

**MINUTES OF A REGULAR MEETING
OF THE ZONING BOARD OF APPEALS OF THE TOWN OF POMPEY**

January 13, 2025

7:00 PM

Pompey Town Hall

Board Members Present: David Hale
Kevin Sharpe
Donald Neugebauer
Seara Haines

Also present were Town of Pompey Codes Enforcement Officer Tim Bearup and Attorney Amelia McLean-Robertson. Chairman Tessier appeared via Zoom. Board Member David Hale chaired the meeting in Chairman Tessier's physical absence.

The purpose of the meeting was to conduct a public hearing on an application by Domenico and Diane Mazza, located at 1797 Berwyn Rd, tax parcel 029.-06-09.1, located within the Farm Zoning District, who are seeking relief on a proposed subdivision. The applicants are requesting two Area Variances that will give relief for the minimum frontage requirements. The Farm Zone District requires a minimum of 200' of frontage.

The applicants are requesting an area variance for proposed Lot 2B. The request is for 2' of relief as the parcel is labeled as having approximately 198'.

In addition, the applicant is seeking an Area Variance for proposed Lot 2A. Proposed Lot 2A is a land locked parcel, which is located behind an adjacent parcel identified as tax parcel 011.-05-03.1, which is also owned by the applicant and is in the Town of LaFayette. The applicant is requesting relief through an Area Variance for the 200' of minimum road frontage that is required in the Farm Zone District.

Local Law: Chapter 165 Zoning, Attachment 1, Schedule: Limiting the Use and Land

All fees were paid, the matter was properly advertised and neighbors were notified. D. Hale reviewed the application aloud.

There is already a driveway established on the lot that lies in the Town of LaFayette.

D. Neugebauer made a motion to open the public hearing at 7:09 pm. S. Haines seconded the motion at 7:09 pm. All were in favor, none were opposed. The Public Hearing was opened at 7:09 pm.

Present was the applicant, Diane Mazza and her son Dominick Mazza. They were asking for a lot line adjustment to allow them to give their children 4.79 acres each. The entire lot would have to be sold as is. A. McLean-Robertson confirmed that the Board is only concerned with the fact that Lot 2A would become land locked in the Town of Pompey. The Town of LaFayette has confirmed in writing that they agree with the proposed changes; an easement will be recorded.

The Board Members together with the applicants reviewed the maps extensively. The Planning Board will review the applicant's request for a Lot Line Adjustment and Subdivision.

A. McLean-Robertson noted that OCPB review called for the language of the easement to be shown on the final maps. The maps presented did not reflect that. Any approval could be contingent on this being added to the maps after the fact.

There was some question as to whether the measurements on the maps were correct. It was determined that would be no detriment if each of the variances were approved based on the maps as they were presented, as any error in measurement would be in the favor of the applicant.

Chairman Tessier noted that D. Hale was doing a great job chairing the meeting. He noted that the line shown going across Lot 1A would likely be disappearing after a potential lot line adjustment was granted; the applicant confirmed this to be true. He would like to see the acreages of both lots, as well as the total acreage, in the respective differing towns shown on the final maps. The applicant confirmed that the 4.8 acreage shown on the map is the total acreage. The acreage in the Town of LaFayette will be .89. This information should be noted on the final maps and in the Board's vote.

No members of the public wished to speak either on behalf or against the project.

The applicant asked if the other issues noted by the OCPB would need to be addressed at this time. A. McLean-Robertson stated that these issues would come into play at the time building commenced. The applicant has already submitted the Federal wetland information. The Town Engineer, who will be present at the Planning Board meeting, will be able to weigh in more on this.

SEQR

This is an unlisted action, so a short form SEQR is required. The ZBA acted as the lead agency. A. McLean-Robertson read the questions from the SEQR form. The answer to all of the questions was no, or small impact.

D. Neugebauer made a motion for a negative SEQR declaration at 7:42 pm. K. Sharpe seconded the motion at 7:42 pm. All were in favor, none were opposed. The motion carried at 7:43 pm.

Use Variance Criteria

The Board addressed the four criteria for a use variance.

