

Town of Stony Point

Department of Planning

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Adopted: September 22, 2016

PLANNING BOARD MINUTES

September 22, 2016

RHO BUILDING at 7:00 P.M.

Present:

Eric Jaslow, Member
Peter Muller, Member
Gene Kraese, Member
Gerry Rogers, Member
Michael Ferguson, Member
Paul Joachim, Member
Thomas Gubitosa, Chairman

Steve Honan, Esq.
Special Counsel

Max Stach
Town Planner

Chairman: First on the agenda is Red Ridge Park Two.

Red Ridge Park Two – SBL 15.02-3-26, 27, 28, &29 Site Plane located on the northwest corner of North Liberty Drive and Hastings Lane
Review Application

(First 3 minutes of tape inaudible.)

Chairman: John you had questions right?

Mr. O'Rourke: We had done a review and the comments were mostly technical in nature I don't see them modifying the design of the layout so the applicant is going to address those in a couple of weeks.

Chairman: Max do you have any questions?

Mr. Stach: I think at the tech meeting we discussed that you will be providing the Board with a revised EAF I don't think that is done yet to reflect the new project. Also I have some earlier comments regarding your previous EAF I think we need to get that so we can send them out for GML's. So the other thing I think you

mentioned is they are going to be looking for an area on this property to provide parking some additional parking.

Mr. Swarovski: We will be.

Chairman: Steve any comments?

Mr. Honan: Not at this time.

Chairman: Bill any comments.

Mr. Sheehan: Was that a typo on the road?

Mr. Swarovski: Yes there was a typo in this area.

Mr. Sheehan: So is it 18 right now?

Mr. Swarovski: Yes it is.

Mr. Sheehan: The other thing was we were talking about some type of construction schedule.

Mr. Thamsen: We have a schedule we have it laid out in steps we just don't have it at the time we can get that to you.

Mr. Sheehan: One of the issues accommodating (inaudible) that was the original width of the original site plan phase one so one of the issues was that we would like to see overiolusly we don't want to see a tractors parked in the middle of the road we would like construction schedule on when that is going to be finished basically the way it is set up now new units really don't interfere with the existing ones. So if you need we can take a look at it and see if it has to be revised or whatever. Normally that is part of the SEQRA it is part of the SEQRA document.

Chairman: Any of the Board have any questions?

Mr. Kraese: Tom are you satisfied with the fire truck access?

Mr. Larkin: Yes I am.

Mr. Stach: Just as a carrier from my earlier memo when you first submitted it do you know what the landscaping is going to like along Hastings and I guess you switched to a fence along the western property boundary but I think Dave did talk about plantings along Hastings and around the pond depending on what was there previously.

Mr. Kraese: Did you get anything back from the DOT.

Mr. Swarovski: We met with the DOT we have not heard anything we talked about what we were trying to do we will get the permit application to force the issue.

Mr. Sheehan: Because of the basin?

Mr. Swarovski: Just the fact that the property fronts on 9W and they are concerned about storm water on Hastings they want us to do as much as we can I got it down 30%.

Mr. Sheehan: Mary has already sent the new maps to the County so you need to get the EAF in if you want a response by next meeting.

Chairman: Where are you going to put the stop sign on the new street on top?

Mr. Swarovski: Off the new street yes.

Chairman: Any other comments from the Board.

MOTION: SET A PUBLIC HEARING FOR THE NEXT MEETING OCTOBER 27, 2015

Mr. Stach: You have not yet adopted a Part II or a Part III it is going to be very important for the applicant to get through any questions that may come up on the Part II if you don't have it done the Board can't close the Public Hearing until a negative declaration is done.

Mr. Sheehan: There is only two meetings left this year.

Mr. Swarovski: I understand that.

Chairman: Next we are going to move Eight Schassler Place up we are going to review the application. This month you went to the ZBA for variances.

Eight Schassler Place - SBL 20.07-2-68.1 Site Plan Conditional Use locate on the East side of Schassler Place 369 feet north of Washburns Lane

- Review application

Mr. Swarovski: We were granted the variances with some conditions.

