

February 2, 2012  
7:20 PM

Petition #433

Allen, Laurie  
6359 Patchin Road

PRESENT: Dennis Mead, Chairman  
Joanne Bonsack  
Kathy Prackajlo

EXCUSED: Tracy Hirsch  
Patrick Penrod  
Bethany Pryor

ALSO PRESENT: Kelly Vacco Deputy Town Attorney  
William Ferguson Code Enforcement Officer  
Thelma Faulring Secretary to the Boards and Committees  
Laurie Allen Applicant – 6359 Patchin Road

Mr. Mead asked for a roll call of the members. Attendance is noted above.

Mr. Mead introduced Mrs. Vacco and Mr. Ferguson to those in attendance.

Mr. Mead opened the Public Hearing at 7:20 PM; he read the Public Hearing Notice and the SEQR review received from Town Engineer James Hannon, and the letter of request from the applicant.

Mr. Mead: Laurie please come forward, and give your reasons for this request.

Laurie Allen:

- For Christmas I got an Amish shed
  - It's made of hemlock
- Then I found out that I needed to have permits and all that
- I went to neighbors and got approval from half of them, there are a lot of empty houses on Patchin Road
  - But I got whoever I could

Mr. Mead: Are there any questions?

Mrs. Bonsack: You decided to put it there instead of at the end of your pad?

Ms. Allen: I took pictures. It's where my driveway is; it's all fenced in my whole yard, so it's right inside of the fence where the driveway ends, then there's the fence and then that's where the shed would be.

Mrs. Bonsack: Would you ever be putting up a garage at any time?

Ms. Allen: No. I haven't had a garage in fifteen years so I just thought...there's a smaller shed on there and I can't fit my lawnmower in there, so they got me a bigger shed.

Mrs. Prackajlo: What were your intentions with the other shed?

Ms. Allen: The smaller shed, in the spring we're going to take it down. I thought either have the Fire Hall(Company) if they wanted too, or I'll just tear it down,; if they wanted to practice on it, or I'll just tear it down.

Mr. Mead reminded everyone to sign in.

Mr. Mead: Is there anyone else who has any questions or concerns?

Mr. Mead made a motion to close the public comment portion of the meeting, seconded by Mrs. Prackajlo and carried.

Mr. Mead asked for a motion for the variance request of seven feet for a side yard setback.

Mrs. Praczkajlo: Chairman, I would like to make a motion that we approve this variance as

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|--|-----------|----------|
| (1) Does it create an undesirable change to the character of the neighborhood?                                       | Yes [ ]   | No [ X ] |
| (2) Can the benefit sought by the applicant be achieved if the variance is not granted?                              | Yes [ ]   | No [ X ] |
| (3) Is the requested variance substantial?   | Yes [ X ] | No [ ]   |
| (4) Will the variance have an adverse effect/impact on the physical or environmental conditions of the neighborhood? | Yes [ ]   | No [ X ] |
| (5) Is the alleged difficulty self-created?  | Yes [ ]   | No [ X ] |

with the stipulation that the small shed does come down when time and weather permit.

Mr. Mead: I'll second that. All were in favor of the motion.

Mr. Mead: So moved. At this point I would like to request a motion to adjourn.

Mrs. Praczkajlo: I'll make a motion that we adjourn this...

Mr. Mead: This portion of the public hearing...

Mrs. Praczkajlo: Portion of the public hearing.

Mr. Mead: I'll second. All those in favor?

All were in favor of the motion to adjourn.

Mr. Mead: So moved. Thank you. You're all set Laurie.

Ms. Allen: Thank you.

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Dennis Mead, Chairman

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Dated: February 2, 2012

February 2, 2012  
7:40 PM

Petition #434

Landsman, Brian  
7171 Lower East Hill Road

PRESENT: Dennis Mead, Chairman  
Joanne Bonsack  
Kathy Praczakajlo

EXCUSED: Tracy Hirsch  
Patrick Penrod  
Bethany Pryor

|          |                   |  |
|----------|-------------------|--|
| ALSO     | Kelly Vacco       | Deputy Town Attorney                   |
| PRESENT: | William Ferguson  | Code Enforcement Officer               |
|          | Thelma Faulring   | Secretary to the Boards and Committees |
|          | Brian Landsman    | Applicant -- 7171 Lower East Hill Road |
|          | Mary Ann Landsman | Applicant -- 7171 Lower East Hill Road |
|          | Heather Beck      | 7867 Burr Road                         |
|          | Brad Beck         | 7867 Burr Road                         |
|          | Karen Otto        | 7864 Burr Road                         |
|          | Frank Otto        | 7864 Burr Road                         |
|          | Catherine Sarata  | 7773 Old Lower East Hill Road          |
|          | David Sarata      | 7773 Old Lower East Hill Road          |

Mr. Mead asked for a roll call of the members. Attendance is noted above.

