

Town of Johnsburg
Zoning Board of Appeals
Tannery Pond
December 7, 2020

Attendance: Jim Jones, Phil Goodman, Kevin Bean, Riesha Thissell, ZEO Danae Tucker, and Secretary Joann Morehouse

ABSENT:

Applicants: Michael Papa

Guests: Douglas Shortrand, and Victoria Knierim

- **Public hearing: V-02-2020-Papa-1 East Austin Pond Rd–Tax Map # 83.-2-6** called to order 7:04 pm by Co-Chair Phillip Goodman. Mr. Papa is seeking a use variance because the part of the property that is buildable is in a HB2 zone which only allows a residence to be on the second floor of a business, the land is divided by Austin Pond Road and the other section of land allows residences but it is considered wetland so Mr. Papa can't build on it.
7:16 pm Mr. Goodman closed the public hearing.

Call Regular meeting to order: Meeting called to order by Mr. Goodman at 7:16

V-02-2020-Papa-1 East Austin Pond Rd–Tax Map # 83.-2-6

12/8/2020

Town of Johnsburg Zoning Board of Appeals Variance # **V-02-2020-**

Papa-1 East Austin Pond Rd–Tax Map # 83.-2-6 This is a use

variance to allow a residence in a HB2 zoned property.

Background:

The present owner of the property has had the property listed for sale with a realtor since July 5, 2019. The original listing price was \$90,000.00. It was reduced to \$78,900.00 on or about January 18, 2020. The applicant's contract was signed in September. The Owner has been unable to sell it to any other entity for use as a business for fourteen months. A copy of the listing history is attached as an exhibit.

Grounds:

The applicable zoning regulations have caused unnecessary hardship; the present owner cannot realize a reasonable return. 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 requested use variance will not alter the essential character of the neighborhood.

The permitted uses in a HB2 Zone are a dwelling unit on a second or third story of a non-- residential use. Also, a rooming or boarding house are permitted if a special use permit is granted.

Here, the parcel is highly unique. It is bisected by East Austin Pond Road. The northern half of the parcel is on the southeast edge of the HB2 district. The Southern portion of the parcel is in an MX5 zone, in which a single-family dwelling is an allowable use. However, the southern half of the parcel also abuts and contains part of Austin Pond. Due to the pond, the southern portion of the property cannot sustain any significant development. Finally, the Route 28 Rural Use setback runs along the western edge of the parcel. The only road frontage for the entire parcel is on East Austin Pond Road, the end of the HB2 district. There is no potential for road frontage anywhere else on the parcel. The only uses on that stretch of East Austin Pond Road are residential and/or agricultural. There are no business or other uses which would normally be seen in a hamlet business district. The character of East Austin Pond Road is not " business " oriented in any way. The proposed variance would not result in any adverse changes to the neighborhood.

Description of improvement: Single Family Residence with on-site wastewater treatment. The general construction of the residence is to be determined.

Mr. Jones moved to grant Mr. Mr. Papa a use variance and approve variance V-02-2020.

Motion seconded by Kevin Bean. Motion passed all in favor.

Approval of Minutes: Mr. Jones made a motion to approve July meeting minutes, seconded by Mr. Bean all in favor

ZEO Report: none

Mr. Bean made a motion to close meeting at 7:30, seconded by Mrs. Thissell all in favor.

Respectfully,

Joann M. Morehouse

Next Zoning Board meeting scheduled for January 4, 2021 at Tannery Pond