Chairman: I think it was conditional on.....

Mr. Swarovski: The condition was with Planning Board approval.

Chairman: I know the Board got the minutes from the ZBA do we have the ZBA decision?

Mr. Swarovski: Do you just want the conditions or do you want the whole litany of whereas. So Conditions the first condition is:

ZONING BOARD OF APPEALS

Stony Point Town Hall
Stony Point, New York

Schassler, David T. and Sandi

Application # 16-03

PRESENT: Wellington Casscles
Joseph Anginoli (absent)
Joseph Vasti
Steven Porath
Edward Keegan
John Lynch

Thomas Wright, Chairman, presided.

On September 15, 2016, the following resolution was offered by Mr. Casscles, seconded by Mr. Lynch, and carried, based upon the evidence in the record:

BOARD OF APPEALS
TOWN OF STONY POINT, COUNTY OF ROCKLAND

In the Matter of Application #16-03 of David T. and Sandi Schassler, for a variance from the requirements of Chapter 215, Article V, Section 15A-h.2-2 - Less than required lot area, required 25,000 square feet, provided 22,952 square feet and Chapter 215, Article V, Section 15A-h.2 - Less than required front yard/setback; required 35 feet, provided 13.7 feet, on premises located at 8 Schassler Place, Stony Point, New York, designated on the Tax Map as Section 20.07, Block 2, Lot 68.1 in the R-1 Zoning District.

The applicant was represented by Dwight Joyce, Esq., and the following documents were placed into the record and duly considered:

Application; Survey dated June 14, 2016; June 6, 2016 application to Town of Stony Point Planning Board; August 16, 2016 correspondence from Rockland County Department of Planning; draft minutes from June 23, 2016 Town of Stony Point Planning Board meeting; Zoning Board of Appeals decision on Application No. 95-5 dated May 26, 1995; Zoning Board of Appeals minutes of May 18, 1995 meeting; August 29, 2016 letter from Rockland County Highway Department; Zoning Board of Appeals decisions in Application Nos. 92-36, 95-21, 05-40.

Additionally, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about August 7, 2016.

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 September 1, 2016, and the testimony of the following persons was duly considered: Dwight Joyce, Esq.; David Zigler; Denise Schassler-Owens; Alex Ereifej; David Ereifej; William Nytko; and William Sheehan.

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

This property has a long and unique history. It is undisputed that there has been an existing structure on the subject lot in the same location for decades at the

very least (the applicant's attorney represented that he thought it dated back to 1901 or thereabouts). It was originally a single family structure with a large garage downstairs and living space upstairs. The garage was originally used by predecessors in the Schassler family to house Town DPW trucks before the Town had its own garage. The applicant's father, also named David Schassler, acquired the property in approximately the mid-1990s and renovated the existing structure, converting the garage area into another separate living space and making it into a two-family home. The structure has apparently been used as a two-family home since that time (over 20 years).

The lot is located in an R-1 zone, which permits a single family use as of right, but also permits a two-family use by way of a conditional use permit issued by the Planning Board. No conditional use permit had previously been sought or granted, notwithstanding its use as a two-family since the mid-1990s. The applicant is now seeking a conditional use permit to legalize it as a permitted two family dwelling. The applicant has no plans to expand the structure or for any new construction or changes to the structure or to any existing lot lines or the lot area.

Accordingly, the applicant properly applied to the Planning Board for such a conditional use permit. It then became apparent that the existing structure on the lot does not fully comply with the bulk requirements of the Code for a two family dwelling. In regard to lot area, 25,000 square feet is required but the lot provides 22,952 square feet. In regard to the front yard/setback, 35 feet are required, but 13.7 feet are provided.

The Planning Board therefore referred the applicant to this Board for consideration of those two area variances, as would be necessary before that Board can proceed further to consider the conditional use permit. Of note is the fact that the applicant is not before this Board for a use variance nor is one required. The only application is for an area variance to legalize the pre-existing front set back and lot area conditions in order to permit the Planning Board to consider the conditional use permit for a two family dwelling. Also of note is the fact that this Board does not have jurisdiction over the application for a conditional use permit, which is in the sole purview of the Planning Board.

