TOWN OF LUMBERLAND

ZONING BOARD OF APPEALS

1054 Proctor Road
Glen Spey, NY 12737
(845) 856-8600, x229

Lewis T. Powell – Chairman
Robert M. Grimm -- Vice Chairman
Terri Fountain – Secretary
Caroline Akt -- Member
Scott Van Tuyl – Member
Susan Wade -- Clerk

April 16, 2013

The 281st meeting of the Zoning Board of Appeals was called to order at 7:30 PM by Lewis T. Powell, Chairman followed by the pledge of allegiance.

PRESENT: Lew Powell, Bob Grimm, Terri Fountain, Caroline Akt, Scott Van Tuyl, Susan Wade

OTHERS PRESENT: Bronson Bigelow, Richard Hotzler, Jim Akt, Christine Taibi, Harold Wasserlauf, Jacy Ricciani

READING OF THE MINUTES: A motion made by Bob, seconded by Scott, to approve the minutes of the March 19, 2013 meeting as presented, and was unanimously carried.

CORRESPONDENCE: none

PUBLIC HEARINGS:
Terri made a motion, seconded by Bob, to recess the regular meeting. Unanimously carried. Bob made a motion, seconded by Scott, to reopen the Public Hearing at 7:35 PM.

The legal notice was read. The application fee of $60 had previously been paid. The Certificates of Mailing for 10 neighbors was received, as was the Affidavit of Publication. Lew, Bob, Scott and Terri had made site visits.

Mr. Bigelow briefly reviewed his plan to use the property as a two-room motel, and explained the variances he seeks for front yard, lot size and parking.

Christine Taibi and Harold Wasserlauf of 243 Van Tuyl Road are adjoining property owners to the Bigelow property. They raised several questions regarding the procedures for permitting and for the granting of variances. Lew advised them that questions pertaining to the issuance of the special use permit to allow operation as a 2-room motel should be addressed to the Planning Board. Mr. Wasserlauf questioned the adequacy and location of the proposed parking. He was advised that the proposed parking is per existing code. The proposed location of the parking is against the building rather than in front of the building, even though other dwellings along Van Tuyl Road have parking in the front yard. Placement of the parking behind the building would require extensive grading and removal of trees and other natural buffers. The proposed parking site is not visible to neighbors.

Terri made a motion, seconded by Bob, to close the Public Hearing. Unanimously carried. Bob made a motion, seconded by Caroline, to reopen the regular meeting at 7:50 PM. Unanimously carried.

HELD CASES: None

NEW BUSINESS: None

OLD BUSINESS: None

OTHER BUSINESS:
Bigelow. The Board determined that the requested variance for front-yard setback is not detrimental to the neighborhood because the building is pre-existing. The lot size variance does not create any adverse impact because there are other existing dwellings on lots of one acre with similar activity patterns (coming and going from the dwelling). The proposed parking site is similar to or more advantageous than that of neighboring residential homes and other locations would require substantial grading and disturbance of existing natural buffers.

Terri made a motion, seconded by Bob, that the Board grant the applicant's request for a lot size variance of 1 acre; front yard variance of 56 feet, and parking variance, as noted on the applicant's site plan. Caroline questioned whether the transient nature of a motel would have more of an impact on a one-acre lot than a five-acre lot. It was determined that because the applicant would have to reapply for an additional special use permit if he wished to expand the business, the effect of a 2-room motel would be no greater than that of a 2-bedroom home. The vote was 5-0 in favor of granting the requested variances (Lew, Bob, Terri, Caroline, Scott all voting in favor).

OTHER BUSINESS:
Lew welcomed Jacy to the team and thanked her for her assistance.

ADJOURN: Motion made by Bob, seconded by Scott, to adjourn at 8:25 PM.

Respectfully submitted,

Terri Fountain, Secretary

Terri Fountain

BIGELOW MOTEL AREA VARIANCE

Applicant: Bronson and Courtney Bigelow
Lumberland Tax Map: Section 30, Block 1, Lot 18
Zoning District Classification: Hillside District (HD)

Application for area variances for the conversion of a single family residence into a two room motel located on Van Tuyl Road (TR 33).