1. The applicant cannot realize a substantial return-substantial as shown by competent financial evidence.
2. The alleged hardship is unique and does not apply to substantial portion of district or neighborhood
3. The requested variance will not alter essential character of the neighborhood
4. The alleged hardship has not been self-created.

The Board noted that almost all applications that are presented present with self-created hardship, however, in this case, the applicant was not responsible for the section of the parcel that exists in the Town of LaFayette. The ZBA reviewed the four criteria for a use variance, and discussed each one individually. Upon completion of this review and comment, the Board determined that the project could be approved as presented.

A. McLean-Robertson noted that we have the letter from the Town of LaFayette saying that they are in agreement with the project.

D. Neugebauer made a motion to approve the two foot variance on proposed Lot 2B, and the variance to waive the frontage requirement for proposed Lot 2A, with the following contingencies: The letter from the Town of LaFayette giving their approval for the project is attached to the maps, the corrected surveys have to show the created easement, and the numbers of 451.94 and 198.7 need to be corrected on the final maps at 7:48 pm. K. Sharpe seconded the motion at 7:48 pm. All were in favor, none were opposed. The motion carried at 7:49 pm.

The applicants will bring the new maps to the Planning Board meeting on February 17, 2025.

The secondary purpose of the meeting was to conduct a Public Hearing on an application by Mark and Deborah Grenier, located at 2010 Cemetery Road, tax parcel 030.-03-11.1, located in the Farm Zone District, who are seeking relief on a proposed subdivision. The applicants are requesting three Area Variances.

The applicants are requesting two Area Variances for proposed Lot 1 A. The first request for Lot 1 A is for a 70' Area Variance. Lot one A is labeled to have 130' of frontage. The minimum allowable frontage is 200'. Secondly, Lot one A is also requesting relief from excessive lot depth in which a 2 ½: 1 ratio will normally be considered the maximum.

The applicants are also requesting an Area Variance for the proposed Lot one B. This is a land locked parcel and will need an Area Variance of 200'.

Local Law: Chapter 165 Zoning, Attachment 1, Schedule: Limiting the Use and Land

Chapter 144 Subdivision of Land, 144-13 B (2)

D. Hale reviewed the application aloud. Present was the applicant Deborah Grenier and her son, John Paul Grenier. The applicant presented some photos of the property to the Board Members. She noted that she and her husband are having a hard time maintaining the property and would like to give some of their parcel to their son so that he may build a single-family home.

The Board Members reviewed the maps extensively. There is an existing driveway moving through Lot 1C. D. Neugebauer asked how the lot came to be divided the way it is now; it was this way when the applicant purchased the property.

S. Haines asked for clarification on the relief for the excessive lot depth. A. McLean-Robertson noted that the Code notes that excessive depth in relation to the width should be avoided and that a 2 ½:1 ratio will be considered the maximum. They are essentially double this with the proposed changes to the parcel.

Chairman Tessier noted that there is an issue with 0' frontage on Lot 2A. To take care of the ratio on Lot A, the applicant could make the back portion larger which would make room for a septic system and well; this is the reason for the 2 acre requirement in the first place. The Town needs to look into the future with any changes that are made, and he was not in favor of approving a parcel with 0' of frontage.

K. Sharpe asked if the Board could condition the fact that they could not build on the skinny lot, and that would be only an ingress. They could use this lot as a way to get to a buildable lot; any driveway would obviously have to be approved by Onondaga County.

D. Neugebauer noted that if the back part of the lot was made bigger, that the 2 ½: 1 ratio would become even worse. He did not like the idea of land locking the parcel.

Chairman Tessier noted that there might be enough frontage on Lot C to allow for a driveway if an easement is put in place between the two parties.

Public Hearing

Donna and Chuck Green-7634 No. 5 West Road. They have a letter from Barbara Daley, who is the adjacent property owner. The letter noted concern with the deviation from Town Code, and if the benefit could be achieved by other means. She noted that the variance is requesting a substantial deviation from Town Code. Additionally she noted potential issue with water supply.

