

Minutes of the Village of Williamsville Zoning Board of Appeals held at Village Hall, 5565 Main Street, Williamsville, New York, on Wednesday, January 15, 2020, at 7:00 p.m.

Mr. Andrews opened the meeting at 7:00 pm with the Pledge of Allegiance.

- Roll Call: Present: Richard Andrews, Chairman
Patricia Fulwiler, ZBA Member
Joseph Frese, ZBA Member
William Tuyn, ZBA Member
James Celeste, ZBA Member
- Also present: Charles Grieco, Village Attorney
Deborah A. Habes, Clerk-P/T
Matthew J. Etu, Trustee Liaison to ZBA
Tim Masters, Code Enforcement Officer
- Excused: Mark Maczka, Alternate ZBA Member
Timothy Boyle, Alternate ZBA Member

ON MOTION by Ms. Fulwiler, seconded by Mr. Celeste, it was moved to approve the minutes of the October, 2019 meeting, as submitted. *(ZBA did not meet in November or December of 2019.)*

Unanimously carried.

On the agenda:

(1) PUBLIC HEARING

ZBA LOG #-2020ZBA-1
Area Variance Request

197 N. Ellicott. (R-3)

<p>PUBLIC HEARING 197 N. Ellicott. (R-3) Area Variance</p>

Mr. Andrews opened this public hearing at 7:00 p.m.

This is a request for relief from Section 112-12 C (3) (d) of the Village of Williamsville’s Zoning Code which requires that accessory buildings be no higher than 14’. As constructed, the applicant’s accessory structure height is 19’ using the NYS Uniform Code definition of “Building Height” when taken at 50% of the ridge height.

The record owners and applicants, Molly Barrett and Kevin Gentry, were present.

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Mr. Andrews read into the record the contents of the file.

Legal notice of this public hearing was duly published in the January 8, 2020 Amherst Bee, and printed notices of this public hearing were sent to the applicant and other property owners within 150' of the subject property as per code.

The applicants addressed the criteria for an area variance as follows:

1. There will be no undesirable change to the neighborhood. There are other garages in the residential neighborhood that are also higher than allowed by code.
2. Cannot be achieved any other way since they have a small lot with a swimming pool that occupies almost all of the rear yard. There is no room on the property for a storage shed. They need the extra storage space to house the pool heater/filter, extra furniture and supplies, etc. The home's basement is a wet one, thereby eliminating any chance of dry storage in the home. They also have 2 cars and several kayaks which would not fit inside a one-story garage. They need a 2-story garage for all their home storage needs.
3. It is not a substantial request, as it is only 5' or 6' higher than code allows.
4. There will be no environmental impact. Will be visually more pleasing.
5. It is not a self-created situation. They meant no harm or malice.

The applicant submitted photos of the currently in-construction 22' x 24' accessory structure. The owner was issued a Building Permit on 5/22/19 to construct a one-story garage. In the interim, the owner realized the need for greater storage space and proceeded to make changes to the construction by adding another story. They have received no complaints from the neighbors.

One audience member spoke in favor of the request for this variance:

Carolyn Schlifke, 192 Evans St. – Lives behind subject property. Relayed the long history of the subject property as she has lived in her home for some 60 years. Is in favor of the current renovations being performed by the applicants as previous owners were derelict in maintenance of the property. The applicants have completely renovated the property and it is a total improvement to the neighborhood. She can live with a taller garage than the code allows. She is grateful for all that the applicants have done to improve this property. She is in favor of the area variance for height of the garage.

Mr. Andrews read into the file an email from Michael Measer, owner of the property across the street from 197 N. Ellicott St., in favor of the variance.

There being no other comments from the public, Mr. Andrews then opened up the hearing for discussion between the ZBA members and the applicants. (*Applicants' comments are in italics.*)

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Mr. Celeste – How did this happen? *They did not realize they were in violation of the code until notified by the Building Inspector.*

Ms. Fulwiler – Expressed confusion with how this happened. *They came to the Building Dept. each time they changed their plans. They had 3 sets of plans and came each time there was a change.*

Mr. Tuyn – Expressed continued confusion with how this happened. Who applied for the permit? *They did.*

Mr. Frese – There is a process set in place for securing building permits. One has to have plans approved first before construction begins and then all changes thereafter must first be approved by the Building Inspector before construction changes can be made. *He made the change to the plans, came in and was told he would need to request relief from the ZBA for permission to proceed with the second story.*

Mr. Andrews – There is a process. The applicants should have come in to the Building Dept. first before they made any changes to any plans whatsoever. He expressed frustration on behalf of the ZBA with the situation.

Ms. Fulwiler – The ZBA usually deals with applicants to resolve problems before they arise. They work with applicants. Now, in this case, the ZBA has no options to help the applicants solve their dilemma. The second story has been added without approval and in violation of the height requirement of the zoning code. What will the applicants use the second story for? *They will possibly use it as an art studio space for Ms. Barrett. It will remain unfinished.*

Mr. Andrews – Concerned it could be made into habitable space sometime in the future without the Village knowing. This would be in violation of the zoning code. *No plans for using the structure for living space.*

Mr. Masters interjected there is no plumbing proposed for the garage, only electrical for the lights and the garage doors.

Mr. Celeste – Has no issues with the construction of the garage except that it exceeds the height allowed by code. *The pitch and the siding will match the house. He apologized for their error and reiterated that they meant no malice.*

There being no other comments, Mr. Andrews closed the public hearing at 7:40 p.m.

Whereas the applicants pleaded their case to keep the partially constructed building at its current height of 20', which was altered from an approved permit issued by the Village Building Department, the following motion was brought forth:

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ON MOTION by Mr. Tuyn, seconded by Mr. Frese, it was moved to approve the area variance as follows: To grant relief from Section 112-12 C (3) (d) of the Village of Williamsville’s Zoning Code and approve the height of the accessory structure as submitted.

Roll Call:	Tuyn	Yes
	Frese	Yes
	Andrews	Yes
	Fulwiler	No
	Celeste	Yes

Motion carried. 4 – 1. Area Variance Granted.

ON MOTION by Ms. Fulwiler, seconded by Mr. Frese, it was moved to adjourn the meeting at 7:41 p.m.

Unanimously carried.

Deborah A. Habes
Clerk-P/T

Date of the next scheduled Zoning Board of Appeals meeting: February 19, 2020 at 7:00 p.m.