

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – June 22, 2009

A regular 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 Monday, June 22, 2009, commencing at 6 p.m.

Members present: Frank Fisher, Pauline Johnson, Ken Reid, Peter Sharpe, Mary Ann Thorpe

Also present: Jim Glogowski, Bob and Kendra Gemmett, Martha David, Alana Fuerer

Chairman Reid called the meeting to order, introduced the Board members and read the notice of public hearing for:

Application of Robert and Kendra Gemmett, 16 Gordon Road, Spencerport, New York, for an area variance of 15.54 ft. Applicant is proposing to create an additional (flag) lot from the northern part of Lots 15 and 16 with a total road frontage of 44.46 ft. *Town of Sweden Ordinance Chapter 175-36, Section D, Lot and area requirements, 1 (a), Minimum lot size, (4), Road frontage is 60 feet.* The properties are owned by Robert and Kendra Gemmett, tax account numbers 070.03-1-10 and 070.03-1-11.

Canham Subdivision. Gordon Road and Skidmore Drive.

Mr. Jim Glogowski addressed the Board. The Gemmetts own two parcels, Lot 15, which runs from Gordon Road to Skidmore Road, and Lot 16, which fronts on Gordon Road only. The applicant is proposing to create two lots fronting on Skidmore Road. There is enough frontage and depth to create one legal lot to the west, but the easterly lot doesn't have enough road frontage at 44.46 ft. It is not possible to purchase additional land to the east in order to increase the road frontage to 60 ft.

Mr. Sharpe asked if Lot 15B on the map is a building lot. Mr. Glogowski stated yes it is a proposed building lot. Also, is lot 16A vacant. Mr. Glogowski stated there is a house on that lot.

Mrs. Johnson asked to see the original map before the proposed subdivision. The Clerk located the map and the Board discussed the changes.

Mr. Sharpe asked if the lots were on sewer and water. Mr. Glogowski stated public water is available, but no sewer.

Mrs. Johnson asked what the intent was for Lot 15A. Mr. Glogowski stated there are no plans at this time. Lot 15A is a previously approved building lot.

Mrs. Johnson asked how many letters were mailed to nearby residents. The Clerk stated 15 letters. Mrs. Johnson asked if anyone was present.

Alana Fuerier, 357 Gallup Road – Ms. Fuerier stated she doesn't want to cause any trouble with her neighbors. At first, she didn't think it would affect her property until she looked more closely at what the applicant is proposing. Ms. Fuerier's property butts up to

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the applicant's proposed lot, 16B. Her house is at the bottom of a hill, and she would like to know how two new houses/septic systems would affect her property. Also, she would be interested in purchasing land from the applicant. She understands variances are put in place to protect the zoning laws. The variance requested, 15 ft., is substantial or 25 percent of the requirement. Ms. Furer wants to know how the land will be developed, i.e., clear cut and houses put up, which is not what she thought she was getting when she purchased her property just over a year ago. She and her husband love having a house in the country, and a new development directly on top of the hill would ruin it.

The Board asked her to show on the map, the exact location of her house. Mr. Glogowski stated if the plans were to go through the Planning Board, the drainage would be reviewed to make sure it doesn't end up on a neighbor's property.

Mr. Glogowski stated whomever buys the property would selectively clear cut the property. Ms. Furer stated she would need that guaranteed because this proposed subdivision is very upsetting to her and she wants to protect her property value and personal value.

Martha David, 1 Skidmore Drive – Ms. David stated she lives in the odd-shaped lot. She showed the Board where her house is located. Ms. David stated she was concerned about the little notice she received regarding the public hearing. She added when you go up and down Skidmore Drive, the lots have large frontages in a rural setting. Ms. David was not happy that a driveway would run along her westerly boundary to the rear boundary. She feels this would change the character of the neighborhood. She added in regards to drainage, as houses have been built further up Skidmore Drive, the amount of drainage that has come to her lot has been significantly more in the spring.

Mrs. Johnson asked how close is her house from the proposed lot. Ms. David stated it is 20 ft. from the lot line.

Mr. Fisher asked what type of septic system would be needed for the proposed lots. Mr. Glogowski stated he doesn't know yet.

Chairman Reid stated 60 ft. is the required road frontage so why should this applicant be an exception. Mr. Glogowski stated the 60 ft. (flag lot) could still be done by moving over the lot line to the west, but then both houses would have to be built at the back of the properties where the frontage would be 150 ft. Mr. Glogowski stated the zoning code would be met and no variances needed, however, it would make the two lots undesirable.

Mrs. Thorpe asked for clarification of the proposed lot lines and driveways. Mr. Sharpe asked if perc tests have been done. Mr. Glogowski stated not until it is determined if the variance is granted.

Mr. Glogowski explained that one of the reasons why the 60 ft. requirement was created was so that the acreage behind the flag lot could be developed in the future with access to a dedicated road.

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Chairman Reid stated it's hard to imagine anyone wanting a small lot like the two proposed when only large lots exist on Skidmore Drive.

Chairman Reid asked if the plans have been shown to the Planning Board. Mr. Glogowski stated he took the plans to the Planning Board for an informal meeting. The minutes from the Planning Board state that the Planning Board recommended the 60 ft. change to the Town Board for flag lots, specifically so that any future development behind the flag lot would have a dedicated road for future development.

Mr. Gemmett stated he has no intention of doing any more development other than the two lots. Also, the back area is heavily wooded.

Chairman Reid closed the public hearing.

Moved by Mrs. Johnson, seconded by Mr. Fisher, that having reviewed the application of Robert and Kendra Gemmett for an area variance to have road frontage of 44.46 ft. instead of the required 60 ft. is an unlisted action that will not have a significant impact on the environment.

Mr. Fisher - Aye
Mrs. Johnson – Aye
Mr. Sharpe – Aye
Mrs. Thorpe - Aye
Chairman Reid - Aye

Moved by Mrs. Johnson, seconded by Mr. Fisher, that the application of Robert and Kendra Gemmett for an area variance of 15.54 ft. to create an additional (flag) lot from the northern part of Lots 15 and 16 with a total road frontage of 44.46 ft. be **denied** for the following reasons:

1. There will be an undesirable change in the character of the neighborhood.
2. Benefit can be achieved by other means feasible to the applicant as stated by the engineer, just not ideal.
3. The requested variance is substantial.
4. The requested variance will have adverse physical and environmental effects.
5. The alleged difficulty is self-created as it was the applicant's desire to create an additional (flag) lot.
6. The property was purchased long before Skidmore Road was developed.

Mr. Fisher - Aye
Mrs. Johnson – Aye
Mr. Sharpe – Aye
Mrs. Thorpe - Aye
Chairman Reid - Aye

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Chairman Reid stated that the legal notice for this application stated 15.54 sq. ft. and 44.46 sq. ft. and should be changed to read feet.

Moved by Mr. Fisher, seconded by Mrs. Johnson, to approve the June 11, 2009 minutes.

Mr. Fisher - Aye
Mrs. Johnson – Aye
Mr. Sharpe – Aye
Mrs. Thorpe - Abstain
Chairman Reid - Aye

The meeting was adjourned by motion at 6:45 p.m.

Clerk to Zoning Board of Appeals