

**SUFFIELD ZONING BOARD OF APPEALS COMMISSION
MINUTES OF REGULAR MEETING
Tuesday, November 29, 2022, 7pm**

Present: Mark Blackaby, Chairman
Susan Hastings
John Schwemmer
Despina Tartsinis
Renee Pacewicz
Gerard Chase, Alternate
Victor Roy, Alternate
Brian Michaud, Alternate

Also Present: Jim Taylor, Zoning Enforcement Officer
Ellie Binns, Recording Secretary

The proceedings of this video/teleconference meeting were recorded and made available on the Town website, along with all of the application materials.

Chairman Blackaby called the meeting to order at 7:00 pm and asked Ms. Binns to read the legal notice.

Public Hearing: 2022-ZBA3 James and Gail Haines, 575 Mapleton Avenue , Suffield, requesting an 8 foot variance of the 50 foot access strip width requirement for a rear lot allowing a 42 foot wide access strip in a portion of the access strip. Also a front yard setback variance from the required 50 foot to 24 feet for the existing barn which will be located in the rear lot. Sections V.G.1a., IV.M. and XIII apply.

Ms. Tartsinis made a motion to open the public hearing. The motion was seconded by Ms. Pacewicz and approved unanimously.

Jay Ussery of J.R. Russo & Associates, the engineer for this application and Attorney Paul Timothy Smith represented the application to the Commission. Attorney Smith explained that there were two variances to the application but that they were withdrawing the request for the barn setback variance and would only be presenting on the 8 foot variance for the access strip. Mr. Ussery distributed plot plans to the Commission showing the proposed plan for a house to be built on the property based on obtaining the requested variance. (exhibit 1) In order to achieve the requested variance, they will be removing 60 to 70 percent of the deck that is on the existing house to bring the property closer to compliance than their previous application in January of 2021. He described the location of a proposed single family home that would be on a rear lot of ten acres. They are also proposing a row of spruce trees for screening and the house would be served by public sewer and public water.

Attorney Smith explained that they are asking for the smallest possible variance by removing a portion of their deck in order to meet the 50 foot requirement which is achievable except for a small area of the access road. He explained the hardship as the fact that they purchased the 10 acre parcel in 1984 and merged it with the front parcel when the zoning regulations was for 25

feet of frontage. Subsequently in 1987 they built a new home at 575 Mapleton and placed it so that there was a 25' wide access strip for a rear lot in the future. In 2004 the Planning and Zoning Commission changed their regulations to a 50' access for a rear lot which meant that they cannot use the back lot as a separate building lot without a variance.

Ms. Haines, the applicant, then reviewed their family history on the property that goes back 5 generations on the same land and explained that they had always intended to build two more lots for their sons in the back and when the sewer line was put in, they had it placed with that in mind. She stated that they are not doing this for financial gain but rather as a home for their son. A letter from the Haines' former neighbor, Robert Cohen dated 11/22/22 was then read into the record stating that he was aware that the Haines family had discussed with him on numerous occasions from 1999-2018 that they intended to split the land and build another house on the property.(exhibit 2)

Ms. Tartsinis asked when they had combined the lots to create the one lot and there was a map that Mr. Roy had from the town records that showed that this was in 1984 (exhibit 3)

Ms. Hastings asked if the land was to be gifted or if it was for financial gain.

Ms. Tartsinis noted that they have the use and enjoyment of the property currently with a single family home and barn.

Mr. Ussery stated that the 50 feet regulation was restrictive as compared to other towns.

Ms. Tartsinis noted that in 1997 there was a variance granted on the property for a garage.

Mr. Blackaby questioned how they were being deprived of reasonable use of the land.

Attorney Smith noted that it would be a tax benefit to the Town to have a house built on the 10 acres.

Chairman Blackaby opened the public hearing for comments from those attending.

There were no statements in favor of the application.

Chris D'Angelo, 685 Mapleton Avenue stated that there was not a legal hardship and the zone change was for a reason. He noted that there was no environmental impact study done and the barn would still have to be addressed.

John D'Angelo, 685 Mapleton Avenue spoke about his two barns on the property and the effect on the horses. He also noted that there is a propane tank that might have to be considered.

Wallace Brown, 595 Mapleton Avenue spoke about the effect on his property of having a driveway 42 feet up along his property line.

Finlay Robb, 535 Mapleton Avenue was concerned about the environmental impact and the effect on the water table. He noted that he bought his house from Robert Cohen who told him there would not be any houses built on the adjoining property.

Gillian Robb, 535 Mapleton Avenue was concerned that they could build another house if this was approved.

Mr. Taylor stated that they would have to come back for an additional variance if that was the intention.

Chairman Blackaby then read into the record the letter from November 21st from Mr. and Mrs. D'Angelo which referenced court cases. (exhibit 4)

Ben Brown, 629 Mapleton Avenue was concerned that there could be two lots.
Mr. Ussery noted that any additional house would need 5 contiguous acres of buildable land.

With no further requests from others to speak, Chairman Blackaby asked for a motion to close the public hearing and enter deliberations. The motion was made by Mr. Schwemmer and seconded by Ms. Hastings with all voting in favor 5-0-0.

Chairman Blackaby designated himself, Ms. Hastings, Ms. Pacewicz, Mr. Schwemmer and Ms. Tartsinis as voting members.

Mr. Schwemmer stated that the owner did not create the hardship since it was the Town that changed the regulations, but they are not being prevented from the reasonable use their property as it is.

Ms. Hastings questioned why they did not subdivide the land before the change in regulation.

Ms. Tartsinis noted that the Planning and Zoning Commission was the regulatory agency and had determined that a 50 foot access was more appropriate for rear lots and noted that they have the benefit and enjoyment of their property as it is now.

Chairman Blackaby noted that the wetland and environmental concerns raised were beyond the scope of this Commission.

Ms. Pacewicz noted that it seemed their original intent was to subdivide the land.

With no further deliberations, Mr. Blackaby moved to approve the request for an 8 foot variance of the 50 foot access strip width requirement for a rear lot allowing a 42 foot wide access strip in a portion of the access strip with the hardship being the change in the zoning regulations. The motion was seconded by Ms. Hastings and denied by a vote of 2-3-0 with Blackaby and Pacewicz voting in favor and Hastings, Tartsinis and Schwemmer opposed, citing a the lack of a hardship as defined by State statute.

Chairman Blackaby noted that an appeal of the decision would need to be filed with the superior court within 15 days of the publication of the denial in the newspaper.

Ms. Tartsinis moved to approve the minutes of the September 27, 2022 meeting and the motion was seconded by Mr. Schwemmer and passed unanimously 4-0-1 with Mr. Blackaby abstaining as he was not at the meeting.

Mr. Schwemmer moved to approve the meeting schedule for 2023 and the motion was seconded by Mr. Blackaby and passed unanimously 5-0-0.

With nothing further to come before the Commission Mr. Schwemmer moved to adjourn the meeting. The motion was seconded by Mr. Blackaby, and with a unanimous vote the ZBA meeting was adjourned at 8:17 p.m.

Respectfully submitted, Susan Hastings, Secretary
Recording Secretary, Ellie Binns

These minutes are a draft subject to approval at the next ZBA meeting.

These minutes are not official until accepted at a subsequent meeting.