

Town of LeRay

Zoning Board of Appeals - Minutes

November 9, 2022

Call to Order

On November 9, 2022, the LeRay Zoning Board of Appeals held their meeting in the Town of LeRay Board Room. The meeting was called to order by Chairperson Oatman at 6:30 P.M. who lead the room in the Pledge of Allegiance.

Open Regular Meeting

Board members in attendance: Jan Oatman – Chairperson, Jacalyn Tunstall - Member, Christian Favret - Member, David Mushtare - Member, Lee Shimel – Zoning Enforcement Officer, and Morgan Melancon – Secretary to Planning and Zoning. Additionally, Roger Abbey, Fran Abbey, and Lane Netto were in attendance. Member Hallett was absent from the meeting.

Acceptance of Minutes

The minutes from the regular meeting on October 3, 2022 were reviewed by the Board members. A motion to accept the minutes as drafted was made by Member Mushtare and seconded by Member Tunstall.

The vote went as follows:					
Member Tunstall:	Yes	Member Favret:	Yes	Member Mushtare:	Yes
Chairperson Oatman:	Yes				
The motion passed.					

Correspondence and Communication

Chairperson Oatman asked if there was anyone who was not on the agenda that wished to address the Board. There was none. Chairperson Oatman asked Ms. Melancon if there was any correspondence to which Ms. Melancon replied there was none.

Public Hearing @ 6:30 PM for an Area Variance Application for Lane Netto – The proposal is to place a 14 x 30 foot shed, 8 feet from the side-yard. Mr. Netto is asking for a 2-foot side-yard variance per section 158-21, subsection A (4) of the Zoning Code, located on Cottontail Drive, tax parcel #74.16-2-3.8.

Chairperson Oatman asked the Board to review the Area Variance Application for Lane Netto, who was in attendance as the representative. Chairperson Oatman reiterated that the property between Mr. Netto and his neighbor was a 50-foot right-of-way strip for access to Mr. Converse’s back fields. Chairperson Oatman asked the Board if they had any other comments or questions. The Board had none.

Chairperson Oatman opened the Public Hearing at 6:33 PM and Ms. Melancon read the hearing notice as published in the Watertown Daily Times on October 14, 2022. Chairperson Oatman asked if there was any comments from the audience. Hearing none, a motion was made by Member Mushtare and seconded by Member Tunstall to close the Public Hearing at 6:34 PM.

The vote went as follows:			
Member Tunstall:	Yes	Member Favret:	Yes
Chairperson Oatman:	Yes	Member Mushtare:	Yes
The motion passed.			

Chairperson Oatman said the statute provided that in making its determination on an application for an Area Variance, the Board must balance the benefit to be realized by the applicant against the potential detriment to the health, safety, and general welfare of the neighborhood or community if the variance were to be granted. In balancing these interests, the Board considered the five (5) factors and concluded that:

- The requested variance would not create an undesirable change in the character of the neighborhood or detriment to nearby properties in that the side lot line was adjacent to a 50-foot strip of land that allowed that property owner to access acreage he owned that was located behind the applicant. The strip was not of sufficient size to be used for a dwelling; therefore, it would not encroach on any future structure, and it was not a detriment to any nearby properties. Furthermore, the road was a dead end and neighboring properties had similar sheds, so the character of the neighborhood would remain unchanged.

Chairperson Oatman would would not
Member Favret would would not
Member Tunstall would would not
Member Mushtare would would not

- The benefits sought by the applicant could be achieved by some other feasible method because the applicant had sufficient space to place the shed ten (10) feet from the side lot line which would not require an area variance.

Chairperson Oatman can can not
Member Favret can can not
Member Tunstall can can not
Member Mushtare can can not

- The requested variance was not substantial in that the requested variance was a 20% reduction of the required ten (10) foot setback.

Chairperson Oatman is is not
Member Favret is is not
Member Tunstall is is not
Member Mushtare is is not

- The proposed variance would not have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district as the shed would not obstruct the site line of any traffic and would not require any additional site work to place it there or create any environmental concerns.

Chairperson Oatman would would not
 Member Favret would would not
 Member Tunstall would would not
 Member Mushtare would would not

5. The alleged difficulty was self-created because the applicant could easily place the shed the required ten (10) feet from the side lot line in order to meet code.

Chairperson Oatman was was not
 Member Favret was was not
 Member Tunstall was was not
 Member Mushtare was was not

After careful consideration, the Board determined that the benefit to the applicant outweighed the detriment to the neighborhood and therefore a motion was made by Member Mushtare and seconded by Member Tunstall to approve the Area Variance for the reasons stated above, of section 158-21 A (4) of the Zoning Law of the Town of LeRay to permit a two (2) foot side-yard variance, located on Cottontail Drive, tax parcel #74.16-2-3.8.