In reviewing this application for the two bulk variances requested, this Board is mindful of its decision on Application No. 95-5 which relates to this exact property. In that decision dated May, 1995, this Board granted two variances to permit a two lot subdivision; one for access for the two new lots under Town Law §280-a, and the other for lot width. That application permitted the two adjacent flag lots which presently exist, one of which (Lot 68.1) is the lot involved in this application currently before the Board. No other variances were requested or applied for at that time.

It is unclear whether the applicant's father converted the existing structure on the lot to a two-family use before or after the 1995 subdivision of the property and corresponding May 1995 decision by this Board. However, it is clear that the application submitted to this Board at that time disclosed the property only as a single family use, not a two family. Had the application been for a two-family use at that time, the same variances sought herein would have been required back then as a pre-requisite to the subdivision. Either the property had already been converted to a two-family use and that was not disclosed to this Board in 1995, or it was still a single family home and was converted sometime shortly thereafter. It

is unclear whether that application would have been granted at that time had the use been disclosed as an existing or proposed two-family.

Schassler Place is a private roadway that is far more in the nature of a driveway than an actual roadway. It services approximately 15 different properties already, is quite narrow, and is only approximately 750 feet long. From the Board's own observations and the testimony at the public hearing in this matter, it is clear that the roadway/driveway is already overburdened right now. The Board is very concerned about any further expansion on any properties on that roadway, including this one, as well as any further activities of any kind that would increase vehicular and/or pedestrian traffic in any way on that driveway/roadway. The Board is concerned about any increase in intensity of use on the road/driveway, particularly insofar as the public health, safety, and welfare are concerned, including those living and visiting there as well as emergency first responders who may be called upon to respond to one or more of the properties on Schassler Place.

The Board is further aware that it does not have jurisdiction to grant or deny the conditional use permit, and is not being asked to do so in the current application. Rather, to the contrary, this Board's jurisdiction is narrow in scope, and is limited purely to the two bulk variances requested. However, the Board must consider these variance requests not in a vacuum, but in connection with the conditional use permit, since if no change in use to a two-family were sought, there would be no need for the variances requested herein at all.

In regard to the narrow issues before the Board, the Board must also note the undisputed testimony that the property has had the same lot area since the subdivision in 1995 and the subject structure has been in the same location (13.7 feet from the front property line) for likely over a century. It is important to note that no construction or expansion is proposed or planned. So, nothing in regard to this application changes the physical characteristics of the property in any way.

The Board is also cognizant of the undisputed fact that the property has been in use as a two-family dwelling for a minimum of two decades (albeit illegally) without major incident. However, it cannot be ignored that the property has been occupied primarily as a Schassler family abode, either in whole or in part, for decades, including the entire time it has been used as a two-family dwelling. It currently houses the applicant's in-laws and its use is therefore on the low end of the spectrum of intensity. The Board is aware that this may not always be the case in the future, as others occupying a two-family structure in that location in the future may well have significantly more family members or other occupants than those presently occupying the premises.

Accordingly, given the Board's concern in regard to the health, safety and welfare of the community as set forth in detail above, the Board is quite concerned that a grant of the variances sought herein, in conjunction with a subsequent approval of the requested conditional use permit by the Planning Board (should that Board see fit to grant it) could well have the consequence of significantly adding to the burden on an already over-burdened Schassler Place, particularly if not closely controlled with specific conditions.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for variances, 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, but only on the conditions set forth herein, and has made the following findings and conclusions in that regard:

(1) The proposed variances have the potential to produce undesirable changes in the character of the neighborhood and/or a detriment to any nearby properties, but with the imposition of the conditions set forth below, that potential can be mitigated to an acceptable level.

(2) There is no evidence presented to this Board that the benefits sought of legalizing a two-family use could be achieved through any means other than the two bulk variances sought herein.

(3) The variances sought are substantial.

