runoff. There is no grading or drainage plan.

Additional discussion about the site plan, resolution for ODA *could* include request for detailed plan showing elevation/topography, etc.

Norm Merriman discusses finished floor elevation and further discussion about property elevations.

Laurie Kutina reiterates the key issue are the variances that are required because the code requirements are not met.

Additional discussion about the previous recommendation of denial and approval for the original *split* of the property on Maple that resulted in this lot.

Dave Librock asks about the wetlands and driveway.

Greg Keyser answers that any work in the 100' buffer of the wetland requires a permit through the DEC (which Mr. Russo received in order to put the driveway in).

Discussion about talking point suggestions for board members regarding a new motion.

Liz Cassidy clarifies that the “accessory building in the front yard” variance is not under discussion tonight, that variance falls under Zoning and therefore would be a decision of the Zoning Board of Appeals.

Jerry Thompson discusses the character of the neighborhood and feels a dwelling on property will follow existing character. However, the driveway and wetland disturbance are concerns. Also discusses the history of the property division.

Tim Stroth asks for clarification on the DEC permit and the soil disturbed.

Greg Keyser answers that the DEC permit is for the driveway in part of the wetland area and the SEQR form asks for the land disturbance that the applicant noted as .4 acres. Clearly based on calculations there will be more than that disturbed.

Dick Glover suggests the board rescind their past recommendation and have the applicant revise the plan and re-submit

Doug Crow does not agree to ask the applicant to revise because there are a few variances that cannot be revised (lot area, distance between driveways, etc.)

**Douglas Crow moved to rescind the original recommendation from the August 4<sup>th</sup> 2021 meeting, that the Town Board does not approve the ODA application for 430 Maple Rd.**



Jerry Thompson reiterates the purpose of the ODA code which is to build on a property with less than the required road frontage. An 80' width is enough to put in a Town road/highway and feels the 50' is more than enough space.

Further discussion regarding the width and driveways which then conflict with the current code. Changes are a compromise in order to be flexible while still controlling the density.

Bill Kramer tells the Board that he doesn't think the ODA is too restrictive. It's proven over the years to be something that works.

Jerry Thompson agrees that there is nothing wrong with the ODA code as it stands today.

Additional discussions about previous ODA change, agreement that no matter how the code is changed variances cannot be avoided. General agreement by members that the current code works well.

Dick Glover talks about how ODA's work best in the A zoning districts, which is what is in abundance in the Town currently. Agricultural uses should be encouraged as well.

Further discussions about applications coming to the Planning Board first (working out all details) then go to the Town Board for approval. Also discussed further: the 80' width, easement vs. ownership (driveway), agricultural uses/rent access to farmland and simplification of the code to make it easier for residents to go through the process.

Tim Stroth and Doug Crow will represent the Planning Board to the code change committee (with Town Board members)

**CORRESPONDENCE:** None

A motion was made by Timothy Stroth and seconded by Laurie Kutina to adjourn at 9:24 pm.

**THE NEXT SCHEDULED MEETING WILL BE WEDNESDAY November 3<sup>rd</sup>, 2021 AT 7:00 P.M. AT THE TOWN HALL, 575 OAKWOOD AVENUE, EAST AURORA, NEW YORK**