

**Zoning Board Hearing Meeting
12-13-2022**

Members Present: Chairman Dustin Geiger, Charity Donnan, Scott Hulburt, Mark Connolly, Heather Nagel(alt.), Amy McMahon

Others: Donna Falkner, Carl Peter, Kirk Richenberg, James Campbell, Esq., Joe G. Eyer and Joe H. Eyer (son)

6:30 pm Chairman Geiger called the meeting to order and led the pledge.

Mr. Campbell read the ad for the meeting in the paper.

**Town of York Zoning Board of Appeals
Meeting Notice December 13, 6:30 PM**

On **Tuesday, December 13, 2022**, at 6:30 p.m. at the York Town Hall, the Zoning Board of Appeals will hold a meeting to discuss Joseph Eyer's request for his son to build a second residence on his property at 2330 Cowan Road, tax map 40.-1-16.115. All are welcome to attend.

Donna Falkner
Zoning Board of Appeals Clerk
11-15-22

Mr. Eyer would like to put in a second residence for his son on his property because he has MS, and his son and wife are his caregivers. His son said that his wife has a good relationship with his father and wants to take care of him as the disease progresses. The house would be built 100 feet away from his house. His property is surrounded by Donnan's farmland. The engineer told them their septic would work for two houses, they're on town water and the son would pay for the second house.

Mrs. Nagel asked if only a variance was needed for 5-acre lot.

Ms. MaMahon asked if it took into consideration a subdivision.

Mr. Peter said it was a 3-acre property in agricultural zone.

Mr. Geiger said a sub-division would result in creating non-conforming lots, but they've asked for a use variance to put a second home on the lot.

Mr. Campbell asked Mr. Peter if he had determined that a use variance would be necessary, and Mr. Peter said yes.

Mr. Hulburt said they had mentioned a second son lives with the father. Mr. Joe H. Eyer said yes but he travels a lot for work, even out of state so he can't be relied on.

Me. Hulburt asked option of an addition isn't feasible?

Mr. Eyer said it was better for his son and wife to have their own private residence.

Mrs. Nagel asked if there was anywhere else in town that had two houses on the same lot.

Mr. Peter said yes but they were pre-existing to the present zoning.

Mr. Geiger said the board could put a stipulation that the property could not be subdivided at any point in the future.

Mrs. Nagel asked about water and sewer. Mr. Eyer (son) said there was septic and town water.

Mrs. Nagel said the engineer didn't see anything? Son said no and his notes are on the maps. He said the county had been there to do perk test.

Mr. Hulburt likes the stipulation that property couldn't be subdivided in the future. Mr. Connolly agreed, so down the road we don't have to deal with two non-conforming lots. Mr. Campbell said that it is possible that the zoning could change in the future such that the lot size or frontage requirements were modified.

Mrs. Donnan asked what the frontage is in ag. Mr. Peter said 250 ft.

Ms. McMahon said so the two residences would be sharing the frontage.

Mr. Geiger said he has concerns about two residences, but the board can send it to county for their input.

Resolution:

Mr. Hulburt moved to send it to county, Mr. Connolly seconded, all in favor, carried.

Aye 5 Nay 0

Resolution:

Mr. Geiger moved to hold a public hearing at 6:30 pm on January 17, followed by a meeting at 6:45 pm, Mr. Connolly seconded, all in favor, carried.

Aye 5 Nay 0

Mr. Geiger said we'd hold off approving the minutes until the January meeting.

Mr. Richenberg said they would need to look at use variance criteria. Mr. Geiger said there were medical letters but because of HIPPA rules not available to the public.

Mr. Geiger read the criteria for the use variance and explained that they would have to answer each. (Zoning 902, C2, p 84)

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial and demonstrated by competent financial evidence.
2. The alleged hardship relating to the property in question must be unique, and not apply to a substantial portion of the district or neighborhood.
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood.
4. That the alleged hardship has not been self-created.

Mr. Campbell explained that based on the information provided tonight, criteria – 1 will be the tough one to adequately answer.

Resolution:

Mr. Connolly moved to adjourn the meeting at 7:05 pm, Mr. Hulburt seconded, all in favor, carried.

Aye 5 Nay 0

Respectfully submitted,
Donna K. Falkner