(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 other than those set forth above, which can be mitigated to some extent through the conditions set forth below.

(5) The alleged difficulty was self-created insofar as the applicant has used the property illegally as a two-family dwelling for upwards of two decades.

CONDITIONS

- (1) There shall be no movement or expansion of any kind (laterally, vertically, or otherwise) of the structure on the subject lot, and no new structures shall be permitted upon such lot;
- (2) There shall be no expansion of the numbers of bedrooms, bathrooms, or kitchens located in the subject structure;
- (3) The variances sought herein are conditionally granted only in the context of the current application and only if the Planning Board grants the conditional permit application; if the Planning Board does not grant the said conditional use permit application, the grant of the variances sought herein shall be deemed null and void;
- (4) This Board recommends that if the Planning Board is so inclined to grant the application for a conditional use permit, that the said Board should consider placing reasonable conditions and restrictions on any such permit, including but not limited to conditions in regard to the numbers of vehicles and occupants permitted, the nature and location of the parking spots to be provided for the subject structure, etc.

NOW, THEREFORE, BE IT RESOLVED, that the application for variances is hereby approved on the conditions set forth above and conditioned upon the applicant's compliance with all other applicable laws, rules, codes, and regulations, and the matter is remanded to the Planning Board for further consideration in compliance with the terms and conditions hereof.

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

AYES: Six (6) – Mr. Keegan, Mr. Casscles, Mr. Vasti, Mr. Porath, Mr. Lynch and Chairman Wright

NAYS: Zero (0)

ABSTAIN: Zero (0)

There being six (6) votes in favor of the motion, zero (0) votes against the motion, and zero (0) abstentions thereto, the Chairman declared the motion carried and the resolution adopted. The Clerk was directed to file a copy of this decision in the Office of the Town Clerk of the Town of Stony Point and to notify the applicant accordingly.

Thomas Wright, Chairman
Zoning Board of Appeals
Dated: September 15, 2016

Filed in the Office of the Clerk of the Town of Stony Point, New York this 16th day of September, 2016.

Town Clerk, Town of Stony Point

Chairman: Bill what are your comments.

Mr. Sheehan: Really not comments I think we should set a Public Hearing I am not crazy about conditions but it is what it is that is what the Zoning Board did. As far as further conditions further conditions as far as number of apartments the requirement is two for each unit I always like a little bit more however apparently it would keep it as low key as possible I guess. I think the conditions are stringent as it is. It was represented to the Zoning Board they are basically saying it's always been a two family for a very long time it has been like that as is for a long time I think maybe the ZBA wanted to say ok maybe it was or maybe it wasn't but that is what you have.

Mr. Kraese: So when I read it just for clarity in my head back when it was a one family house and it was granted whatever variances at that time so they could subdivide it into two lots.

Mr. Swarovski: Yes that is my understanding (inaudible) it was a two family at the time.

Mr. Kraese: It was unsubstantiated that it didn't match the footprint and in the testimony of somebody that used to be a garage that this gentleman Mr. Schassler used it as the Town garage and somewhere down the line they put an apartment in there so they never got a building permit and there is no C of O so now you are trying to make this a two family with not even a building permit. Even though it

was 35 years ago so Bill if something like this if we approved it would they have to get a building permit and a C of O for it?

Mr. Sheehan: If we did if it pre dates Zoning you are going back when it was a Town Highway garage that must have been in the 1940's but in any event if they did require a building permit the code that would be used would be the code that was existing when they renovations took place.

Mr. Kraese: If we could find that code but my main thing is there was no building permit and C of O no matter when or what year you are going to use it I think that should be a condition if this gets approved. I just can't see granting something whit out having a C of O.

Mr. Jaslow: What precedence does it set now for every house in the Town that is a illegal whether they are 2,000 square feet short on the lot or they want it are we setting a precedent for the Town.

