

PLANNING BOARD

APRIL 6, 2011

7:00 PM

Members Present; Pat Rice, Steve Senske, Walter Geist, Louis Rieg, Duncan McNeill, John Warner, Richard Johnson

Others Present; Dan Mangione, Jay Kuntz, Lori Benson, Scott Kyser, Sheila Kyser, Mickey Eckert, Dan Groth Jr., David Groth

Mr. Rice opened the meeting and stated that Dan Mangione was before the board to address the Goose Creek application. Mr. Mangione stated that Mr. Stapleton and the Town Board has suggested that the application be referred back to the Planning Board for the following reasons; they need a detailed stamped survey of the area showing boundaries of each lot; they also want to make sure the right of way is sufficient enough so that utility and emergency vehicles have access to the back of the location. Mr. Lawson added that it must comply with zoning, and zoning states that you either have a driveway to the street or 50' right of way back to your property.

Mr. Rice asked Mr. Lawson if the application was in compliance with the right of way. Mr. Lawson answered yes, but added that the town is in no way obligated to take over the road. Mr. Mangione stated that the surveyor will have a detailed stamped survey (which will include boundaries) ready by the end of the week. Mr. Rice stated that the board has reviewed the proposed lot sizes and lot lines over the last few meeting and there were no concerns or objections from the board. Mr. Rice asked if anyone from the board wished to make a motion regarding the Goose Creek proposal.

**MR. SENSKE MADE A MOTION TO RECOMMEND THAT THE TOWN BOARD APPROVE THE PROPOSED APPLICATION BY THE GOOSE CREEK CORPORATION WITH THE FOLLOWING CONDITIONS; DEED RESTRICTIONS BE IN PLACE AND THE CURRENT GREEN SPACE NOT BE DELVELOPED AND THE ROAD WAY BE ACCESSABLE TO UTILITY AND EMERGENCY VEHICLES. THIS MOTION WAS SECONDED BY MR. MCNEILL AND ALL BOARD MEMBERS WERE IN FAVOR.**

Mr. Rice said that the next item before the board is an application that the Zoning Board of Appeals has referred to the Planning Board for their review and recommendation based on the Comprehensive Plan and its guidelines. The application is proposed by Jay Kuntz and Lori Benson requesting an Area Variance to demolish an existing home and replace it with a new home closer to setbacks than allowed in Section 401 of the Zoning Code at 3636 Watson Rd.

Mr. Rice asked Mr. Kuntz to address the board. Mr. Kuntz said that he and his wife did apply to demolish their current summer home on 3636 Watson Road and replace it with a new structure. He went on to say that the issues with their current home that have motivated them to replace it are; deteriorating

foundation, the current septic is shared and has been in use over 50 years, and the steps are narrow with a turn at the top, which makes it difficult for anyone with limited mobility to maneuver them and the home has no central heat. Mr. Kuntz said that all of the issues with their current home have become a costly maintenance issue and they like the planning board are looking to the future and want to make improvements that will meet or exceed the current building codes and satisfy their needs as they age. He went on to say that he hopes to begin the project in October after the summer season to minimize the impact of the construction on his neighbors.

Mr. Kuntz said that he and his family have enjoyed the area since 1917 and would like to continue to, but with the current conditions of their home they have concluded that the only reasonable way to do so is to demolish their current home and construct a new one and they are now in a position to do so and to them it makes financial sense. Mr. Kuntz said that over the past 30 years they have watched many cottages be upgraded, expanded, and replaced and this has improved the neighborhood for the better. He said they would like to do the same. Mr. Kuntz said that the plan outline shows that the home will be a 1 ½ story Cape Cod style home and he stated that Chautauqua County Health Department has already approved the new aerator septic system. He went on to say the current septic system will be capped on their end but will still function for the Groth cottage at 3640 Watson Rd. and the water well will continue to be shared.

Mr. Kuntz said that the proposed dimensions are 26 by 45 which will be a total of 1,070 square feet and will only cover 17% of the lot. Mr. Kuntz said that their goals are; to build an attractive second home that blends in with the neighborhood, to have a first floor bedroom so aging family and friends can visit, to have a mechanical/storage room on the first floor so that they will be able to have use of the home throughout the entire year. Mr. Kuntz stated they are not planning to rebuild without regard to their neighbors and went on to say that they made the Eckert's who were planning to enter into a land contract to purchase Mr. & Mrs. Scott Kyser's home aware of their plans to build. Mr. Kuntz said that he and his wife spoke with all of the immediate neighbors last summer, however, Mr. Kuntz stated that two of his neighbors were not happy with the proposed project and they have spoken about it and are on friendly terms. He said that they were concerned about the value of their home because of losing some of the view of the lake with the new construction. Mr. Kuntz stated that any change they make to their existing home will have an impact on the second row of cottages.

He said there is just no way around it; however their rebuild will not eliminate the view of the lake but reminded the board that their neighbors are not lakefront lots.

