

**TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of October 15, 2015**

PRESENT:

Mr. Anginoli (absent)
Mr. Keegan
Mr. Casscles
Mr. Vasti
Mr. Fox (arrived at 7:10 PM)
Mr. Porath (absent)

ALSO PRESENT:

Dave McCartney, Attorney
William Sheehan, Building Inspector

Chairman Wright

Chairman Wright: Good evening. I see by the clock it is 7:00 PM. I will call this meeting of the Zoning Board of Appeals of the Town of Stony Point to order; please rise for the Pledge of Allegiance.

We have a couple of items on the agenda and the reason we are waiting for Mr. Fox is that in the 2nd item on the agenda Mr. Vasti will have to excuse himself and that will left us short of a quorum so when we are fully seated then we will have enough for a quorum for both of the items we have on the agenda.

(Mr. Fox just arrived – 7:10 PM)

The first item on the agenda is a decision for the request of Thomas and Christine Delehanty.

Request of Thomas & Christine Delehanty - Appl. #2015-0005

A variance from the requirements of Chapter 215, Article XIV, Section 94 D.1-C, Less than required front setback: Required 24.8 feet Provided 14.8 feet, construction of a front porch to a one family residence premises located at 11 Jenkins Avenue, Stony Point, New York.

Section 20.07 Block 3 Lot 43 ZONE R-1

*****MOTION: Mr. Vasti offered the following resolution; seconded by Mr. Fox.**

In the Matter of Application #15-05 of Thomas and Christine Delehanty for variances from the requirements of Chapter 215, Article XIV, Section 94D.1-C of the Stony Point Zoning Code, to permit the construction, maintenance and use of a front porch to a single family home with less than required front setback, providing 14.8 feet, whereas 24.8 feet are required on premises located at 11 Jenkins Avenue, Town of Stony Point, designated on the Tax Map as Section 20.07, Block 3, Lot 43.

The premises which are the subject of this application are located at 11 Jenkins Avenue, Town of Stony Point in an R-1 Zoning District.

The applicants were self represented and the following documents were placed into the record and duly considered:

Application; Building Inspector's denial letter dated 9/2/15; Surveys and plans, including one depicting the proposed porch in red.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about September 27, 2015.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on October 1, 2015, and the testimony of the following persons was duly considered: applicants.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

The applicants are the owners of the subject parcel which is improved with a one-story single family home. The applicants state that the existing front entrance has become rotted and the applicants wish to construct a new front porch measuring 10' x 20', as shown on the plans submitted to the Board. The porch extends 10 feet from the front of the home, within 14.8 feet of the front property line. The code requires 24.8 feet, so the applicant seeks a variance for the 10 foot encroachment. The front porch is proposed to have a roof, but will not be enclosed, and it extends only approximately 5 feet beyond the front entranceway which already exists on the premises.

No objections have been received to the request from the adjacent property owners.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) "whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance":

There is no evidence presented that the proposed variances would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties. There are at least two other homes on the applicants' street that contain similar structures.

(2) "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance":

There is no evidence presented to this Board that the benefits sought could be achieved through any other means.

(3) "whether the requested area variance is substantial":

The variance sought is substantial.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district. For example, there are no sight line obstructions caused by the proposed structure, given its location and given the fact that it is proposed to be an open-air porch and not enclosed.

(5) "whether the alleged difficulty was self-created":

The alleged difficulty was self-created insofar as the applicant seeks to voluntarily add an expanded porch.

Mr. Keegan: Does the existing dwelling have a kitchen in it?

Mr. Hodosh: It has a very small kitchen. They want to convert that to a bathroom. It's just a tiny little kitchen. It's not up to modern standards at all and they don't have any...they have one living room. No informal living space at all. The house looks big, but it's not really very big in foot-print. It's an old house the way it is set up; it doesn't flow very well. So the existing house basically has a living room/dining room area and a foyer and the kitchen is tiny. If you look at the proposed plan the bathroom takes up about half of what the kitchen space is there between the bathroom and hallway.

So there presently is a structure in the back. It's like an open pre-season structure that we would be taking down and replacing.

Chairman Wright: Is that where the garage is going to go?

Mr. Hodosh: I'm sorry.

Chairman Wright: Is that where the garage is...

Mr. Hodosh: Yes, it is above the garage.

Mr. Fox: The existing garage.

Mr. Hodosh: Above the existing garage is a screen porch. So there is a structure there. So the actual added addition is a space beyond that; the "L-shaped" space.

Mr. Keegan: Where are the bedrooms located?

Mr. Hodosh: Second floor.

Mr. Keegan: Of the...

Mr. Hodosh: Of the main house, yes.

Mr. Keegan: Of the main house.

Mr. Hodosh: Above the addition we are just doing a walk-out deck. It's only a one story addition.