Existing zoning regulations are put in place to protect all members of the community. They moved to the area because they wanted to live in a rural area, they did not want to live in a subdivision with many people around them. They were afraid that if such a substantial variance were granted that it would lead to future substantial variances. They were also worried about well and waters. They have a large entertainment venue nearby as well, and the water table has changed already. They were also concerned with septic and how that would affect their property as well. Additionally, they were concerned with traffic congestion as well; there is a dangerous curve nearby as well. D. Hale asked if there is a restricted speed limit on the road; there is no limit posted.

Sue Fillinger-7674 No. 5 West Road. She was concerned with any potential driveway on No. 5 West Road. She preferred not to have a driveway so close to her property.

Doug Wheeler-2022 Cemetery Road. He asked for clarification on what the proposal for Lot 1C would be, specifically three potential houses on an existing 17-acre parcel. He objected to this because they are side-by-side neighbors, and there is already a substantial amount of noise occurring behind them. He is also concerned with a land locked parcel.

The applicant noted that all of the members of the public who are present reside on parcels that are less than two acres.

Sherri Lang added comment via Zoom. She felt that the changes would lead to a decrease in property value and put a strain on existing wells.

The Board Secretary confirmed that the applicant provided proof of mailing that conformed to the Town's requirements, as some of the neighbors reported that they were made aware of the meeting on short notice.

Chairman Tessier noted that water is very inconsistent in our Town and that is why the two-acre requirement was put into place many years ago. Wells have to be within 100 ft. of a septic system, unless they are separated by a house.

The Board Members discussed potential alternatives to the maps as they were presented. Chairman Tessier noted that the Board could give the applicant time to discuss alternative options before any vote was conducted.

The applicant asked how a home on Watervale Road was approved on a lot that was very small and without enough road frontage. The Board noted that the home on that lot was built on a lot that was existing and pre-approved.

S. Haines made a motion to close the Public Hearing 8:51 pm. D. Neugebauer seconded the motion at 8:51 pm. All were in favor, none were opposed. The Public Hearing was closed at 8:51 pm.

SEQR

This is an unlisted action, so a short form SEQR is required. The ZBA acted as the lead agency. A. McLean-Robertson read the questions from the SEQR form, and noted that the questions would be answered with all of the variances listed on the application taken into consideration at once.

1. **Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?** Moderate to large impact may occur
2. **Will the proposed action result in a change in the use or intensity of use of land?** No, or small impact
3. **Will the proposed action impair the character or quality of the existing community?** Moderate to large impact may occur
4. **Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?** No, or small impact
5. **Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?** No, or small impact
6. **Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?** No, or small impact
7. **Will the proposed action impact existing: a. public / private water supplies? B. public / private wastewater treatment utilities?** No, or small impact
8. **Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?** No, or small impact

9. **Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?** No, or small impact
10. **Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?** No, or small impact
11. **Will the proposed action create a hazard to environmental resources or human health?**
No, or small impact

D. Neugebauer made a motion for a positive SEQR declaration at 8:57 pm. D. Tessier seconded the motion at 8:57 pm. All were in favor, none were opposed. The motion carried at 8:57 pm.

The Board deliberated the five considerations that are required under State Law that will help them answer the question about whether the benefit to the applicant in granting the two variances outweigh any determinant to the community/neighborhood.

1. Whether the benefit sought by the applicant can be achieved by some other feasible method?

The Board noted that the applicant could change their request, as they are proposing to build three new lots at this time.

2. Whether the variance will result in an undesirable change in the character of the neighborhood?

No, it would not.

3. Whether the requested variance is substantial?

Yes, that variances requested are substantial in nature.

4. Whether the variance will have an adverse effect on physical or environmental conditions?

No, it would not.

5. Whether the alleged difficulty was self-created?

Yes, the difficulty was self-created.

D. Neugebauer noted that the variance that would be needed to approve this project would be very, very significant. He again noted that he did not like the idea of approving a land locked parcel. He made a motion at 9:00 pm to deny the application. S. Haines seconded the motion at 9:00 pm. All were in favor, none were opposed. The motion carried at 9:00 pm.

S. Haines made a motion to close the meeting at 9:01 pm. D. Neugebauer seconded the motion at 9:01 pm. All were in favor, none were opposed. The meeting was adjourned at 9:02 pm.

Respectfully Submitted,

Sarah LoGiudice
Secretary to the Zoning Board of Appeals
Town of Pompey