

Zoning Board of Appeals Meeting
Town of Austerlitz
August 13, 2015

Present.: Chairman Karl Gabosh, Deputy Chair Mike Fabiano, Nancy Kern, Penny Rubin, William Simmons

Public Hearing called to order 7 p.m.

Austerlitz Fire Company Area variance for new Firehouse.

David Savage explained that the firehouse is seeking an area variance for use of a 15x40 section of land owned by the Austerlitz District Fire Co. The land is needed as setback for a portion of the fire house under construction.

Attorney Cheryl Roberts with reference to this application stated that a zoning area variance is generally less complicated than a use variance . With reference to a question posed in the July Zoning Board meeting , Attorney Roberts listed several reasons why one criteria for use in determining the validity of approval, namely, that the application results from a self-created problem, is not valid in this case. Both the Fire District and Fire Company have tried to go forward with a purchase of land in question. The company has been willing to buy; the District not willing to sell. Further, on the matter of early change in location of the building, which could have prevented the need for this application, the engineer could not have planned for a 15 feet location ,further into the assigned property, without interfering with curb cut, historical view shed and proper exit of fire trucks from the building.

The Board was given a letter from Tuzinski, Cavalier and Gilchrist which indicated confirmation of expected completion of negotiations between Board of Commissioners of Austerlitz Fire District 1 and Austerlitz Volunteer Fire Co. for sale of the land owned by the Fire District.

Eleven Receipts were submitted to the Board for letters sent to neighbors owning abutting property to the Austerlitz Fire House construction site, announcing the public hearing on area variance.

Board of Appeals members made statements on their visit to the site.

William Simmons – nothing objectionable on site

Nancy Kern—View shed and truck turnaround OK. Still has concerns about setback and of setting a precedent.

Karl Gabosh -Location of building makes sense.

Cheryl Roberts reiterated her statement about the very limited possibility for a precedent from any residential source.

David Savage spoke of the need to have a resolution by the end of Aug. for approval on a loan for construction completion. No money is available for buying the property at this time. In addition, the District Fire Co. needs to have the use of this completed firehouse in order to move their truck from old firehouse prior to its planned demolition. Asbestos in the building has added to the purchase problem.

The question of what happens if this purchase is never resolved , was raised. The attorney's opinion on the question considered it irrelevant. The Board chairman considered it relevant since all options need consideration in this hearing.

Penny Rubin asked about a contingency plan if both lands were not merged and found that no such plan exists.

Building permit was sought when it seemed there would be a merger. Building Inspector issued the building permit with consideration that a good faith effort to do so was present. Mike Fabiano- Mistake made in issuance of the Building permit. Zoning law allows for a fix or change of decisions and notes that no zoning issues are the same.

Health, safety and welfare of the community calls for grant rather than denial.

Further considerations. Bank loan critical. Relocation has been addressed. County recommended approval . Fire organizations will work out differences. Public safety is of prime importance. Legalities are outweighed where greater good weighs in.

Penny Rubin- found no legality to oppose the area variance approval.

Two Public Hearing attendees spoke in favor of the approval

Richard Nesbit, Sr. alluded to possible harm caused by no completion of firehouse given the numerous, generous donations of those committed to the project. He suggested that consideration should include the possible use of the old Fire District building

Anthony Breu favored approval noting the no. of agencies who have indicated approval. Motion to close Public Hearing William Simmons , Second Nancy Kern. Approved by all.

Meeting Called to order

Unfinished Business

The Board of Appeals in finding a negative declaration to SEQRA finds approval of the area variance is in order.

Motion made to approve a resolution granting approval for an area variance to the Austerlitz Volunteer Fire Co. by W. Simmons. Second: M.Fabiano. Approved by all.

A copy of the signed resolution was provided to David Savage who thanked the Board for their serious inquiries and the process.

After a brief discussion on the manner of site visits and reporting required a motion was called to adjourn the meeting. Motion: Mike Fabiano, Second: w. Simmons Approved by all.

Meeting adjourned : 8:30

Respectfully submitted, Constance Mondel.