

Village of Bloomfield Zoning Board of Appeals Meeting of April 27th, 2017

Zoning Board of Appeals Members Present, Ron Newell, Joseph Ostrowski, Roslyn Duncan, Terry Hall

Absent: Emery J. Warden

Others Present: Laura Andolino (Secretary) Jim Kier (Code Enforcement Officer), Mark Falsone (Mayor), Kim Rayburn, Joseph & Angelo Prestigiacomio, John Barry (Applicants), Glen Thornton (Thornton Engineering), Karl W. Smith, Dale & Robyn Frasca, John & Patricia Allen, Suzanne Pohorence, Janet Rector, Joan Merkel, Ken Martin, George Duvall, Elaine Joseph

Newell opened the meeting at 4:00 pm, the Public Hearing was opened.

1. Area Variance Review BV1-17 Elm & Main, LLC, owner Joseph Prestigiacomio, and business partners Angelo Prestigiacomio and John Barry have applied for an **Area Variance to the schedule I setbacks for 12 building 61 unit Townhomes** Property located between Elm and Main Street of tax map #'s 68.13-1-8.100 & 68.13-1-16.000

- Newell asked the applicants for the certified return receipts for the public hearing notices, the applicants did not have them, they stated that the Post Office had not given them to them as of today, Newell stated that they were obviously received as residents were present and stated they received the notice. Rayburn gave the list of farms to Barry within 500 feet of the property and he personally contacted them. Newell asked for any written comments, there were none.
- Newell stated that he had received a letter from Derrick Legters the fire Chief of EBHFD, the letter stated that the Fire Department does not have an issue with size of the roadways for emergency vehicles but stated he would not recommend it being any narrower. He also stated that the proposed fire hydrants as addressed in the plans are adequate for sufficient water supply. Legters expressed his concern about the house numbering and requested that each building be numbered along with each individual unit for fire safety.
- Glen Thornton then gave a detailed presentation, the proposed property consists of two parcels that when combined will equal 12.27 ± acres, the property topography is on a slant with the hillside sloping towards the North end of the property. There will be 12 buildings with 61 units at 2-6 units per building. They feel this is a good layout with good radius on the corners with good grades for driveways and for walking, the project has less building coverage than the code allows, and also has more green space than what is required. They feel they did not over develop the property, they wanted to maintain the distance between the buildings for privacy of tenants and some are farther apart than required. The topography of the property dictates where the buildings need to go due to the difference in elevation, and to maintain a less than five percent grade on the property to maintain road radius, slopes and less impact on adjoining properties, keeping slope to 10 percent on driveways.
- The buildings will be 1 story with the first-floor elevation dropped below grade at the property line; they will be less visible from neighboring properties which are mostly 2 story structures. There will be landscaping for screening around the South and the East of the property consisting of evergreens, arborvitae, juniper and red cedar.
- The DEC requires green infrastructure besides retention ponds to detain water so it infiltrates the soil before it hits the pond. They are proposing to do nothing with the North West are of the property to maintain existing drainage, the drainage on the property will be improved by throttling down the discharge before it hits the pond, the retention pond is oversized for the

project so it will be able capture discharge from a 10-100 year storm and release water at a decreased rate. The drainage for the adjacent properties should be improved as well.

