

**TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of December 1, 2022**

PRESENT:

Mr. Keegan
Mr. Anginoli
Mr. Strieter
Mr. Gazzola
Ms. Davis
Chairman Wright

ALSO PRESENT:

Dave MacCartney, Attorney

Chairman Wright: Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of November 17, 2022, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

Chairman Wright starts the meeting with the making a motion to accept the minutes of May 19, 2022 and November 17, 2022.

*****MOTION: Mr. Strieter made a motion to accept the minutes of May 19, 2022 and November 17, 2022; seconded by Ms. Davis. All in favor; the motion was carried.**

Chairman Wright continues the meeting with the decision for the request of Josephine C. Lynch Irrevocable TR/John Lynch Trustee – 45 Franklin Dr – App. #22-15

Lot Line Change - Chapter 215-Article V - "Square footage of lot" a non-conforming lot being reduced by 294.76 square feet

Section: 15.19 Block: 1 Lot: 2 Zone: R1

****Mr. John Lynch makes a motion to recuse himself from the Zoning Board of Appeals for this application.**

On December 1, 2022, the following resolution was offered by Chairman Wright; seconded by Ms. Davis and carried, based upon the evidence in the record:

In the Matter of Application #22-15 of the John Lynch, Trustee of the Josephine C. Lynch Irrevocable Trust for an area variance from the requirements of Town Code Article 215-V "Square footage of a lot" to permit a proposed lot line adjustment on a pre-existing non-conforming lot, reducing the lot area from 13,349.42 ft.² to 13,054.68 ft.², whereas 15,000 ft.² are required, on premises located at 45 Franklin Drive, Stony Point, New York, designated on the Tax Map as Section 15.19, Block 1, Lot 2 in the R-1 Zoning District.

WHEREAS, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about November 19, 2022; and

WHEREAS, this is a Type II Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS, a public hearing was held on November 17, 2022; and

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

The applicant, John Lynch, is the Trustee of the Trust that owns the property. While Mr. Lynch is a member of this Board, he has recused himself fully from any consideration of this matter.

The subject property located on Franklin Drive has been improved with a split-level brick and frame single-family dwelling for many years, prior to the existing Code. The lot is

pre-existing, nonconforming since the existing lot area is 13,349.42 ft.², whereas 15,000 ft.² are currently required by Code.

The neighboring property to the south is improved with a single-family home serviced by a driveway that runs between the two properties. For years, a portion of the driveway servicing that neighboring property has encroached over and upon the Trust property, giving rise to periodic disagreements between the two neighboring property owners. The two neighboring property owners have now agreed to resolve their differences by way of a lot line adjustment. They intend to move the shared property line approximately two feet to the north of its current location so most of the driveway servicing the neighboring property will now be on that property instead of encroaching on the applicant's property.

The proposed movement of the property line two feet to the north will result in a decrease in the lot area for the applicant's property of 294.76 ft.². The new lot area would be 13,054.68 ft.² instead of the existing 13,349.42 ft.². Because the property is already pre-existing, nonconforming in regard to lot area, the lot line change cannot be accomplished in the absence of a lot area variance. The adjustment of the lot line to the north will still leave a side yard setback on the applicant's property of 18 feet, 2 inches, which remains Code-compliant.

The two property owners have applied to the Town of Stony Point Planning Board for approval of this lot line adjustment, and the matter is currently undergoing review by that Board.

There were no objections to the relief requested.

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 on the conditions stated herein, 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) There was no evidence presented that the proposed variance would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties. There are no structural changes being proposed. This is not a subdivision to create a new, substandard lot. It is merely a minor adjustment of a lot line consistent with existing conditions. Further, to the extent the lot area on the subject property is reduced by 294.76 ft.², the neighboring property's lot area is being increased by that same amount, bringing that property more into conformity with the Code.
- (2) There was no evidence presented of any other feasible means to achieve the benefit sought without the variance requested.
- (3) The variance is not substantial under the circumstances.
- (4) There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- (5) The alleged difficulty was self-created, but the Board does not find that factor to be determinative here.

NOW, THEREFORE, BE IT RESOLVED, that the application for area variances is hereby approved on the conditions set forth below:

CONDITIONS:

1. The variance is granted subject to and conditioned upon the review and approval of the lot line adjustment by the Town Planning Board, and any conditions which may be imposed by that Board.
2. The applicant shall comply with all other applicable laws, rules, codes, and regulations.

The matter is remanded to the Building Inspector for further consideration in compliance with the terms and conditions hereof.

Upon roll call, a vote to pass the foregoing resolution was as follows:

Mr. Keegan - yes
Mr. Anginoli - yes
Mr. Strieter - yes
Mr. Gazzola - yes
Ms. Davis - yes
Chairman Wright - yes

*****MOTION: Ms. Davis made a motion to adjourn the meeting of December 1, 2022; seconded by Mr. Keegan. All in favor; the motion was carried.**

Respectfully submitted,

Nicole Pechin

Secretary
Zoning Board of Appeals