Chairman Wright: It says new asphalt drive – is that all new asphalt or there is some kind of (inaudible)

Mr. Hodosh: Right now the driveway comes down along the side of the house and there is a parking area to the...kind of between the house where the proposed garage is; is all paved. We want to reclaim some of the backyard and make it a usable backyard. Have a little grass area with a little privacy from the street. We already have a building permit for the garage that meets all the Zoning requirements and that will give us some screening behind it. Once again we are trying to keep the cars away from the house.

Mr. Keegan: How many cars does this area provide; how many cars?

Mr. Hodosh: We are looking at two cars possibly to the front of the garage and one in the garage.

Chairman Wright: So can you just tell us the net square feet of the footprints that are there now; how much more is there.

Mr. Hodosh: Of the house or the...

Chairman Wright: Everything. So if you have...the existing structures and you're adding some square footage; what would the total and additional square footage be? I don't mean exact; I'm just...

Mr. Hodosh: Bear with me one second...the total is 1,083 square feet, but that includes the garage.

Chairman Wright: 1,083.

Mr. Hodosh: Including the garage.

Chairman Wright: Including the garage which is really just replacing an existing structure?

Mr. Hodosh: The garage – no.

Mr. Fox: The garage is underneath the rear of the house presently. So this is an additional...

Chairman Wright: Oh, I see.

Mr. Keegan: This is in addition to the garage. This is a (inaudible)

Mr. Hodosh: Yes.

Mr. Keegan: Why are you putting it 5' from the property line?

Mr. Hodosh: It's allowed by Zoning. He had it for the back and then we realized that we could put it closer. He wanted to keep it away from the house to keep the cars away from the house. It meets Zoning; it did not require...

Chairman Wright: You say you are basically replacing the...the garage that's being replaced now is living space.

Mr. Hodosh: The garage that is in the house right now is really not a garage. It was a glorified shed. It wasn't big enough or high enough to really use and the driveway sloped down to it so it really wasn't very good. So basically he just wanted a garage to put all his stuff in and be able to re-claim the other space as a living space.

Chairman Wright: Okay, but how much space is that approximately?

Mr. Hodosh: Well the garage is about 300 square feet; so probably 700 square feet now; give or take.

Mr. Keegan: What is the size of the addition?

Mr. Hodosh: The addition...

Mr. Keegan: Yes, what are the dimensions?

Mr. Hodosh: The addition across the back is 33.9; the actual net addition was 14' beyond the existing garage. It goes back 14', comes out to the rear 12' to the south, 14' to the east and the length along the whole back is 33.9 (the L-shaped).

Mr. Keegan: And this is just a kitchen. Is there a bathroom included in this?

Mr. Hodosh: The bathroom is going where the old kitchen was in the house.

Mr. Keegan: Inside the house.

Mr. Hodosh: Right, so this is going to be a kitchen...

Mr. Keegan: There are no bedrooms or anything involved.

Mr. Hodosh: No, it's a one-story kitchen and then you step down half a level, because of the way the house sits, and there is like an entertaining space down below; like a sun room with a wet bar, but it's all one story and above it is a deck that you walk out from the second floor bedrooms.

Mr. Fox: So is that going to be built on a slab?

Mr. Hodosh: Yes. It's just the way the grade goes. It kind of...

Chairman Wright: Any external staircases or are they all in front.

Mr. Hodosh: The staircases are inside. You can see there is a staircase that goes kind of from the lower level up into the existing kitchen.

Chairman Wright: And the garage – is that one story or two...and I know that's not part of the...

Mr. Hodosh: The new garage is the one story garage. It is an oversized shed is what it is.

Chairman Wright: But, that's not part of the...

Mr. Fox: When I visited the site, coming off of 9W there is quite a grade coming down into that, what is the plan as far as this asphalt drive that is here; are we back filling this?

Mr. Hodosh: Well that's one reason the garage wanted to push back up because right now it is coming down pretty far. So the further we go to the street the less slope there is for the cars; the problem is the winter time. So he would be cutting back a good chunk of that existing driveway. All the driveway that goes down to the end...it would all be removed. The grass would be put back in place and he does intend to grade it up as much as he can. He wants to give himself a little bit of a backyard that he can actually use.

Mr. Fox: I'm talking about off the street where you are going to put the asphalt.

Mr. Hodosh: He's stuck with these stairs...he is going to grade it as much as he can, but there is limitations to what he can do without affecting the house...

Mr. Fox: You are going to get run-off and you are going to create...and with the asphalt you are going to create more.

Mr. Hodosh: He already has asphalt to a point.

Mr. Fox: Oh I know. Once you take that grade though...the backfill I'm saying.