Mr. Sheehan: We are not setting any precedent (inaudible) the issue is a two family the area has already been deemed there is a variance on it so if someone came in short 2,000 feet or whatever you have the option to either send it to the Zoning Board, not to send it to the Zoning Board send it to the Zoning Board with a recommendation to approve or disapprove. The (inaudible) is more at the Zoning Board but basically for you they meet all the Zoning because they got variances.

Mr. Sheehan: To get a conditional use there is basically 5 points that they have to basically it is not mandatory that they meet all of them but conditions that it has to fit the neighborhood there is other criteria that you should be looking at on any conditional use it is not a use by right.

Mr. Kraese: I think you said you are not a fan of conditional use.

Mr. Sheehan: I am not saying I am not in favor of conditional uses I am not a fan of conditions because what happens is twenty years down the road you have all new people in the office and how would you know there are conditions.

Mr. Kraese: Are there four parking spaces?

Mr. Swarovski: I have no idea I have not gone to the site.

Mr. Stach: There is three by the house and one at the top and I think the Zoning Board decision almost alludes to that because it states the Planning Board approving the location of the parking.

Chairman: I know like Gene said he was going through the Public Hearing Minutes from the Zoning Board and there were a few neighbors that were concerned about the narrow road and increased cars on the road and parking.

Mr. Sheehan: It seems to me that there is plenty of room to put a spot on there. Not up there it is probably part of the existing driveway to the house.

Mr. Kraese: Are you going to come back and put spot somewhere else.

Mr. Swarovski: If you wanted us to.

Mr. Sheehan: I think you have too.

Mr. Sheehan: They have to be putting 4 cars now.

Mr. Stach: I am looking at Google maps and they are parking the cars behind each other.

Chairman: Bill the original dwelling was there before the codes were there now the renovations for the apartment were done in 95.

Mr. Sheehan: Half of the people say 95 the other half says it has always been a two family. I am sure even if it was a two family from 1920 there has be renovations over the years that did not get permits.

Chairman: John do you have any questions?

Mr. O'Rourke: ZBA variances should be right on the Site Plan so we do not have to be going back into the files.

Chairman: Mr. Honen any questions?

Mr. Honen: Not at this time.

Mr. Stach: (inaudible) alluded for a turnaround for the northern most parking spot but there is also the issue of the southernmost parking spot that house comes almost to the street so if you are backing out you are not going to have a lot of vision of who coming down Schassler Road if you are going to do something south of home.

Mr. Kraese: I would like to ask the Fire inspector if you have any concerns.

Mr. Larkin: It is pre existing there has not been any new construction there in the last 30 years.

Mr. Kraese: Would it be an issue when they develop that empty lot.

Mr. Larkin: I think we would have to review it then.

Mr. Sheehan: When they subdivide it they built a house on the lot.

Chairman: I need a motion for a Public Hearing.

MOTION: SET PUBLIC HEARING FOR OCTOBER 27, 2016.
Made by Gene Kraese and seconded by Paul Joachim

SET SITE VISIT OF OCTOBER 1, 2016

MOTION: TYPE II ACTION

Made by Peter Muller and Gerry Rogers

Chairman: Next item on the agenda is The Breakers.

The Breakers – SBL 15.04-6-3, 4 & 6 Site Plan Conditional Use located on the north End of Hudson Drive 600 feet north of Tomkins Avenue

- Review Application

Minutes for this application taken by Court Stenographer

MOTION: TO RETAIN JOHN SARNA AS TRAFFIC CONSULTANT.

Made by Gene Kraese and seconded by Eric Jaslow

Chairman: Next on the agenda is Vestco Cost Estimate.

Vestco - SBL 20.04-11-7 Site Plan Cost Estimate for \$389,559.00

MOTION: APPROVE COST ESTIMATE FOR \$389,559.00

Made by Eric Jaslow and Paul Joachim

MOTION: ACCEPT MINUTES OF JUNE 23, 2016

Made by Gerry Rogers and seconded by Michael Ferguson

MOTION: CLOSE PLANNING BOARD MEETING

Made by Peter Muller and seconded by Tom Gubitosa

Respectfully submitted,

Mary Pagano, Clerk to the Planning Board

