

MINUTES
VILLAGE OF WASHINGTONVILLE - ZONING BOARD OF APPEALS
APRIL 4, 2024 – 7:00 P.M.

PRESENT: Rick Budakowski, Chair
Bill Carroll, Member
Pat Cooney, Member
Patrice Gesner, Member

ABSENT: Trisha MacBain, Member

ALSO PRESENT: Donna Jacaruso, Trustee
Chris Pavlacka, Attorney

PLEDGE OF ALLEGIANCE TO THE FLAG:
Chair Budakowski led the Pledge of Allegiance to the Flag.

*****WORK SESSION MEETING*****

A Zoning Board of Appeals Meeting was held on Thursday April 4, 2024, at 7:00 P.M. at Village Hall, 9 Fairlawn Drive, Washingtonville, New York.

Chair Budakowski opens the Work Session

DISCUSSION – PROJECTS FOR REVIEW

1. Project Name: Par 5 Landscaping at 31 Lark Street.

Request of Daniel Dulin—31 Lark Street (Appeal of Building Inspector Determination / Special Use Exception / Area Variance)

1 Family—overturn building inspector determination that landscape business use did not conform to Village Zoning Code
Chapter 315, Article V R-85 District, 315-21 Special Use Exceptions
Section 315-21 allows horticultural use only upon grant of special use exception.
Requested: Special use exception.

Chapter 315, Article III, 315-8 Accessory Uses
Section 315-8 requires accessory structures attendant to horticultural use to have 200 foot setbacks.
Setbacks required: 200 feet.
Setbacks proposed: 75 feet; 45 feet.
Variances requested: 125 feet; 155 feet.

Section: 107 Block: 2 Lot: 15.2 Zone: R-85

Mr. Daniel Dulin is present and represented by attorney Robert Kosslar. Attorney Kosslar explain to the rooms that Mr. Dulin is the owner of property 31 Lark St in village of Washingtonville. Since being fired from his job May 31, 2016, he has used the property as a single-family dwelling residence and storage of equipment and vehicles in connection with his landscaping business which is Mr. Dulin sole livelihood. Mr. Dulin acquired the residents from prior owners Ralf and Anna Kent, searching in village records indicated September 5, 1979 was issued a certificate of occupancy in connection with construction and accessory garage on this property, which is in existence today. The prior owner from 1979 to 2016 conducted a lock smith business and stored vehicles and equipment inside and around the exterior of the property.

Attorney Kosslar states we are asking in terms of relief reversal of building inspector Terry appearance ticket for citing us with not following zoning and not using exclusively for single family residence. Attorney Kosslar explains to the board their reason for requesting a reversal and continues to explain his findings on zoning districts and the zoning Dulin resides Zone R-85. Kosslar explains Dulin business is in landscaping and part of the Horticulture Zone and was unable to file any paperwork requests due to the Village moratorium. Kosslar explains Dulin property layout and states property is neat and well kept. We need 200 ft setbacks; property boundaries residence 35 Lark St is heavily screened by trees which has privacy on that end we need a variance of 125 ft on opposite side is a 155ft that borders the cemetery. We believe we will meet all other setback requirements. There is no harm to the cemetery, on other end, were willing, at Dulin expense to complete on condition of approval, put up wall double tiered stagger pine or arborvitaes trees to provide ultimate display of privacy. Kosslar states no changes to character of community, Dulin landscaping business

been operating since 2016 in Washingtonville, no prior complaints, Dulin purchased property thinking it was legal use due to prior locksmith business, this is Dulin livelihood and during these times cannot afford to purchase a commercial property.

Mr. Dulin stated 2008 is when his landscaping business first started, he was living and renting a space in Cornwall.

Attorney Kosslar, is asking for a hardship to my client Dulin, will deprive him of his livelihood, we believe we have the zoning we just need 2 area variances, and return to Planning Board to get site plan approved, there would be no change from what was taking place in prior 8 years. Please reverse the decision of the building inspector and grant the zoning.

The ZBA board speaks about the operations and expresses their concerns about the business and community. The Board asks further clarifying questions of Mr. Dulin regarding specific vehicles, number of trucks and trailers, employees, wood on the property, season operating. Mr. Dulin confirms there is no gas being sold or plants being grown on the property.

PUBLIC COMMENT:

Resident Mike R. from 3 Lark Street – I've spoken with Dulin on two occasions, very pleasant nothing against them. I've been a resident since 1984 and have spoken to relatives of prior owners, the Kents, they believe there was no locksmith business operating in the home. We feel possibly maybe 29 Lark St could have been a locksmith. My issue, the traffic coming in and out daily, trailers with equipment, employees flying up and down the road, it's annoying I have grandkids, other small kids in the area. Other local businesses purchase rental space for their equipment. It's a Large wood pile, and large logs truck come through. Resident has spoken to neighbors and has signatures from homes 14 diff homes 12 different people are opposed to this continuing that 85%. We understand his business but there are other places to find a rental property.