Mr. Hodosh: Well the garage...the garage and the addition are going require drywells so that will upset some of the drainage so the water coming down the driveway, when it hits the garage, will be channeled to a dry well, where now it's just sits there.

Chairman Wright: And the lot to the south is vacant?

Mr. Hodosh: The lot to the south...I don't think there is anything over there.

Mr. Fox: No, that is actually an access road to the over 55 community, senior home housing – Knights Corner and opposite that is the fountain there.

Mr. Hodosh: So there shouldn't be any affect on the neighbors because of the way the lot grades. If anything, more of the water will be captured on the side.

Chairman Wright: Anybody else have questions for Mr. Hodosh?

Mr. Fox: Now you said that the house, the addition is 5' in from the north side and it is 14 from the south...15.

Mr. Hodosh: From the north side the house is 10' in and then...

Mr. Fox: And then the south side...

Mr. Hodosh: The south side is...

Mr. Fox: 14.

Mr. Hodosh: No, no. I said it extends 14'. So it basically extends 14' and its 14' to the...

Mr. Fox: Past the existing (inaudible)

Mr. Hodosh: 14' and the plot is 12'3...

Mr. Hodosh: If you look at the elevation you can see it is very low.

Mr. Fox: What is that?

Mr. Hodosh: If you look at the elevation it's the addition that is much lower than the house. You are not even going to see it out in the street side. It's basically the deck that is way down here. The house is not very wide.

Mr. Fox: Are you taking that porch out of the back of the house or the garage into that new addition. Is that...

Mr. Hodosh: I'm sorry.

Mr. Fox: The garage is under here.

Mr. Hodosh: That's the garage.

Mr. Fox: Okay.

Mr. Hodosh: This doesn't exist.

Mr. Fox: I understand.

Mr. Hodosh: So basically what we are building is the kitchen up here in line with the first floor, a walk-out deck from the second floor and we slant the roof down to the lower grade. So from here to the height of the house you probably won't even see this from the street.

Chairman Wright: And that is replacing something existing now.

Mr. Hodosh: This part is. There is two things we are trying to do when doing the addition – we are trying to avoid the zoning as much as possible, but also make it look like it is part of the house that it's always been there. It is a really beautiful house. The inside they put a lot of work into it so they were very concerned about it looking right and...

Chairman Wright: I remember it as the Mandago house; I think. Any other questions?

(no response)

Chairman Wright: So I think we are good for now, but we may call you back up if there are others who have some questions. We appreciate your testimony.

Are there any members from the public who wish to comment on the application?

(no response)

Chairman Wright: Does the Board have any other questions for Mr. Hodosh or anything?

(no response)

Chairman Wright: If not, then I can take a motion to close the Public Hearing.

*****MOTION: Mr. Casscles made a motion to close the Public Hearing; seconded by Mr. Fox. Hearing all in favor; the motion was carried.**

*****MOTION: Mr. Fox made a motion to go into Executive Session, pending litigation; seconded by Mr. Keegan. Hearing all in favor; the motion was carried.**

Chairman Wright: Mr. Hodosh you might want to wait. We are going into Executive Session and when we come back out of this we should be finishing it up.

Ma'am is there something that you were here for or are you just kind of listening?

Unidentified Female: That's my property.

Chairman Wright: Oh, okay.

*****MOTION: Mr. Casscles made a motion to reconvene to the regular Zoning Board of Appeals meeting; seconded by Mr. Fox. Hearing all in favor; the motion was carried.**

Chairman Wright: Mr. Hodosh and Ms. DeLuca-Dean, I think we have an understanding of what we want about what you are asking for. We just have one stipulation about the one before you just to kind of get a sense as to your reaction to it and that is there is some new fencing that is going on here and it's going to wrap around the bottom of the property – we were just wondering...what we would like to do is see could you just extend that fencing to go to the existing brush line there?

Ms. DeLuca-Dean: I think that was actually happening there.

Chairman Wright: Okay.

Ms. DeLuca-Dean: I do want to make...clean it and eventually fully enclose it.

(inaudible – too many people talking)

Ms. DeLuca-Dean: When before I knew that we were doing any of this, my plan was to close the fence like here (pointing at diagram) so absolutely, definitely keep in enclosed.

Mr. Fox: Does the neighboring property have a fence back there as well?

Ms. DeLuca-Dean: Yes, they do and it ends somewhere along where that **(inaudible)**.

Chairman Wright: Does it track the same spot or does it come from the road back?

Ms. DeLuca-Dean: Their fence line?

Chairman Wright: Yes.

Ms. DeLuca-Dean: It doesn't go all the way to the road. I think its maybe...

Mr. Fox: That's where the house is roughly...from what my recollection.

Ms. DeLuca-Dean: Yes, something like that.