DECISION

Findings of Fact

1. Bronson and Courtney Bigelow are the owners of one acre of land on Van Tuyl Road that is currently occupied by a single family dwelling in the Hillside Zoning District, identified as Lumberland Tax Map section 30, block 1, lot 18. They purchased the property on June 29, 2012. The applicants are Bronson and Courtney Bigelow (hereinafter Bigelow) who propose to renovate the structure into a two room motel.

2. This structure was previously occupied as the Hillside Gospel Chapel and served as a meeting place for members of the congregation.

3. Bigelow submitted an application, narrative and site plan for the proposed motel which will consist of two guest rooms and two bathrooms on the upper floor, and common areas on the ground floor. The maximum capacity of the motel is four guests.

4. The subject property is located in the Hillside District which permits motels, as a special use. The minimum lot area is 5 acres and the minimum lot width is 200 feet. The required minimum yard setbacks are as follows: side yard, 50 feet; front yard, 50 feet from the right of way or if there is no right of way, 75 feet from the center of the road; and rear yard, 50 feet.

5. This project was presented to the Town of Lumberland Zoning Board of Appeals, at a regular meeting, on November 20, 2012, and at a subsequent meeting on March 19, 2013.

6. The applicant is seeking a variance of the minimum lot size from 5 acres to one acre. Since there is no right of way from the roadway, the applicant is seeking a variance of the front yard setback from 75 feet to 56 feet, which is a variance of 19 feet or 25%. The applicant is also seeking a variance to permit the parking spaces in the front yard area.

7. At the March 19, 2013, meeting, the applicant requested variances for lot size, parking, and front yard setback. A public hearing was scheduled for April 16, 2013.

8. Notice of a public hearing was given to neighboring homeowners in accordance with the Town of Lumberland Zoning Law and was duly published in the River Reporter. Proof of mailing and publication was provided.

9. A public hearing was held before the Zoning Board of Appeals on April 16, 2013, at which time Bronson Bigelow presented the project and site plan. Members of the public spoke and

addressed the Planning Board with their comments and concerns. No written comments were received.

10. At the close of the public hearing, the Zoning Board of Appeals continued to consider the application and considered the factors enumerated at section 8.8.2 of the Lumberland Zoning Law for the area variances.

Conclusions

11. The one acre parcel is located in the Hillside District with a single structure and two parking spaces.

12. The Zoning Board of Appeals considered the factors for granting an area variance for the lot size, front yard setback, and parking area and concluded as follows:

(a) 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;

The exterior of the building will not be altered. The existing trees and wooded areas will be preserved. The property will retain the same size, location, appearance and character that it has had for many years. The setback and location of the building is similar to that of other buildings in the neighborhood. In the past, the structure was used as a church and vehicles were parked in various areas of the property. The parking variance will restrict the parking to the side of the existing building. There will not be any detrimental impact to nearby properties since the building will only accommodate a maximum of four occupants. This is similar to the occupancy of the building if it was used as a single family residence. In that regard, the use as a motel is very similar to the use as a private home.

(b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

For the lot area variance, the benefit to the applicant cannot be achieved by any other method. The adjoining properties are occupied and not available for purchase to increase the lot size. The structure, which has existed in this location for many years, cannot be moved to another area of the property to avoid the front yard setback variance. To move the parking to the rear of the building would require substantial grading, which may have a detrimental impact on neighboring properties.

(c) whether the requested area variance is substantial;

The lot size variance from five acres to one acre is substantial, but one acre is sufficient to accommodate a motel with only two guest rooms. The front yard setback variance from 75 feet to 56 feet, for a variance of 19 feet, is not substantial. Moving the two parking spots in the front yard of the existing building is not substantial.

(d) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

The parking variance to the front yard area on the side of the existing building will not have

an adverse impact because the vehicles would not be visible from the street in that location, which is consistent with the intent of the zoning law. The building has existed in this location for many years, therefore the front yard setback would not have an adverse impact on the neighborhood and motels are permitted in the zoning district, with a special use permit. The existing parcel is sufficient for a two room motel.