Mr. Kuntz stated that the Zoning Board of Appeals suggested during their last meeting that they search for alternatives that would reduce the impact on the view to the second row of cottages and e-mailed the neighbors with a few ideas and asked for their ideas as well. They responded and were not satisfied with any of the ideas suggested and asked to meet with Mr. Kuntz and Ms. Benson, which they did.

Landscaping of the septic and the consideration of a water pipe that construction vehicles will have to drive over to construct the new home and septic system are an issue expressed by the neighbor's. Mr. Kuntz reminded them that the contractor carries a million dollar liability insurance policy. He went on to say that they are happy to address valid concerns and any other ideas that their neighbors may have, but,

asked the board to keep in mind that he and his wife initially chose the style of home that they did to minimize the impact on their neighbors.

In closing, Mr. Kuntz said the he and his wife are asking that the planning board recommend that the zoning board be flexible with the zoning regulations and as this is a unique situation and approve their request to make a positive investment and improvement.

Mr. Rice asked Mr. Lawson how the Kuntz's plans were out of compliance with the zoning ordinance. Mr. Lawson said that they applied for an area variance for the side and lake setbacks he said that the total square footage of the footprint and the total square footage of the lot are within the 25% of the zoning. He went on to say that zoning will allow them to build on the same footprint without a variance of any kind. He also stated that the site plan has been completed.

The board discussed the following issues: setbacks to the lake (40' -51' to the back of the lot 42.7 feet), parking, buffers, height, and usage of the well with an added bathroom, and the fact that the Zoning Board has asked that the contractor be contacted to consider other avenues to keep the footprint as close to the current footprint as possible. The Board also discussed how this plan fits into the work that they have done on the Comprehensive Plan and the LWRP's guidelines. Mr. Kuntz said that with the plan they have the most they could reduce the footprint is by two feet, they could reduce the additional expansion from 10 to 8 feet. Mr. Lawson said that the Zoning Board makes its decision based on the lowest area variance possible. They take into consideration the neighbors view points but reminded them that the neighbors do not sway their decision. The board asked Mr. & Mrs. Kyser, Mrs. Eckert and David and Dan Groth to address the Board with their concerns regarding the application of Lori Benson and Jay Kuntz.

Mr. Kyser and Mrs. Eckert stated that while they are excited for Jay and Lori as everyone would like to have a new home, the expansion of the footprint directly impacts their 36' view of the lake by about one third and they are concerned that by losing the view their home will also be impacted and they may have to contact and appraiser to see how much it will impact the value.

Mr. Groth spoke for himself and his brother Dan who own 3640 Watson which is directly to the North and 3638 Watson to the North West of the Benson- Kuntz property. Mr. Groth said that while they also share in the excitement for Jay and Lori with their plans to build a new home, however, Mr. Groth said that view is a huge deal to them and said that even though it's a rear property with a view that may be interrupted by homes, it's still a view of the lake. He said with the expansion they will also lose one third of their view of the lake from their back house and is concerned about the effect on his property value. Mr. Groth stated that they also have concerns about parking vehicles and explained that with the expansion the cars will be parked five feet closer to their from porch on their back property.

Mr. Senske stated the Planning Board is being asked by the Zoning Board of Appeals to make a recommendation based on the guidelines set forth in the comprehensive plan, not how the plan affects the neighbors. Mr. Lawson stated that David Stapleton, the town's attorney has suggested that three dimensional plans be submitted with applications in the future, this helps everyone understand how big that structure is and stated that this may be incorporated in the zoning in the future. Mr. Rice said he

thinks the property owners in the rear have a right to rely on the setbacks set forth in the zoning codes as is in a case like this it takes away part of the reason they purchased their property.

Mr. Senske said that based on his interpretation that has been written into the Comprehensive Plan, there is enough that it is an impediment and he would not recommend that the project be approved. Mr. McNeill stated that he agreed with Mr. Senske and so much has been compromised in terms of the view of the lake of both the Groth's and the Kyser/Eckert's and furthermore he stated that in view of the board's work with the comprehensive plan to establish setbacks and lot lines, it seems that too much is being compromised.

**MR. SENSKE MADE A MOTION THAT THE PLANNING BOARD RECOMMEND TO THE ZONING BOARD OF APPEALS THAT THE APPLICATION FOR AN AREA VARIANCE BY LORI BENSON AND JAY KUNTZ NOT BE GRANTED AS CURRENTLY WRITTEN, MR. MCNEILL SECONDED THE MOTION AND ALL WERE IN FAVOR.**

Mr. Lawson stated, as a point of reference this decision is not set in stone as the Zoning Board is the board that makes the final decision. He said that if a compromise was made the Zoning Board would take that into consideration.

Mr. Kuntz asked Mr. Lawson if the case would be presented back to the Zoning Board for their April 27, 2011 meeting as he wanted to be sure that the Kyser's/Eckert's and the Benson/Kuntz's would be aware of that. Mr. Lawson answered-yes.

The next regular meeting is scheduled for May 6, 2011 at 7:00 PM.

The meeting concluded at 9:00 PM

Respectfully Submitted,

Penny Best

Planning Board Clerk