Mr. Mead introduced Mrs. Vacco, Mr. Ferguson and Secretary Faulring to those in attendance.

Mr. Mead opened the Public Hearing at 7:40 PM; he read the Public Hearing Notice and the SEQR review received from Town Engineer James Hannon.

Mr. Mead asked the applicant to come forward and give his reason for requesting a variance.

Brian Landsman-- 7171 Lower East Hill Road

- Requesting a building to exceed what I do need
- Have a boat to store over the winter; it save some cost on storage
- Store lawn mower, 4-wheeler, snow mobile, wood tools -- stuff that needs to be out of the weather
- I need the room
- One year old twins that have a lot of toys

Mr. Mead: I understand that you just purchased the home.

Mr. Landsman: We did, we moved in October.

Mr. Mead: Are there any questions from the Board.

Mrs. Bonsack: When we spoke you said that it would be about 14 feet high -- the addition?

Mr. Landsman: That's what the plans have on them...the building plans.

Secretary Faulring: The Building Inspector has the building plans.

Mr. Ferguson: It doesn't exceed the height requirement.

Mr. Mead: We're addressing the variance for square footage.

Mr. Landsman: I do have a letter from one of the neighbors; that is next door. Beverly, she could not be here.

Mr. Mead read the letter from Beverly 'Marcy' who spoke in favor of the variance.

Secretary Faulring: Mr. Chairman, that's Beverly Kopyc.

Mr. Mead: As far as the size of the building, is there any way you would be able to have it smaller, or less, as far as what you're needing to put in?

Mr. Landsman: If it really needs to be, very possible, I would probably have to end up taking the other one down. It's already there, that's why I wanted to utilize what's there.

Mr. Mead: If there aren't any other questions from the Board I'd like to open it up to the residents. Please come forward and state your name.

Frank Otto - East side adjacent of said property

- Have a few questions for the Inspector
- I know it's been brought up about the square footage but it also as far as I know doesn't fall into variance of side setbacks, front setbacks
- I know there's an existing garage there
- I know there's a 50-foot minimum for front setbacks and side setbacks

Mr. Ferguson: The existing garage is grand-fathered in, it's pre-existing.

Mr. Otto: But this is a new garage, and extension of it, so I'm just wondering why that was not put on also on the...

Mr. Ferguson: It doesn't have any side yard requirement because it's 40 feet from the side yard, the minimum is 10.

Mr. Otto: It's the front yard, it's the front of the street right? Both streets are the front

Mr. Ferguson: Yes but the frontage, even at 39, he's more than 50 feet back with the addition. The existing building is at 39.6 feet, then you add the 22, or the length, he's already over 50 feet.

Mr. Otto: Okay. I have no drawings to object too, if I wanted too. I was told that the height might be 12 feet, from the ceiling which makes the eave around 13 feet high, which was given to me by the owner; this building is going to be 32 feet long and along Burr Road, and it's within 40 feet of the road, as you just said, from what I understand; I just don't – this is going to be a huge mass if you add it to the other one, it won't actually go well with the existing garage, I don't know I can't tell because I have no drawings to look at to object too. And in this case, and not given any drawings to look at to see how it's going to go with the rest of the neighborhood; I would have to say that this would be something that would have to stand out and be objectionable to most people who are living in that neighborhood and going by every day; it sits right on the corner of Lower East and Burr Road and there are quite a few nice houses on that road; and I think mine is one of them and I think the value of my house, if you put a large barn right on the corner of a major intersection, that it will be bring the value down of the rest of the houses around it; and I really do need to see drawings if I'm going to make a...

Mr. Mead: If you want them..i f you want to step up.. we did get a picture of typically a two car garage...