(e) 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.

The difficulty is self created because the applicant has elected to undertake a project for a two room motel. A motel, however, is a permitted use in this zoning district, therefore, this will not preclude the granting of the requested variances.

13. Upon a roll call vote, the Zoning Board of Appeals granted the following requested variances: Lot area variance of four acres to permit the motel on one acre; front yard setback variance of 19 feet to permit the building to have a 56 foot setback, and parking area variance to permit parking in the front yard area.

Robert Grimm	Aye	Terri Fountain	Aye
Caroline Akt	Aye	Scott Van Tuyl	Aye
Lewis Powell	Aye		

Dated: April 19, 2013

Lewis T. Powell, Chairman
Town of Lumberland Zoning Board of Appeals

Received:

Bronson Bigelow
Date: 4/24/13

RESOLUTION
BIGELOW MOTEL

WHEREAS Bronson and Courtney Bigelow, the applicants, are the owners of one acre of land on Van Tuyl Road that is currently occupied by a single family dwelling, that was previously used as a chapel, in the Hillside Zoning District, identified as Lumberland Tax Map section 30, block 1, lot 18; and

WHEREAS, the applicants propose to renovate the dwelling into a two room motel, to accommodate a maximum of four guests; and

WHEREAS, the applicants seek a variance of the minimum lot size from 5 acres to one acre. Since there is no right of way from the roadway, the applicant is seeking a variance of the front yard setback from 75 feet to 56 feet, which is a variance of 19 feet or 25%. The applicant also seeks a variance to permit two parking spaces in the front yard area; and

WHEREAS this project was presented to the Town of Lumberland Zoning Board of Appeals, at a regular meeting, on November 20, 2012, and at a subsequent meeting on March 19, 2013; and

WHEREAS at the March 19, 2013, meeting, following discussion, a public hearing was scheduled for April 16, 2013; and

WHEREAS a public hearing was held on April 16, 2013, where the request for the variances was presented to the Board by Bronson Bigelow, and a site plan for the proposed motel was presented, and members of the public were heard and gave their comments to the Board; and

WHEREAS the Town of Lumberland Zoning Board of Appeals on April 16, 2013, reviewed the factors for area variances enumerated at section 8.8.2 of the Town of Lumberland Zoning Law, and

WHEREAS, the Town of Lumberland Zoning Board of Appeals determined that the requested variances would not result in an undesirable change in the character of the neighborhood or a detriment to nearby properties because the property will retain the same size, location, appearance and character that it has had for many years; and

WHEREAS, the Town of Lumberland Zoning Board of Appeals determined that the requested variances could not be achieved by some other method because the building is existing and cannot be moved and substantial grading would be required to locate the parking spaces in the rear yard; and

WHEREAS, the Town of Lumberland Zoning Board of Appeals determined that the requested variance for the lot area was substantial, but the front yard setback and parking area variances are not substantial; and

WHEREAS, the Town of Lumberland Zoning Board of Appeals determined that the requested variances would not have an adverse effect or impact on the physical or environmental conditions

in the neighborhood or district because this building has existed in this location for many years; and

WHEREAS, the Town of Lumberland Zoning Board of Appeals determined that the request for the variances was self-created, but does not preclude the granting of the area variance; and

WHEREAS, the complete findings of fact and conclusions of the Town of Lumberland Zoning Board of Appeals are set out in the Bigelow Motel Area Variance Decision.

NOW, THEREFORE BE IT RESOLVED THAT, on a motion by Terri Fountain, duly seconded by Robert Grimm, a lot area variance of four acres to permit the motel on one acre, a front yard setback variance of 19 feet to permit the building to have a 56 foot setback, and parking area variance to permit parking in the front yard area was granted on a roll call vote:

Robert Grimm	Aye	Terri Fountain	Aye
Caroline Akt	Aye	Scott Van Tuyl	Aye
Lewis Powell	Aye		

By order of the Zoning Board of Appeals,

Date: April 19 , 2013

Lewis T. Powell, Chairman
Town of Lumberland Zoning Board of Appeals

Received:

Bronson Bigelow
Date: 4/24/13