

**ZONING BOARD OF APPEALS
TOWN OF CANADICE**

Canadice Town Hall

July 10, 2019

Present: Linda Moorhouse, Chairperson
Diane Horning
Ed Bott
Marty Gascon
Renee Boone
Steve Smith, CEO

Guest: Michael Ballman, Esq.
Roger Colegrove
Alice Colegrove
Linda Olg
Carol Fisher
Lois Edwards
H. Brown
Mark Mozett
Sunita Patel
Paul Hogan
Nancy Hogan
Burch Craig

PUBLIC HEARING – COLEGROVE

Chairperson, Linda Moorhouse called the meeting to order at 7:30 p.m.
Chairperson, Linda Moorhouse introduced the Zoning Board of Appeals members and stated that a quorum was present to hear the application. The criteria, which the Zoning Board of Appeals uses to make decisions regarding an area variance, were reviewed.

- 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.
- Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance.
- Whether the requested area variance is substantial.
- Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- Whether the alleged difficulty was self-created, in which consideration shall be relevant to the decision to the Board of Appeals but shall not necessarily preclude the granting of the area variance.

Chairperson, Linda Moorhouse then read permitted action for the Zoning Board of Appeals.

L. Moorhouse - Steve, can you report on the area variance?

S. Smith - The area variance for the Colegrove's, is a 25ft. request and the Hogan's will be 19ft. area variance request.

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L. Moorhouse - Mr. Ballman, are you going to speak for the Colegrove's?

M. Ballman - Yes.

L. Moorhouse - Do any of the board members have any questions for Mr. Ballman?

M. Ballman - There are 3 owners of this property that is under consideration. Roger Colegrove, Lois Edwards, and Carol Fisher. What they are looking to do is subdivide a 42 acre parcel into 3 different parcels. The reason is, they would basically be able to hand each of their separate parcels down to their children. They are not looking to build on this property. They just want a clean way to hand down the property. As far as the 3 parcels, they are all going to meet the requirements for parcel size, except for one of them. All of them are going to be about 14 acres. The 2 that we are not looking for a variance on will have 250ft. frontage and the third one will have 225ft. of frontage. This will not change the character of the property. They are not looking to build. It's not going to have any negative consequences and basically the use is not going to change. They go there for a place to go and to enjoy nature.

L. Moorhouse - The parcel that has the 225ft. frontage, to the north of that, is that a gully?

R. Colegrove - Yes.

E. Bott - The only question I have is about access to the property. They talked about a right of way on the property. There was a roadway that went through the property. If they are going to prevent these from being landlocked, there has to be a right of way designated for each of the parcels. I'm curious as to how that is going to lay out.

M. Ballman - Can I show you the survey that was done back in 1999.

E. Bott - Yes, that would help. Even though this is a family adventure, there has to be a right of way deeded in there for each parcel.

M. Ballman and the board members reviewed the survey and discussed where the right of ways were for each parcel.

M. Ballman - There is a right of way that runs along the east side of the property. This parcel was originally purchased back in 1895 by the Colegrove's Grandfather. In 1910 the City of Rochester threatened eminent domain to take the property. The elder Colegrove at the time, resisted, so the City decided to buy just this portion of the property.

E. Bott - I wondered if they owned that before the City came in and took that away from them.

M. Ballman - Yes, according to my clients. At the time that it was deeded, there were 2 right of ways, that were also deeded. He showed the board members on the map.

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L. Moorhouse - Is that where the existing driveways are now?

M. Ballman - Yes.

There was more discussion of the map.

L. Moorhouse - Originally, they owned all the way to the lake.

M. Ballman - According to my clients, yes.

E. Bott - Okay, I just wanted to make sure there were deeded right of ways, because of what the state had done.

S. Smith - On the deed, there are 2 right of ways on the property.

M. Ballman and the board members went over all the right of ways on the property.

E. Bott - If these right of ways are already deeded, it's not landlocked property.

L. Moorhouse - Are there any other questions from the board members?

B. Craig - Just for the record, the Planning Board does not have an application for the subdivision, for this property.

E. Bott - I don't think they would do that until they get the variance.

L. Moorhouse - You are just informing us?

B. Craig - Yes, just for the record.

M. Ballman - From what I was told, my clients did try to submit an application and it was returned to them. That was before I got involved.

B. Craig - It wasn't returned to them, it was suggested that they do some due diligence as far as what the facts are and what they are going to be able to do and not do. We didn't want them submitting the plan and not have it complete. One of the suggestions was to talk to an attorney.

E. Bott - There used to be a few cabins on this property. Are they all falling down?

A. Colegrove - There is one still standing, but it is no good.

E. Bott - Are there any utilities, septic systems, electric, gas lines going to any of them?

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A. Colegrove - No, there is a well, but that's it.

E. Bott - So, you have electric to the well?

R. Colegrove - Dan Fisher has the electric to the well.

E. Bott - Is that the one with the RV up there or down below?

L. Olg - Dan Fisher, the one that owns the property at the South end, that's his well. They gave him use of it, because they weren't using it.

M. Ballman - Speaking of the Fishers, I have a letter here from Beverly Fisher that says she doesn't oppose this. I would like to submit that.

L. Moorhouse - So this property is not the same property that your house sits on, is it Mr Colegrove? It's not the same property where you live?

R. Colegrove - It was originally. It was all the family farm.

E. Bott - These three properties are south from your property?

S. Smith - They all have different tax map numbers.

L. Moorhouse - Does anyone else have any questions or comments? No response. Ok, we will close the public portion of the hearing.

