

Zoning Board Public Hearing  
06-30-2021

Members Present: Chairman Mark Connolly, Scott Hulburt, Amy McMahon, Dustin Geiger, Charity Donnan

Others: Donna Falkner, Carl Peter, Kirk Richenberg, David Sliker, Zachary Kobylanski, Tracie Cole, Atty. James Campbell, John & Rose Mader, Jackie Brown

7 pm – Chairman Connolly opened the two public hearings for the VersaScape continuance and for the Cole’s variance.

### **Town of York Zoning Board of Appeals**

#### **Public Hearing**

On **Wednesday June 30, 2021**, at 7:00 p.m. at the York Town Hall, the Zoning Board of Appeals will hold a public hearing for a proposed area variance for Mark and Tracie Cole for a building lot under 3 acres, tax map 29.00-1-6.11 and will continue the Versa Scape hearing which was left open. A regular ZBA meeting will follow. All are welcome to attend.

Donna Falkner  
Zoning Board of Appeals Clerk  
6-16-21

Mr. Connolly asked if there were any comments on either.

Mr. Sliker

- Read Local Law 2 from 2019 and subsequently led to Local Law 4
- He also quoted Pages 27-28 of Town Board minutes 9-12-2019
- Further discussion and agreed that this needs to be taken up with the Town Board and apologized for taking up our time.

Mr. Richenberg asked about section 902 of our zoning code, section 2 paragraph b – what criteria is it talking about?

Chairman Connolly said it refers to the 5 criteria listed for an area variance.

Mr. Richenberg – in your decision (re 2) you may have to consider if he is running a commercial business because sign dimensions would be different for a commercial sign and 5 re self-created. If the property was properly classified we wouldn’t have to be here.

Chairman Connolly – if you look down underneath the 5 criteria it says ZBA need not meet every one.

Mr. Campbell – the property is properly classified legally, so can’t play the what if game. He asked if this was a new application for both height and width.

Mr. Kobylanski said yes and there is 6 in. between wall and sign. It is 7'10 by 5'4 and 42'7" from center of the road.

Chairman Connolly – Coles are asking for an area variance for 2 building lots under the required 3 acres. One is 1.9 and the other is 2.17.

Ms. McMahon asked about the gravestone. Mrs. Cole said it was a memorial marker for the person who died in house fire.

Ms. Cole – It's all one tax parcel divided by the road and the area variance would be on the whole property.

Ms. McMahon asked if #15 on SEQR was checked wrong.

Mr. Campbell said Mrs. Cole could change it and initial it.

Mr. Peter – Coles are splitting two lots off and keeping what is left. The variance is for the small lots and if given they will go to the Planning Board for subdivision.

7:23 pm Chairman Connolly asked for a motion to close the public hearings and opened the regular Zoning Board meeting.

**Resolution:**

Mr. Hulburt moved to close the public hearings, Mrs. Donnan seconded, carried.

Aye – 5                  Nay – 0

Mrs. Donnan asked if the sign would block line of sight.

Mr. Kobylanski said that GPS won't take vendors he orders from to his place but up the road and that is main reason for the sign.

Mr. Geiger said that 12 x 12 sign is a huge sign.

Mr. Kobylanski said that the structure was not part of the sign, just holds the sign.

Mr. Geiger said that in previous decisions on signs the wall or base is considered part of the sign.

Chairman Connolly went through the 5 criteria for an area variance.

Criteria for area variance and answers from board

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Nay - 5

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. Chairman Connolly said the size comes into play. Ag says 12 sq. ft. and this is 3 times that. Mr. Kobylanski said he prefers not to make it smaller – he employs 34 people and has a big investment in the business.

Nay – 4                  Aye - 1

3. Whether the requested area variance is substantial.  
Nay - 5
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The setback is enough and on Rt. 36, not in the center of homes.  
Nay - 5
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.  
Nay – 5

Chairman Connolly said we consider all these but they don't have to all be met.

**Resolution:**

Mr. Hulburt moved to grant VersaScape the area variance, Ms. McMahon seconded, carried.

Aye – 4            Nay - 1

Chairman Connolly said the Coles are looking for area variance because if they subdivide into 3 properties, two of the building lots will be under the required 3 acres

Mrs. Donnan asked if any of the neighbors had comments.

Mrs. Mader said they were neighbors and didn't have 3 acres for their home.

Mr. Peter said that any homes prior to 2009 zoning were grandfathered in.

Mrs. Donnan asked if the properties remain in the ag district.

Mr. Peter – it doesn't matter what they do

Mr. Campbell said unless its in the ag exemption district.

Mr. Peter explained that if in ag district won't be able to hook up to water.

Mr. Campbell advised Mrs. Cole to call the county and talk to the real property office.

Mrs. Cole asked if it happens at closing.

Mr. Campbell – copy to assessor and county and check with the county to see what the consequence is. A significant amount of money may need to be repaid.

Mrs. McMahon asked about the well on the property. Mrs. Cole said she thinks it was capped.

Chairman Connolly read the Criteria for area variance and answers from board

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.  
Nay - 5

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. Chairman Connolly said the size comes into play. Ag says 12 sq. ft. and this is 3 times that. Mr. Kobylanski said he prefers not to make it smaller – he employs 34 people and has a big investment in the business.  
Nay – 5
3. Whether the requested area variance is substantial.  
Nay - 5
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The setback is enough and on Rt. 36, not in the center of homes.  
Nay - 5
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.  
Nay – 5

**Resolution:**

Mr. Geiger moved to approve the area variance for the Coles, Mr. Hulburt seconded, carried.

Aye – 5            Nay - 0

**Resolution:**

Mr. Hulburt moved to adjourn at 7:48 pm, Mr. Connolly seconded, carried.

Aye – 5            Nay - 0

Respectfully submitted,  
Donna K. Falkner