

TOWN OF EAST BLOOMFIELD

March 24, 2021

Zoning Board of Appeals Members Present, Art Babcock, Mark Thorn, Tim Crocker, Rosemary Garlapow.

Absent: Sonja Torpey

Others Present: Kimberly Rayburn (Secretary), James Kier (Building & Zoning) Vic & Jean Alford (Applicant) Todd & Jennifer Haran (Applicant), Scott Kimball (Highway Superintendent).

Babcock opened the meeting at 7:30 pm with the pledge of allegiance.

I. 7:00 pm # TNC2-21 / BV1-21 Area Variance and expansion to a non-conforming structure, the addition will be on the front of the existing home and does not meet the front setback. Property owned by Todd & Jen Haran located at 7289 Woolston Rd tax # 94.00-1-46.200

Babcock asked Kier why there are two (2) applications? Kier stated that he viewed the front setback as an area variance, and then the second was the expansion to a non-conforming structure. He stated that if the addition was going towards the back and not the front, he would not have needed a variance to the front setback. Babcock stated he believes it should be one or the other and there are two very different sets of criteria for review for the two applications.

Babcock would like to pole the Board to get their opinion on whether or not they feel they need to review both. At this time the public hearing was read and the public hearing was opened.

The neighbor notifications were reviewed, and Babcock asked Haran to explain his proposal. They are placing the addition in a location where they can still utilize the East side view. When they first started planning it, they did not realize they had an issue with the front setback. Kimball stated that it is a unique situation and it is one (1) of Two (2) spots that has that wide of an easement off of the right of way. The road used to be closer to the house but over the years the Town moved the road. Kimball also stated he has no concerns about the proposal, the home is situated on the top of a hill and the Town has no future plans for any type of infrastructure to be placed in the right of way (ROW). The existing garage is approximately one hundred and twenty-seven (127) feet from the center line of the road.

Babcock stated that the highway ROW to the edge of the pavement on a 6-rod road is normally thirty-three (33) feet. The proposed building will be 2 feet 2 inches from the ROW, and 35.2 inches off the property line even though the house sits that far off the road. Torpey stated it is highly unusual that someone would ask to utilize the highway right of way. Babcock stated that Spectrum and RG&E are out towards the road. Babcock stated that in the 60's the Town purchased land to the North so they could move the pavement to the North in order to remove some sharp curves. He does not believe that a Town ever abandons the width of a highway ROW. Kimball stated there was no discussion of that when he spoke to the County.

Babcock asked why they are taking down the current garage? Haran stated that the roof is leaking, and they would like the garage shifted North so they can turn the crawl space into living space. Also, they would like to get rid of some of the wind on the back patio. Babcock asked if they would consider loading the garage from the side instead of the front. Haran stated that in the new plan they would load from the West. Babcock asked about the east side, Haran stated his property drops off on that side. Babcock stated that the West side is up against the house and there is not a lot of room. Haran stated that the kitchen is in the Southeast Corner and the mudroom/vestibule is the Northeast corner. Haran stated the proposed dimensions of the garage is a 30 x 30. Crocker asked if there were any concerns from the Town on how close the new garage will be to the Highway ROW, Kimball stated there were none in this case. Garlapow suggested that the Haran's look into any avenue they can to get the ROW changed.

A discussion was held regarding any liability the Town would have if anyone got hurt in the ROW. An example was given of Haran falling off scaffolding that was in the right of way while working on his house. Babcock and Thorn questioned what if any liability the Town would have.

Babcock stated that one of the five (5) criteria that the Board is required to review asks is there an alternative method available to achieve the desired result. He also stated that if you push back the vestibule and move the south wall back seven (7) feet it would still provide a patio area and achieve the desired result. This is an alternative the Haran's could accept.

Babcock wanted to pole the Board to table the discussion and decision until they have discussed the liability concern with the Town Attorney. Thorn stated that this is a unique set of circumstances and he feels that it is worth having the Attorney's interpretation on which set of criteria they need to base their decision on as well. The structure is already non-conforming and that comes with its own set of regulations.

Thorn motioned and Crocker seconded to leave the public hearing open to give the Board time to get the Attorney's interpretation of whether this is an area variance, and expansion to a non-conforming structure or both. Also, the Board wants to know what, if any, liability the Town has allowing a structure to be that close to the ROW line. All Board members present voted Aye. Vote was carried unanimously.

The Board adjourned the public hearing at 8:00 pm.

II. 7:30 pm # BV2-21 Area Variance Victor Alford 3171 St Rt 64 South to replace a barn that was taken down with a new wider barn that will be in line with an existing barn that does not meet the front setback.

Rayburn read the public hearing, and it was then opened.

Alford took down an existing barn that was a 40 x 24 and is now looking to replace it in the same location as far as the front setback, but deeper towards the inside of his property. The new barn will be a 40 x 40.

The Board asked why Alford needs to apply for a new variance. Kier stated that once a structure comes down, the pre-existing circumstances are no longer in place.

The required front setback is seventy-five (75) feet. The barn will be in line with other existing barns/structures that are twenty-four (24) +/- feet from the ROW. Babcock stated that the measurements are an estimation from an Oncor map by picking points from a photograph.

The Board then started their review of the five (5) criteria.

1. **Undesirable change to the neighborhood:** The Board feels it does not alter the character of the neighborhood. There was another barn in this spot previously, and it is in keeping with the other barns.
2. **Alternative method:** The Board feels that after reviewing the application the location is reasonable and it makes sense. An Alternative does not seem necessary.
3. **Substantiality:** Thorn feels that that the request would be substantial if this was the only structure. The required setback is seventy-five (75) feet, and they are requesting to have the structure twenty-four (24) +/- feet from the ROW. However, they're replacing a barn that was taken down and there are other existing structures that are the same distance from the ROW.
4. **Impact on the environment:** Does not have any impact on the environment as the space where the structure is going is already compacted space.
5. **Self-creation:** The Board feels this is self-created.

Babcock motioned and Thorn seconded to close the public hearing. All Board members present vote aye, Vote was carried unanimously.

Babcock motioned and Thorn seconded to declare SEQR a type II with no further action required. **All Board members present vote aye, Vote was carried unanimously.**

Thorn made a motion and Garlapow seconded to grant the area variance BV2-21 for Victor Alford of 3171 St Rt 64 South to replace a barn that was taken down. The new barn will be wider barn but still in line with an existing barn that does not meet the front setback.

Whereas:

- 1. Based on the review of the five (5) state mandated criteria.**
- 2. The new barn will not be any closer to the road than the existing barns.**
- 3. The new barn will be in keeping with the style of existing barns.**

Record of Vote:

Babcock **Aye** Thorn **Aye** Garlapow **Aye** Tim Crocker **Aye**
All Board members present voted Aye, Vote was carried unanimously.

III. Meeting Adjourned

Thorn made a motion and Crocker seconded to adjourn the meeting 8:30 pm. All Board members present voted aye, Vote was carried unanimously.

Respectfully submitted,

Kimberly Rayburn
Planning & Zoning Board Secretary