Attorney Kosslar explains there is no reason why he cannot use his property to operate his landscaping business with the proper variances in place. Chair Budakowski states we don't have the authority to issue currently due to the moratorium. The only authority we have now is to determine whether the building inspector department made the property determination the other two we do not. Attorney Kosslar states Moratorium as you may know usually goes on for 18 months, if municipality can string it out, Village of Washingtonville is nowhere near this time frame as of June 1, 2024 will be one year.

Attorney Kosslar comments you cannot get an application to use the property as a business, if I could enter a deal with the building inspector who is a decent gentleman with the approval of the court. To overturn his own appearance ticket – I'm trying to protect my client.

The board and Attorney Kosslar continue to discuss the building department determination and requests permission from the board to continue Dulin's landscaping business. Attorney Kosslar goes into more details about application, property and Dulin's day to day operations of his landscaping business and the process.

Resident Matt Verseyld, 35 Lark Street who is located directly in front and above of 31 Lark Street is a Resident of 3 years, and stated he witness 1 truck only at that time, no commercial business – 3 years forward, landscaping business moves in I'm not the first person to visit the village to complain, building inspector was there 8-9 years ago and nothing happened. Tonight, this could have been avoided if someone back then did their job – residents wouldn't have to be here sign to hurt someone business, I don't want to be here. I am a business owner and I understand the struggles. Resident states at the end it comes down to be disrespectful to the neighborhood, there are people are flying up/down, machinery running, skid steers at 10pm. We needed respect and none of this would happen. Is not organized, garbage in rear. Being a locksmith doesn't compare to landscaping, or race cars racing at 10pm at night I do not accept this. I have spoken with Dan Dulin and expressed my concerns. I'm putting in an effort and this is not for pleasure, and I've been patient.

Attorney Kosslar responds resident comments stating if his client Dulin is operating race cars at 10pm night it doesn't have anything to do with his landscaping business this can be controlled by being given the variance, the garbage can be picked up and cleaned out, I do not have any knowledge of the garbage and could possibly not be from Dulin property, if so, it can be picked up and maintained. The point is Dulin would be out of business if not given the relief under the zoning, but if not for the moratorium I could have done this through the proper channels, but here I am. Kollar explains he's trying to keep Dulin in business it a tremendous economic burden and hardship on him, were requesting to have the reversal of the appearance ticket and table everything else, I would probably try to enter into a resolution with building inspector whenever moratorium finished, I have paperwork ready.

Chair Budakowski, explains it doesn't give anyone please to place hardship on anyone, but there rules we must follow.

EXECUTIVE SESSION

Member Cooney made a motion, Seconded by Member Carroll and adopted to enter Executive Session to discuss 31 Lark Street; said Resolution passed by a vote of the Zoning Board of Appeals. Ayes, 4 Nays, 0 Abstentions.

RESOLUTION – REVERSAL OF APPEARANCE TICKET 31 LARK STREET:

Member Cooney made a motion, Seconded Member Carroll to TABLE the Reversal of appearance ticket for Property 31 Lark Street, Washingtonville New York; said Resolution passed by vote of the Zoning Board of Appeals. 4 Ayes, 0 Nays, 0 Abstentions.

RESOLUTION – APPLICATION FOR AREA VARANICE – 31 LARK STREET:

The ZBA vote to Deny the lack of hardship appeal the approval of application for area variance located at 31 Lark Street, Washingtonville, New York due to need of a special use permit is required and ZBA cannot provide at this time; said Resolution passed by vote of the Zoning Board of Appeals. 4 Ayes, 0 Nays, 0 Abstentions.

RESOLUTION - AUTHORIZE ATTORNEY TO DRAFT RESOLUTION AND CHAIR TO SIGN:

Member Carroll made a motion, Seconded by Member Gesner to authorize attorney to draft resolution and authorize Zoning Board of Appeals to sign off on the resolution; said Resolution passed by vote of the Zoning Board of Appeals. 4 Ayes, 0 Nays, 0 Abstentions.

ADJOURNMENT

Member Gesner made a motion, Seconded by Member Carroll and adopted to adjourn the April 4, 2024, Zoning Board of Appeals Work Session Meeting; said Resolution passed by a vote of the Zoning Board of Appeals. Ayes, 0 Nays, 0 Abstentions.

Respectfully Submitted,
Megan Schiffmacher
Clerk