

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – April 14, 2016

A meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Town Offices, 18 State Street, Brockport, New York on April 14, 2016, commencing at 7 p.m.

Members present: Frank Fisher, Kevin Johnson, Pauline Johnson, Peter Sharpe, Mary Ann Thorpe.

Also present: Nat O. Lester, III, ZBA Counsel, Jeff Freier, Freier Building LLC.

Chairperson Thorpe called the meeting to order at 7 p.m.

Application of James Fallon, 670 East Avenue, Brockport, New York, for an area variance to construct a ±576 sq. ft. master bedroom and bath addition to the southwest side of the existing dwelling with a front setback of 64.6 ft. The proposed construction will require a 10.4 ft. variance. The existing dwelling is pre-existing, nonconforming due to the front setback of 26.3 ft. *Town of Sweden Ordinance §175-36, Section D, (1), (c) (1), states the required front setback is 75 ft.* The property is owned by James C. Fallon and Kelly M. Young, tax account number 069.02-2-5.2.

670 East Avenue.

Mr. Jeff Freier addressed the Board. He explained that the Fallons, applicants, would like to construct an addition off the side of the kitchen. The kitchen is the last addition to the house. The original house was built with a 26.3 ft. front setback in the 1800s. The kitchen addition was built farther back from the original setback.

One location for the proposed master bedroom/bath addition would be directly behind the house to the south, but the elevation is two steps down to a concrete slab. In order to build at that location, the elevation would have to be raised. A better location for the proposed addition on a first floor level would be from the window next to the fireplace off the kitchen addition. The window will be replaced with a doorway into the bedroom. The proposed addition will be farther back than the kitchen addition at 64.6 ft. There is a 70-year old beech tree preventing the addition from being located farther south, which Mr. Fallon does not want to remove.

Mrs. Johnson asked Mr. Freier to show the exact location of the tree on the drawing. Mr. Freier pointed to where the tree is located, approximately 35 ft. from the proposed back corner of the addition. Where is the cupola? Mr. Freier stated the cupola is located on the deck at the back of the house. He explained that with beech or maple trees, the roots go out as far as the branches.

Chairperson Thorpe confirmed with Mr. Freier that the addition will start just past the fireplace. He added that keeping it on the same floor level so that there are no changes in elevation is better, more practical. He added that the new bath will be handicapped accessible for future use.

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Mr. Freier added the proposed roofing, siding and windows will match what currently exists. The fireplace will be covered in stone and blend in with the existing colors.

Mrs. Pauline Johnson asked if the kitchen addition was granted a variance due to it not meeting the 75 ft. front setback. The Clerk explained that after reviewing the building file, the original dwelling was a rental residence for Mr. Fallon's in-laws. In 1982, approval was granted for the addition to the pre-existing, nonconforming dwelling by the Planning Board under a Special Use Permit.

Mrs. Pauline Johnson asked for more information regarding the patio and deck at the back of the house. Mr. Freier explained that the patio is brick pavers at grade level. Off the patio is a backroom/basement, which was part of the original home construction. In order to get into the kitchen from the back deck, you have to step up two steps, which is why it wouldn't be feasible or practical to build the proposed master bedroom/bath addition at this location, especially when designing it to be handicap accessible for the years ahead.

Attorney Lester asked Mr. Freier to describe the neighborhood. Mr. Freier stated it is all agricultural, owned by Kreher Farms. There is one neighbor to the west, the Henions. The land across the street belongs to Kreher Farms as well. Mr. Freier believes that the proposed addition would not be an undesirable change in the neighborhood, but would make it better.

Mrs. Pauline Johnson asked the Clerk if anyone had contacted her regarding the variance request. The Clerk stated no one contacted her. Mrs. Pauline Johnson added that no one from the public attended the meeting as well.

Chairperson Thorpe asked if there were any other questions, comments or concerns. There were none.

Chairperson Thorpe closed the public hearing by motion. The Board has 62 days to make its decision.

Moved by Mrs. Pauline Johnson, seconded by Mr. Fisher, that having reviewed the application and Short Environmental Assessment Form of James Fallon for an area variance to construct a ±576 sq. ft. master bedroom and bath addition to the southwest side of the existing dwelling with a front setback of 64.6 ft. instead of the required 75 ft., that the application will not have a significant adverse impact on the environment, which constitutes a negative declaration.

Frank Fisher – Aye
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Chairperson Mary Ann Thorpe – Aye

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Moved by Mrs. Pauline Johnson, seconded by Mr. Fisher, that the application of James Fallon, 670 East Avenue, Brockport, New York, for an area variance to construct a ±576 sq. ft. master bedroom and bath addition to the southwest side of the existing dwelling with a front setback of 64.6 ft., instead of the required 75 ft., *be **approved*** for the following reasons:

1. No one appeared for or against the proposed variance.
2. An undesirable change will not be produced in the character of the neighborhood and will not be a detriment to nearby properties as it is a rural area surrounded by agricultural use.
3. The variance cannot be achieved by another reasonable method other than an area variance because the proposed addition cannot go to the south due to elevation changes, cannot go to the east due to the existing driveway, and cannot go to the west due to an existing 70-year old beech tree, which maintains the character of the property and neighborhood.
4. The alleged difficulty was not self-created because the existing house is pre-existing, nonconforming with a front setback of 26.3 ft.

Frank Fisher – Aye
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Chairperson Mary Ann Thorpe - Aye

The meeting was adjourned at 7:40 p.m.

Clerk to Zoning Board of Appeals