Mr. Otto: With the height of it at the peak?

Mr. Ferguson: The height of the peak I would have to figure out; it doesn't' exceed the requirement.

Mr. Otto: Being so close to the road and being so massive, if it's a 12 foot ceiling, which I was told, it's going to be a massive building on the edge of the road.

Mr. Ferguson: I understand what you're saying but you have to understand my point; I can't refuse them a Building Permit if it falls within the Code.

Mr. Otto: I know that and I'm just saying as far as a neighbor and as far as house values it wouldn't add to the community. So I have to object because of that.

Mrs. Bonsack: Now your objection would be the same if the other building was down?

Mr. Otto: The other garage?

Mrs. Bonsack: Yes.

Mr. Otto: That's an interesting point because if it was taken down, the other, then you could make the new building a little bit lower, maybe a little more elaborate and fit it to the house, to the details that match the house, then that might be presentable or...

Mrs. Bonsack: Then you're saying that he could go bigger then?

Mr. Otto: No, you took the existing garage down and you added something comparable in square footage, even if you exceeded, you want the variance, but you made the building look compatible with the house and compatible with the neighborhood buildings, then it might be less objectionable.

Mr. Landsman: If you look at the picture it joins to my house with the peak as high as the garage is.

Mr. Otto: The drawing that I just saw there doesn't show a 12 foot height garage, that shows something lower.

Mr. Landsman: We're still in the limit though.

Mr. Landsman and Mrs. Landsman speaking at the same time to the height of the garage.

Mr. Otto: I'm objecting to the volume of the building.

Mr. Mead: That's fine. Just express your concerns to us and...

Mr. Otto: And that will influence the value of the homes adjacent to it..

Mr. Mead: Thank you.

Karen Otto

- They just moved in and we're already in an antagonistic relationship because of a Code violation
- This is a large variance, it isn't just 1 or 2 feet
- My brother asked for 1 foot in Town of Tonawanda and the Board said absolutely not it doesn't even go with the neighborhood and this almost 400 square feet variance
- We're already in an antagonistic relationship...

Mrs. Landsman: I don't even know you. I'm Mary Ann Landsman by the way. I don't even know you, now we know each other.

Mrs. Otto: Just a moment ago it almost got heated so...the point is that my understanding of these Codes is that all or you came up with these Codes so that there is a certain look to the neighborhood and on a small lot that they have which already has a pool, it already has a house, it already has a garage that to put another huge structure on it, it's going to look very overbuilt and that is going to change the composition of the neighborhood. And it's my understanding that you came up with those Codes for a reason. So now it's our job and we're not professionals at this to state why we should not go for a variance, a considerable variance. That's my objection.

Mr. Mead: Anyone else?

Brad Beck – 7867 Burr Road

- I'm not clear exactly what the intent of the meeting is, it's my understanding that because of a request for a variance you guys are looking for input from the neighbors
- I do object to it, not because of the need or anything like that but because of the garage being connected to the new structure
- I think that it is going to be a big structure at the corner of the intersection
- We tried to make that little area look nice
- There's been work done all over the place and I think that we probably don't need to have a big wall that's going to be essentially, you know, right there as you drive by that corner
- I think that look of a wall is going to be exaggerated by the, I guess the drop down in the hill that the road has there
- I think if it were somewhat lower and the garage was taken out I think it would look a lot better it would not have that hodgepodge, it would just look cleaner with one structure and the garage wasn't there, the preexisting one

Mary Ann Landsman

- I am Brian's wife
- Part owner of the property
- Coming back on the hodgepodge comment
  - That was one of my stipulations as the wife was to make it pretty and to not make it look like a hodgepodge
- Something that we will be working with the contractor on is to make it look very uniform when we, if we can build it is to make it look uniform and not have that hodgepodge look
- Also to make it match our house in both materials and color
- That is something that I am concerned with because it's my house as well

Frank Otto:

- I agree with what's been said so far, but all we need is drawings to stipulate what's being put up, both an elevation and in plan, and we might go along with it
- As far as I can see, from what we've been told, we see nothing except a generalized garage look
- It's hard to give a good opinion of what it will look like
- I think we really need good drawings – elevations and plans to show what's going on
  - Where the entrances are
  - Where the windows are
  - Where the details are

Mr. Mead: A lot of that is cosmetic. What we're really voting on tonight is the variance of the additional...that would be dealt with the building plans, but what we're voting on tonight is just the variance of the additional 317 square feet for that property.