The vote went as follows:					
Member Tunstall:	Yes	Member Favret:	Yes	Chairperson Oatman:	Yes
Member Mushtare:	Yes				
The motion passed.					

Chairperson Oatman informed Mr. Netto that Ms. Melancon would send him an approval letter in the mail along with a copy of the Findings & Decisions.

Public Hearing at 6:30 PM for an Area Variance Application for Good Morning Rentals. Mr. Abbey is asking for a front-yard area variance at the greatest relief of 28.5-feet, per section 158-17, subsection A(1b) of the Zoning Code, located on State Route 3, tax parcel #83.08-2-13.3.

Chairperson Oatman asked the Board to review the Area Variance Application for Good Morning Rentals. Mr. Abbey was in attendance as the representative and stated that he did not have any additional information to provide the Board. Chairperson Oatman asked the Board if they had any other comments or questions. The Board had none.

Chairperson Oatman opened the Public Hearing at 6:46 PM and Ms. Melancon read the hearing notice as published in the Watertown Daily Times on October 14, 2022. Chairperson Oatman asked if there was any comments from the audience. Hearing none, a motion was made by Member Favret and seconded by Member Mushtare to close the Public Hearing at 6:47 PM.

The vote went as follows:					
Member Tunstall:	Yes	Member Favret:	Yes	Member Mushtare:	Yes
Chairperson Oatman:	Yes				
The motion passed.					

Chairperson Oatman said the statute provided that in making its determination on an application for an Area Variance, the Board must balance the benefit to be realized by the applicant against the potential detriment to the health, safety, and general welfare of the neighborhood or community if the variance were to be granted. In balancing these interests, the Board considered the five (5) factors and concluded that:

1. The requested variance would not create an undesirable change in the character of the neighborhood or detriment to nearby properties in that the proposed garage would sit further back than the existing home which was a nonconforming setback. Additionally, the majority of the neighboring buildings were also nonconforming and sat as close, if not closer, to the road than the proposed garage and therefore the character of the neighborhood would remain unchanged.

Chairperson Oatman would would not
Member Favret would would not
Member Tunstall would would not
Member Mushtare would would not

2. The benefits sought by the applicant could be achieved by some other feasible method as the applicant could remove a row of mature evergreen trees to construct the garage further back on the property.

Chairperson Oatman can can not
Member Favret can can not
Member Tunstall can can not
Member Mushtare can can not

3. Half the Board felt that the requested variance was not substantial in that the 28.5-foot variance was a 47.5% reduction of the required 60-foot setback. The other half of the Board felt that a 47.5% reduction of the required 60-foot setback was substantial. The Right of Way (ROW) in front of the property increased along where the proposed garage would go, so the variance required on one side of the garage was 15 feet and increased to a maximum of 28.5 feet on the other side of the garage.

Chairperson Oatman was was not
Member Favret was was not
Member Tunstall was was not
Member Mushtare was was not

4. The proposed variance would not have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district. Moving the garage closer to the front yard property line would have less of an adverse impact on the environment as the applicant would only have to remove a few smaller trees as opposed to removing a line of full-grown evergreen trees. Additionally, the proposed variance would be in line with the conditions of the rest of the neighborhood. Also noted was that there was an existing circular driveway and sidewalk that would lead from the proposed garage to the existing house.

- Chairperson Oatman would would not
- Member Favret would would not
- Member Tunstall would would not
- Member Mushtare would would not

5. The alleged difficulty was self-created because the applicant had enough land and space to place the garage the required 60 feet from the front lot line in order to meet code.

- Chairperson Oatman was was not
- Member Favret was was not
- Member Tunstall was was not
- Member Mushtare was was not

After careful consideration, the Board agreed that the benefit to the applicant outweighed the detriment to the neighborhood or community and therefore a motion was made by Member Tunstall and seconded by Member Mushtare to approve the area variance for the reasons stated above, of section 158-17 A (1b) of the Zoning Law of the Town of LeRay to permit a 28.5-foot front-yard variance, located on State Route 3, tax parcel #83.08-2-13.3.

The vote went as follows:					
Member Tunstall:	Yes	Member Favret:	Yes	Member Mushtare:	Yes
Chairperson Oatman:	Yes				
The motion passed.					

Chairperson Oatman informed Mr. Abbey that Ms. Melancon would send him an approval letter in the mail with a copy of the Findings & Decisions.

Adjournment

A motion was made by Member Favret and seconded by Member Mushtare to adjourn the meeting at 6:59 PM.

The vote went as follows:					
Member Tunstall:	Yes	Member Favret:	Yes	Member Mushtare:	Yes
Chairperson Oatman:	Yes				
The motion passed.					