- Newell stated that some of the buildings surrounding the property on Elm Street are non-conforming to today's setback regulations and sit approximately twenty feet off the property line. The closest building on Elm Street will be 23 feet. There will be sliding glass doors with eight to twelve foot decks on all the buildings due to the topography of the parcel and the need for a drainage swale that runs along the perimeter of the property eliminating the option for patios which would not require a variance. There will very little encroachment on the south and East Side of the property the closest structures will be 16.33 feet where 20 is required. On the West side of the property (Elm St) the closest structure will be 18.5 feet and the adjacent property is 20 ft. off the line. Newell stated he felt the plan fit the neighborhood and discussed the landscaping plan that started on the south side (Main St) and went around approximately 1/3 of the way down the property to where the last building is shielding the single-family residences.
- Newell asked for questions or comments from the board, Ostrowski wanted to confirm the project was for 55 and over, Barry stated that it is but the covenant has not yet been determined for the length of time. Hall asked if the West side buildings could be moved 3 feet forward and Thornton reiterated that the topography of the land, the slope of the driveways and the Fire Dept. radius for emergency vehicles dictates where the buildings can be. You need room for the drainage swale and sanitary sewage system.
- Duncan asked if the Bio retention areas were treated, Thornton stated that the storage area is only up to 6 inches in depth, the water collected is piped out to the retention pond, which is at least 4 feet deep. Duncan confirmed the units will be rented and not for sale, Thornton stated that the infrastructure is set up so if they were ever to be sold individually in the future they could.
- Newell asked the Board for any questions or comments on the setbacks, there were no comments at this time, Newell asked the public for comments, Smith at 23 E. Main stated that one of the requirements for a variance is that it is not self-created and he believes this is, Thornton stated that he doesn't believe it is self-created as the angles and elevation differences is what drove the plan and the need for variances. Smith also stated that he feels we should stick with the required setbacks.
- Dale Frasca at 25 East Main asked why the buffering stopped at the last building on the east side abutting his property, he feels it should go all the way down as he uses his property year-round and he feels that the decks will be too close to the property line.
- Newell stated that the setback for the West Side (Main Street) would be more important if it were at the street, but the property is well off the street and behind other properties. He also stated that there are structures that are closer to the lot line than they should be on neighboring properties. Thornton stated that they moved the buildings to be 25 feet off the property line before adding the decks.
- Duvall @ 2751 St Rt 444 stated that he thinks the variance is substantial because they are asking for a variance on 3 sides, he feels its self-created as their design created the issue and asked if a building could be removed. Thornton stated that reducing the project size is not economically feasible and you have to take into consideration all of the other components that need to be on the property such as the 8 inch water main, the hydrants, the hot box for the sanitary sewer, the roadways and the needed radius and slopes for the driveway.
- Robin Frasca stated that the setback for the building does not include the decks, Thornton and Hall stated that on the East side the closest structure will be 16.4 inches, and to the South (East

Main) will be 16.8 ½. John Barry stated that if the property were flat they would not have to maintain grades and the DEC requires green infrastructure of the bio retention system that requires a 5 ft. elevation for the underdrains so they drainage will drain into the pond.

- Joseph at 30 Elm stated that their property is very wet, Thornton replied that they will be intercepting most of the run off north of the driveway that will be directly into the pond and should improve the issue on their property. Frasca asked how close the swale was going to be to his property and stated that with the elevation change there will be some removal of existing trees and he is concerned about killing the roots of his trees, Thornton stated that the swale will be offset and will not be the same distance throughout the project, and he also stated that they will be as careful as possible with any removal of existing trees. Allen from 22 Elm street stated that his barn sits eight feet off of the property line/proposed driveway and he wanted to know how they were going to handle snow removal. There are swales on either side of the entrance, and they show snow removal/storage on the site plan. Prestigiacommo stated that they do not want to cause any problems and anyone can contact Thornton or themselves with any concerns.
- Newell asked for input from Kier (Code Enforcement Officer), Kier stated that they are meeting all codes as they exist today, it seems they have had some serious challenges with elevation and are doing the best they can.
- Newell explained to the public that they are reviewing the setback variance request only at this time and if the public had any further questions they could attend the Public Hearing held by the Planning Board on Thursday May 11th located at the Town Hall @ 6:00 pm. Newell closed the public hearing at 4:56 pm.
- The board then began their review of the variance request. Newell stated that the original request was for the West side (Elm Street) buildings E, B & D. Rayburn stated that the request was amended to encompass all sides of the property for the variance request at the prior Planning Board meeting, Newell stated that on the East side of the property the setback is 20 ft. and the buildings set 25 feet from the property without the decks, therefore they are only 1-3 feet into the setback and the Board feels that is a minimal request.
- Building B, the corner of the building 35.45 ft to the lot line and goes along and away from the property line from there. No encroachment.
- Building D, corner of the building is 25 feet from the lot line and goes along and away from the property line from there. The encroachment will be 1.5 feet
- Building E, building is 23 feet from the lot line and goes along and away from the property line from there, No encroachment.
- Hall stated he has no concerns, the required setback on this proposal on the West side (Main Street) is 40 feet however since there are other structures closer to the lot lines, including the Town houses which are already closer than the required setback and are approximately 20 ft. from the property line.
- Building F, 24.84 ft. from the corner the encroachment will be 1-2 feet for the deck.
- Building G, 23.77 at its closest point, the encroachment will be 1-2 feet for the deck.
- Duncan stated that she does not have any issues but does understand the concerns.
- Ostrowski asked about the setback requirements for the property abutting up to another district as the southwest corner abuts the R-1-15 district, it was found to have the required distance no need for variance.
- Newell asked Martin (Planning Board Chair) if it was the desire of the Planning Board was to recommend approval of the variance, Martin stated it was.
- Newell stated that looking at the site plan map, the Town houses are very close to the line, the barn of Allen is even closer to the line, Smith barn is close to the line. The East side property is