Mr. Otto: So therefore it would be approved to go ahead, and I'm not going to approve to go ahead unless I see what it's going to look like too.

Catherine Sarata – 7773 Old Lower East Hill Road, just around the corner

- I guess my objection goes with Frank's
- We received this letter not even a week ago, and it was just that, the letter
- I still don't understand what 324 square feet means in terms of Cod violation
- You said that you were concerned with Code, is that right?

Mr. Ferguson: Correct.

Ms. Sarata: So what does that mean? Is it a big Code violation or variance, is it a little variance? I'm just not clear, and I think what we need, we could have needed more time, I don't what other neighbors got the letter or read it or digested, we've only had it for 5 or 6 days...

Mr. Mead: To address some of your concerns:

- when somebody comes in front of the Board for a variance, as far as the petitions, a Public Hearing notice has to go out and each of the surrounding neighbors have to get a copy of that request or petition for a variance as far as what is subject or changed to that variance
- what it is here that we're looking at or voting on is that it is 840 square feet is what is allowed for an accessory or out building for that size property
- with the building that he already has there, which is the one car garage, if you drive by and see it, with this additional that the landowner is looking to build it would come up to 1,100 something which requires and additional 317 feet
- 840 from the 1,157 comes out to 317 feet additional, is what they're asking for as far as the variance
- So that's the square footage that we're voting on or looking to vote on tonight

Ms. Sarata: You said that the announcement had to go to all of the surrounding neighbors, in just regular mail, I mean how do you determine...

Mr. Mead: Thelma, could you address that?

Secretary Faulring: I have to go 500 feet or 3 properties, whichever is more, to each side of the property in question. I sent to 23 people in that area.

Ms. Sarata: Houses?

Secretary Faulring: Property owners.

Ms. Sarata: I just dismayed that this is causing some bad feelings whether we acknowledge it or not, that's what's happening. We didn't have a lot of time, we don't have pictures; I understand about wanting more space, we don't have a basement, we don't have a garage and space is a premium, I understand that but people who sold the house had three children and one one-car garage and it's a burden. But we either have Codes or we don't and I...I know that house has many variances. Beverly's on the right side, on Beverly's side there's one thing that's under a foot for a variance, so how many variances are you going to grant even though it's grand-fathered in? I know Irene was there for 40-50 years, but it's just...I don't when it stops, I don't know what the Codes are for anymore. Thank you

Mrs. Landsman: I have a question, probably for Bill (Ferguson). If this does not get passed and the variance really kind of covers the existing garage, correct? So if we tore that down and we decided we're going to build that garage, do we even need a variance and our neighbors permission for that or can we just go ahead and build, because it would be within that square footage allowed, right?

Mr. Mead: Yes.

Mrs. Landsman: How big is the maximum?

Mr. Mead: 840 feet.

Mrs. Landsman: So we could essentially tear that down, build an 840 square feet garage, without a variance?

Mr. Ferguson: You could build an brand new garage if you remove the existing one...without a variance.

Frank Otto:

- 13 years when I built my house I had a front setback requirement, I don't know if it was 50 feet or 75 feet

Mr. Ferguson: 50.

Mr. Otto: 50 feet you're saying and that's from the center of the road, from my understanding...

Mr. Ferguson: No it's not, it's from the property line.

Mr. Otto: From the property line which is the center of the road in my property map...

Mr. Ferguson: Center of the road does not count as your property, that is the right-of-way.

Mr. Otto: (laughing) Okay I'm an architect, licensed architect, I know these things, I don't know what we're disputing here but there is a problem here that our neighbor was saying – the house itself is right on the property line, sure it's grand-fathered in but the house is on the property line; the garage is beyond the 50 feet from the center of the road, I know it is because my garage is almost 50 feet and I measured it, so therefore there is definitely two variances that have been broken already, grand-fathered in is fine; all I'm asking for, again, is something to look at to see if I object not just object because of the square footage, that's what you're asking, but I'm looking at the whole picture and the whole picture doesn't look pleasant as far as the massing, the details and what it's going to look like so if someone can provide decent drawings of both buildings that would be fine, that would be great.

