

Town of Johnsburg
Zoning Board of Appeals
Tannery Pond Community Center
October 7, 2013

Attendance:

ZBA Members: Cathy Allen, Philip Goodman and James Jones

Applicants: Kelly Nessel

Guests: Gretchen Millington

ZEO: Danae Tucker

Public Hearing called to order at 7:04

Town of Johnsburg Zoning Board of Appeals Use Variance V-04-2013

Purpose of the variance: To allow the Johnsburg Emergency Squad, Inc. to build an EMS facility with a possible landing zone for helicopters (Public or semi-public building and grounds) on a piece of property on The Peaceful Valley Road in the Town of Johnsburg. The property has an underlying Zoning Classification of MX 1.3, where such a facility is allowed, but the lot is also in a Scenic Corridor Overlay where the use is not permitted. The conditions of the Scenic Corridor Overlay supersede those of the MX 1.3 Zone and a use variance would be required for the project to continue.

Motion to Close Public hearing by Phil Goodman Jim Jones second at 7:16 pm

Regular Meeting opened at 7:18 pm

Town of Johnsburg Zoning Board of Appeals Use Variance V-04-2013

Rationale to grant the variance based on the so called "Otto" rules that are derived from New York State zoning case law:

Reasonable return

For each and every allowed use within the zoning district where the property is located, including uses allowed after Site Plan Approval or issuance of a Special Use Permit, the applicant cannot realize a reasonable return, provided that lack of return is substantial and is established by competent financial evidence.

Reasonable return initially seems inapplicable in this case because the emergency squad is essentially a not for profit public service organization. Their goal is to provide a conveniently located emergency medical facility to benefit the community. The squad has outgrown its current location on a piece of town owned property and cannot continue to meet the growing needs of the community at their current location. The actual return sought here however is the central location of the lot, and its capability to uniquely support an emergency medical squad facility. It would be difficult, if not impossible, to achieve the desired return elsewhere in the town.

Unique circumstances

The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.

The town only has one emergency squad, and the circumstances of building the facility at this location will occur nowhere else in the neighborhood, or even anywhere else in the Town of Johnsburg.

Essential character of the neighborhood

The use variance, if granted, will not alter the essential character of the neighborhood.

The emergency squad facility is being built on the site of an abandoned saw mill. At this time the lot is a vacant, weed filled, patch of gravel. A well-constructed building on a landscaped lot like the one drawn up in the engineers rendering will enhance the neighborhood significantly. The lot as it currently exists is the least aesthetically pleasing site in the neighborhood.

Self-created hardship

The alleged hardship has not been self-created

The hardship here essentially exists because the most desirable and available lot in the community for a centrally located emergency squad facility just happens to exist in a scenic corridor overlay. No one created the hardship; it just simply exists due to circumstance. Our town land use plan justifies the need for scenic corridors with the following language.

The visual character of the town in its natural setting within the Adirondack Park is an important and valuable public asset which promotes the general

and economic welfare of the town...it is the purpose of the Scenic Corridor Overlay District (SCO) to preserve the scenic, "Adirondack" character along major travel corridors within the town.

The lot in question is a part of the scenic corridor overlay because it is on the main route to the Gore Mountain Ski Center. The ski center is one of the main utilizers of the town's emergency squad. An adequate emergency squad facility is a significant asset not just for the center, but for all of the residents of the town. It certainly enhances the general welfare of the community and by making our community more attractive and modern, it benefits us economically as well. A well-built aesthetically pleasing facility on a landscaped parcel will be much more visually appealing than the vacant lot that currently exists at this location, on the way to our biggest community tourist attraction.

Philip Goodman made a motion to approve variance application V-04-2013, a use variance to allow a semi-public building (an emergency medical squad building) to be constructed in a MX 1.3 zone which is also a part of a Scenic Corridor Overlay on the Peaceful Valley Road (83-1-39.2). Seconded by James Jones. All in Favor.

Minutes for August 5, 2013 accepted by Motion from Phil Goodman and second by Cathy Allen. Passed 3-0.

In response to inquiries by Town of Johnsbury Zoning Enforcement Officer Danae Tucker concerning Section 615 of the Town of Johnsbury Zoning Law, (Non-conforming uses and structures), the Zoning Board of Appeals made the following interpretations.

615-D Unsafe buildings and structures.

Consistent with the language used in Section 615-E, unsafe buildings or structures could be *repaired or rebuild* even if they had to be completely torn down to accomplish the restoration. If complete demolition was necessitated, to maintain the right to build, construction would need to commence within one year, and be completed in three. Applicants will need to request additional time extensions from the ZBA if they are required.

In addition to governmental officials, (i.e., the health department, the county building inspector, town officials, etc.) an applicant's engineer would be considered to be a "proper authority" to determine building and structure safety. Note: an engineer could not supersede a determination already made by a governmental authority, but could be used in lieu of one if a determination of structural safety has not been made.

Interpretation made by the ZBA specifically concerning the conversion of the Northwinds Motel.

The Northwinds Motel on the Peaceful Valley Road is a pre-existing non-conforming use. Under our current zoning law the motel, as it exists, would be considered a Tourist Accommodation. The current owners would like to convert the 14 room double occupancy motel into 4 two bedroom efficiency units. It is the opinion of the ZBA that as long as these new efficiency units are rented out by the day, weekend, or week, at least during peak tourist periods like the ski season, the business would remain classified as a tourist accommodation. The pre-existing non-conforming use status of the property would be maintained under the aforementioned conditions.

Regular meeting closed at 8:12

Motion made by Cathy Allen and seconded by Jim Jones. Passed 3-0.