(inaudible – too many people talking)

Mr. MacCartney: What you are looking to do is come up to here and off this corner (looking at the diagram) – this line or was it sticking up to here, but I (inaudible)

Chairman Wright: I think we have a resolution.

*****MOTION**: **Mr. Casscles made a motion for the following resolution; seconded by Mr. Keegan. Hearing all in favor; the motion was carried.**

*****MOTION**: **Chairman Wright offered the following resolution; seconded by Mr. Casscles.**

In the Matter of Application #15-06 of Jessica DeLuca Dean for variances from the requirements of Chapter 215, Article V, Sections 15A-h.1-5 and 1-6 of the Stony Point Zoning Code to permit the construction, maintenance and use of a front and rear addition to a single family home with less than required front setback/yard, providing 16.0 feet, whereas 20.6 feet are required, less than required rear set back, providing 10.5 feet whereas 35 feet are required, on premises located at 46 N. Liberty Drive, Town of Stony Point, designated on the Tax Map as Section 15.19, Block 3, Lot 88.

The premises which are the subject of this application are located at 46 N. Liberty Drive, Town of Stony Point in an R-1 Zoning District.

The applicants were represented George Hodosh Associates and the following documents were placed into the record and duly considered:

Application; Building Inspector's denial letter dated 9/9/15 and amended denial letter dated 9/18/15; Surveys and plans, including one last revised 9/30/15 and submitted to the Board on or about October 1, 2015.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about October 11, 2015.

WHEREAS, the proposed action is a Type II action under the regulations promulgated pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on October 15, 2015, and the testimony of the following persons was duly considered: Mr. Hodosh.

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact:

Jessica Deluca Dean is the owner of the subject parcel which is improved with a single family home, pre-existing, non-conforming as to bulk in regard to lot area, front yard, side yard, and rear yard. More particularly, the existing lot is 10,834 ft.², but current zoning requires a minimum of 15,000 ft.² The existing structure also comes within 1.9 feet of the northeastern

side property line, whereas a side yard of 15 feet is required under the current code. Further, the existing structure comes within 20.6 feet of the front property line whereas a front yard of 35 feet is required by the current code. These are all pre-existing conditions which the applicant does not seek to change.

The applicant seeks to construct an addition of approximately 922 sq. ft. off the southern side of the existing structure, toward the rear and side yards.

The pre-existing structure presently comes within 19.1 feet of the rear property line, but current zoning requires 35 feet in rear yard setback, so it is pre-existing, nonconforming on that dimension as well. The addition would bring the structure closer to the rear line (to 10.5 feet), thereby expanding that nonconformity.

Further, the addition comes within 35.3 feet of the southwestern side property line, and when added to the pre-existing 1.9 feet on the northeastern side property line, the addition would result in a total side yard of 37.2 feet, whereas 40 feet are required by code.

Accordingly, since the applicant is proposing expansion of a pre-existing, nonconforming structure, the applicant is seeking all appropriate variances to permit the addition planned as set forth above and on the revised plan dated September 30, 2015.

No objections have been received to the request from the adjacent property owners.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) "whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance":

There is no evidence presented that the proposed variances would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties.

(2) "whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance":

There is no evidence presented to this Board that the benefits sought could be achieved through any other means.

(3) "whether the requested area variance is substantial":

The variances sought are substantial, but any potential negative impacts are mitigated by the fact that this is a pre-existing, nonconforming structure in place for many years, and the expansion is reasonable in light of the unique specific dimensions and conditions of this lot.

(4) "whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district":

There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district, on the condition that the fence or screening be continued from the northeast property line up to the shrubs shown on the September 30, 2015 plan.

(5) “whether the alleged difficulty was self-created”:

The alleged difficulty was self-created insofar as the applicant seeks to voluntarily add an addition, but many of the variances sought are required simply by reason of the fact that the existing structure is pre-existing, nonconforming as to bulk which is not in the control of the applicant.

NOW, THEREFORE, BE IT RESOLVED, that the application for variances as set forth above is hereby approved, [on the condition that the new fence or other screening be continued on the northeast property line up to the shrubs depicted on the September 30, 2015 plan, and the matter is remanded to the Building Inspector for further consideration in compliance with all other applicable laws, rules and regulations.

Upon roll call, the vote was as follows: Mr. Anginoli, absent; Mr. Keegan, yes; Mr. Casscles, yes; Mr. Vasti, recused; Mr. Fox, yes; Mr. Porath, absent; and Chairman Wright, yes.

Chairman Wright: Are there any other matters before the Board that the members would like to bring up; otherwise I will take a motion to close the meeting.

*****MOTION:** Mr. Keegan made a motion to adjourn the meeting of October 15, 2015; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Respectfully submitted,

Minutes taken by Cathy Finnerty
and transcribed by Kathy Kivlehan