

Minutes of Middlefield NY Zoning Board of Appeals Hearing

July 31, 2024

Present: ZBA members: Lorna Wilhelm (chair), Richard DeRosa, Frank Miosek, Alicia Nemec, new member Mary Leonard; Zoning Enforcement Officer Neal Newman; Applicants: David Allen (owner), Mike Jorgensen (contractor); Neighbors: Marnie Auld, Howard Herman and Jean Shaw (both on Zoom).

Hearing was called to order by chair, Lorna Wilhelm, at 7:02 pm. She noted that there is one proposal for zoning variance on the agenda.

Application under review is for a 24'x32' garage on David Allen's property at 490 Ricetown Road (Tax map # 100.00-1-13.06). The proposed garage placement is approximately 25' from the center line of Ricetown road to the front of the proposed structure. Middlefield zoning front set-back for R-80 district is 50'. The application was presented by Chair Wilhelm.

After application review, owner and contractor were asked to offer further information to clarify the request. Mr. Jorgensen described the property as having various challenges for garage location. The proposed location is at the only level and dry area of the property. The opposite side of the driveway slopes down and is in a wet area. Placement there would necessitate bringing in substantial fill at a high expense. The rear of the proposed site has a NYSEG power line, so a 20' right-of-way would need to be maintained from the power line, preventing the garage from being moved back any further than the proposal. There is a well head between the house and the garage, which must be avoided. Mr. Allen hopes to use existing driveway to access garage, with doors facing the driveway. If needed, they could add a new driveway and have doors facing the road.

DISCUSSION:

- Mr. Herman and Ms. Shaw expressed concerns about the proposal. They will be moving into the house across the street. They note that their garage is less than 50' from the road center (asked John Auld to measure, and he stated it was 35-35.5' from road center). They noted that they would be amenable to the garage being the same distance from the road as their garage. They suggested reducing the size of the proposed garage. Member Nemec asked them what their specific concerns were regarding the variance request. They appear to be mostly concerned about the aesthetics of having a garage in their view shed being closer to the road than their own garage. Mr. Allen noted that he was agreeable when their garage set-back variance was requested.
- The proposal by Mr. Herman/Ms. Shaw to make the garage smaller, would not add a significant amount of additional set-back to the proposal, and would make the garage less functional, per Mr. Jorgensen.
- There is a tree between the road and the proposed garage. It would offer some visual block of the garage from the neighbors.
- Regarding NYSEG right-of-way, the exact location is not on tax/GIS maps, but may be on deeds. Mr. Newman attempted to reach NYSEG to get clarification, but was not able to get through.

- Town highway minimum right-of-way is 25' from center line on each side.
- The factors that must be considered by the ZBA in order to grant a variance include: neighborhood character, alternative locations considered, environmental impact, is there self-creation of the need, and how substantial the request is. Some of these factors can't be determined with our current information.
- Mr. Miosek proposed that we table the discussion until we have further clarification of certain points. The applicants were requested to clarify the NYSEG right-of-way location (check deeds), and more specific measurements for the proposal. Motion was made by Mr. Miosek and seconded by Ms. Nemecek to reconvene in 4 weeks, on Wednesday, August 28 at 7 pm. All were in favor. The ZBA will have 45 days from that hearing to make a decision.

Hearing was adjourned at 8:00 pm.

Respectfully compiled by Lorna Wilhelm, with notes taken by Mary Leonard.