owned by 1 single family and the back is used for recreation with no structures and he sees no problems as long as the buffering is used and all efforts are made not to harm neighbor's vegetation. He asked if it would be possible to continue the buffering along the East property line past the proposed buildings. Prestigiaco asked who would be responsible for maintain the buffering if they continued, Newell stated the property owner would. Newell stated he feels the project should be approved because he does not feel it is overly intrusive and asked for a motion.

ZBA Decision:

Hall made a motion and Newell seconded the motion to approve the Area Variance, BV1-17

Elm & Main, LLC, owner Joseph Prestigiaco, and business partners Angelo Prestigiaco and John Barry **Area Variance to the schedule I setbacks for 12 building 61 unit Townhomes** Property located between Elm and Main Street of tax map #'s 68.13-1-8.100 & 68.13-1-16.000

Whereas:

1. The amount of the Variance is not substantial, minimal variance required for the addition of decks within 20 ft setbacks and including the required 40 ft setback to be reduced to a 20 ft allowing 2.5 ± feet of encroachment for decks.
2. Accepts the plans as drawn, the need for setbacks is due to the topography of the land and placement of swale and does not feel it is self-created.
3. Fits in with the nature of the surrounding properties.
2. Will have no impact on the environment, drainage of storm water runoff is being dealt with in the correct way.
 - Duncan stated that she thought the proposal is self-created, Newell stated that from a planning standpoint, the structural requirements for waterflow and the topography of the land and the wetness of the property he does not feel the proposal is self-created and they are doing all they can do. Hall noted that on question number 5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance?* The answer was: *Although the need to obtain these area variances is self-created by the desire to develop the land, the variances being requested are not substantial and will provide substantial benefit to the residence without imparting detrimental impacts on neighboring properties.*
 - Hall then stated that they would be improving the neighboring properties by challenging the runoff away from the existing properties on all sides. Duncan stated that she feels they should still take out the wording of not being self-created so it could not be challenged.
 - Hall amended his motion and whereas number 2. To read as follows: Accepts the plans as drawn, due to the design of the project, the topography of the land including slopes the need for setback variances are required.

ZBA Decision:

Hall made a motion and duncan seconded the amended motion to approve the Area Variance, BV1-17 Elm & Main, LLC, owner Joseph Prestigiaco, and business partners Angelo Prestigiaco and John Barry **Area Variance's to the schedule I setbacks for 12 building 61 unit Townhomes** Property located between Elm and Main Street of tax map #'s 68.13-1-8.100 & 68.13-1-16.000

Whereas:

1. The amount of the Variance is not substantial, minimal variance required for the addition of decks within 20 ft setbacks and including the required 40 ft setback to be reduced to a 20 ft allowing 2.5 ± feet of encroachment for decks.
2. Accepts the plans as drawn, due to the design of the project, the topography of the land including slopes the need for setback variances are required.
3. Fits in with the nature of the surrounding properties.
2. Will have no impact on the environment, drainage of storm water runoff is being dealt with in the correct way.

Record of Vote:

Ron Newell Aye, Joseph Ostrowski Aye, Roslyn Duncan Aye, Terry Hall Aye.

All members present vote Aye, Vote carried unanimously.

Newell made a comment to the applicants that they should work with adjacent property owners on any concerns.

2. Discussion:

- Training requirements – All Board members are required to have 4 hours of training and are needed.
- Procedure for training- each Board member will be required to cover their own expenses for training, when certificate has been turned in they will get reimbursed.
- New Code books are at the printer, the next meeting will be held on May 25th @ 7:00 pm.

3. Newell made a motion and Hall seconded the motion to close the meeting at 5:36.

Respectfully submitted,

Laura Andolino

Planning & Zoning Board Secretary