Mr. Ferguson: I have construction drawings. I don't have any control over what the outside, what the exterior siding is going to be, what color it's going to be, that isn't up to me that's up to the homeowner himself. Construction drawings I have, how it's going to built, that's what I'm interested in.

Mr. Otto: The many different I've been to board meetings for presenting a building I've had to have drawings – elevations of what I'm doing. This is the first time I've ever been to one of these and not seen some kind of example of what's going to be put up.

Mr. Ferguson: Again, this is an accessory structure, this isn't a home that's requiring a variance, this is an accessory structure...

Mr. Otto: But it's a variance, okay, I'm just saying I'm objecting to the whole way it's being presented.

Mr. Mead: Okay, thank you. Anybody else? Okay there are no more questions I will request a motion on the petition to construct an accessory building addition that will exceed accessory use of 840 square feet, a variance request of 317 square feet.

Mr. Mead: I will make a motion to close the Public Hearing (8:09 PM).

Mrs. Prackajlo: I'll second. All were in favor of the motion.

Mr. Mead: Is there a motion for the accessory building to exceed the 840 square feet by 317 square feet?

Mrs. Bonsack: I'm making a motion not to accept the variance for the 300 something square feet...

Mr. Mead: Are you making a motion to deny?

Mrs. Bonsack: I'm making a motion to deny the request for the variance for the 317 feet – do I need to give a reason?

Mrs. Vacco: Yes.

Mrs. Bonsack:

- |  |           |        |
|--|-----------|--------|
| (1) Does it create an undesirable change to the character of the neighborhood?                                       | Yes [ X ] | No [ ] |
| (2) Can the benefit sought by the applicant be achieved if the variance is not granted? Yes with a smaller building  | Yes [ X ] | No [ ] |
| (3) Is the requested variance substantial?   | Yes [ X ] | No [ ] |
| (4) Will the variance have an adverse effect/impact on the physical or environmental conditions of the neighborhood? | Yes [ X ] | No [ ] |
| (5) Is the alleged difficulty self-created?  | Yes [ X ] | No [ ] |

We are here to, the looks of the building and elevations and what it looks like, we were here specifically additional footage, not for anything else; so with that request I request that it be denied at this time.

Mr. Mead: Do we need a second?

Mrs. Bonsack: If you agree or not.

Mrs. Vacco: You need a second.

Mr. Mead: I'm asking if there is a second.

Mr. Mead: Being none...

Secretary Faulring: The motion dies.

Mr. Mead: Okay so the motion to deny is not granted.

Mrs. Vacco: That's correct.

Mr. Mead: At this point, I'm not sure, we don't have three...

Mrs. Vacco: You have a quorum, you have three of five; you need a majority of your quorum; you either need to make motion to table or you need to make a motion to approve, both of which need a second.

Mr. Mead: I guess I'll make a make a motion to table based on that we get more information.

Mrs. Prackajlo: I'll second that.

Mr. Mead: All in favor. All were in favor of the motion to table.

Mr. Mead: So moved. At this point it will be tabled, if there are no further questions on that...March 1 would be the next...

Mrs. Landsman: We decided that, since it's going to be tabled, and due to our schedules with our children and having to potentially having plans drawn up, about what it's going to look like, we've decided that we are going to tear down the existing structure and we are going to build a new garage that we will not need a variance for and we will not have to have this sort of session for and we will not have to have plans and have the people's permission on what we're going to build, so therefore we will not be coming back and we will tear down that structure and we will build new with an 840 square feet, and just to double check we will not have to get variances, we will not have to have...

Mrs. Prackajlo: As long as it's within Code.

Mrs. Landsman: As long as it's within we can have it tie dyed if we want it too, correct?

Mr. Mead: Uh huh.

**February 2, 2012**  
**7:40 PM**

**Petition #434**  
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**Landsman, Brian**  
**7171 Lower East Hill Road**

Mrs. Praczkajlo: So what you're basically stating to the Board right now is that you're withdrawing your petition?  
Mrs. Landsman: We are withdrawing our petition and will tear down the existing and build all new 840 square feet.

Mr. Mead: I'll make a motion that we close this petition.

Mrs. Praczkajlo: I'll second. All were in favor of the motion to close the petition.

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Dennis Mead, Chairman

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Dated: February 2, 2012