E. Bott - I move that we accept the application as it stands. D. Horning seconded, all in favor.

L. Moorhouse - Now, we vote on the variance.

Roll Call Vote to accept or deny:

L. Moorhouse, **YES**, D. Horning **YES**, E. Bott, **YES**, M. Gascon, **YES**, R. Boone, **YES**.

L. Moorhouse - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

D. Horning - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

E. Bott - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

M. Gascon - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

R. Boone - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

L. Moorhouse - Your request for a variance has been approved. We will be sending you a letter, stating that the variance was granted.

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Colegrove Public Hearing concluded at 7:48 p.m.

PUBLIC HEARING - HOGAN

L. Moorhouse - Steve, please report on what the application was for the variance.

S. Smith - This is Honeoye Lake shore property. I measured from North and South property lines from the water. We came up with 70ft. 6 inches from the water line to the proposed building for the Hogan's new building. They are going to demo two existing cottages and build new. The set-back would be 70ft. 6 inches from the shoreline. According to town code, they are looking for 51ft. 6 inches from the shoreline for their proposed new home. So that is 19ft.

L. Moorhouse - Mr. Hogan, last time you were here, there was a question about what you were going to be taking down. The buildings that you may be removing. Someone said something about the kids wanting to keep one there.

P. Hogan - If we get the variance, we intend to remove the two cottages.

L. Moorhouse - 6167 and 6165 are the ones you would be taking down?

P. Hogan - That was our original plan. So, that opens it up for both neighbors, visibility wise.

L. Moorhouse - Do we have any questions for Mr. and Mrs. Hogan, from the board?

E. Bott - So, the only variance for consideration is the front?

S. Smith - Yes, the sides and back are fine.

P. Hogan - In fact, we are 21ft. from the property line, giving more room to the neighbor. The set-back is only required as 10ft. Without this set-back, we couldn't move this building over. See the shoreline, we could actually move the building up.

E. Bott - You actually have several options without even getting a variance.

P. Hogan - That is the desired location. We also feel it has the most benefit for the neighborhood as well.

P. Hogan discussed the plans with the board.

L. Moorhouse - Are there any other questions from the board? Any questions from the audience?

S. Patel - Can I speak?

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E. Bott - You certainly can, please state your name.

S. Patel - My name is Sunita Patel, I am the girlfriend of Mark Moseett. We come to the cottage on weekends, year round.

L. Moorhouse - You are the cottage to the south?

S. Patel - Yes, we are just south. We are on the other side of the creek. We oppose the variance, because the views from our cottage on the lake are to the east and through a kitchen window to the north. I have my low tech version of Paul's map with an overlay. The top one is with the variance and it shows the site line from the kitchen window. And you might think that it is opening up at the front, but when we come down in the winter, we don't spend as much time outside. We come down year around, we can actually see all the way to the north end of the lake through that window.

S. Patel showed the board members, (on the map), that if the cottage was at the required set-back, they would still have a little view of the lake, through the kitchen window.

S. Patel - We were hoping that there would be a minimum too no variance, because with the variance our view from the kitchen window would be blocked. She showed the board members where her cottage is located in reference to the three cottages on Hogan's property.

There was more discussion of the pictures and placement of the proposed new cottage and the kitchen window view.

L. Moorhouse - Do you have a view to the south?

S. Patel - No, there is a window there, but no view of the lake.

L. Moorhouse - The only view you have is through the kitchen window?

S. Patel - No, we have a view to the east, straight across the lake.

E. Bott - Mr. Hogan, do you have anything to add?

P. Hogan - I am just wondering how much time do they spend at the kitchen sink? We thought that putting the proposed cottage in this spot would benefit Mark.

M. Moseett - The only view we have to the east, is that window. If you get the variance, the cottage would be completely blocking it.

L. Moorhouse - I don't mean to sound facetious, a view to the north is very important?

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M. Mosett - It's a view.

E. Bott - Does anyone have anything new to add?

No comment.

L. Moorhouse - We will close the public portion of the meeting at this time.

E. Bott - Made a motion to accept the application as presented, M. Gascon seconded, all in favor.

Roll Call Vote to accept or deny:

L. Moorhouse, **YES**, D. Horning, **YES**, E. Bott, **NO**, M. Gascon, **NO**, R. Boone, **YES**

L. Moorhouse - 1. No, 2. No, 3. No, 4. No, 5. Yes - **YES**

D. Horning - 1. Yes, 2. No, 3. No, 4. No, 5. Yes - **YES**

E. Bott - 1. Yes, 2. Yes, 3. Yes, 4. No, 5. Yes - **NO**

M. Gascon - 1. Yes, 2. No, 3. No, 4. No, 5. Yes - **NO**

R. Boone - 1. Yes, 2. No, 3. No, 4. No, 5. Yes - **YES**

L. Moorhouse - The vote is 3 to 2, so you have your variance. You will receive a letter that the variance was approved. The variance stays with the property, if you should sell your property in the future.

E. Bott - The variance stays with the property, even if the laws change in the future, it is grand fathered in. No one can force you in the future to move the house back.

L. Moorhouse - Made a motion to close the public hearing, E. Bott seconded, all in favor. Public Hearing closed at 8:20 p.m.

M. Mosett and S. Patel had questions for the board members, if they should decide to get a variance in the future.

Old Business

D. Horning made a motion to approve the minutes from the June 9, 2019 meeting, M. Gascon seconded, all in favor.

D. Horning made a motion to adjourn the meeting, M. Gascon seconded, all in favor.

Meeting adjourned at 8:50 p.m.

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Respectfully,

Stephanie Seeley, Secretary