

**ZONING BOARD OF APPEALS**

October 21, 2014

Present: Michael Dudick, Chairman, Michael Bloss, Jerry Cifor, Randy Gifford, Jennifer Vucetic (7:04), Mario Fantini

Also Present: Joel Peller, ZBA Counsel  
Steve Myers, Director, Building & Zoning

Absent: Denise Bagramian, Chris Lemire

Mr. Dudick called the meeting at 7:04 p.m.

**PLEDGE OF ALLEGIANCE**

Mr. Dudick informed the applicant this is a seven member board with one alternate. Tonight two of the board members are absent and therefore, Mr. Fantini, as alternate, is designated to sit in for Mr. Lemire. To receive approval an application must receive 4 yea votes regardless of the number of members present. There are six members present tonight so the applicant must receive four out of six votes for approval. The applicants have the option to defer to a future date when there might be more members present, but there are no guarantees how many members will be present at any meeting.

**OLD BUSINESS**

None

**NEW BUSINESS**

*The secretary read the legal notice as it appeared in the Daily Gazette on October 16, 2014*

**An application from Michele K. Couch for variances to subdivide pre-existing lot in CR Zone. 1) Section 208-16E(2)(a) one dwelling per 3 acres. Parcel is 2.62 acres, request to subdivide into one .9 acre parcel and one 1.77 acre parcel 2) Section 208-16(2)(c) exception for family member. Lot is less than 10 acres. Variance required. 3) Section 208-11 requires 40,000 sq.ft. minimum for septic, .09 ac or 39,000 sq.ft. available. Variance required.**

**Property is located at 65 Ray Road, off Vischer Ferry Road, Rexford 12148 (Permit#80997)**

The application was presented by Michele Couch, owner of the property on 65 Ray Road. Ms. Couch explained she is seeking variances to subdivide her property into two lots to allow an immediate family member (her brother) to build a home on one parcel. She informed that her brother was in a serious motorcycle accident in 2004 and, as a result, spent 3 months as an inpatient and 7 months in Sunnyview. She said she allowed him to build a garage on her property which gave him a lot of pleasure and now she wants to gift him the property so he can build a house. She promised she will abide by the zoning requirements for a single family dwelling and will gift him additional square footage if required.

Mr. Dudick questioned where the brother is now living and if he would live in the home on the divided parcel.

Ms. Couch answered her brother is now living with their mother in Latham and he would live in the new home and be able to use the garage as he does now. Mr. Dudick queried whether this is the reason for the subdivision and otherwise it would not be necessary. She stated she doesn't think so and that her brother has been financially burdened with multiple medical bills and as his sister this is something she wants to gift to him.

Mr. Dudick asked why her brother did not just move in with her or build an extension on to her home. Ms. Couch explained they are both single adults and for him to move in with her wouldn't be appropriate for two grown adults. She reminded he has the garage on her property which is one of the reasons to allow him to have the house there, so he has access to it saying it is basically his, even though it is on her property.

Mr. Dudick asked what her brother had been doing for the last 7-8 years since the accident. Ms. Couch said he had been pretty much left for dead at the accident and sustained head and brain injuries. He had to retire from his career as a mason and erector because of that but has been working full time at CSX. His whole life and career has changed and she wants to do this to allow some sort of future for him.

Mr. Dudick asked if he could purchase a condo. Ms. Couch said he could, he is capable and very motivated but she wants to do this for him.

Mr. Peller asked about the drawing and if the proposed parcel is in the back. Ms. Couch said she talked to the surveyor but the lines they drew up are not set in stone. She added she is willing to do whatever it takes. Mr. Peller clarified he wanted to know how he would get to the structure in the back. She said they would have a right of way to the parcel, and explained the garage is not in the exact location on the drawing, but actually moved over another 20 feet. She said there is 40 feet between the property line and the garage.

Mr. Peller summarized she wants to do the subdivision, but the actual plans have not been finalized. Ms. Couch confirmed, explaining she spoke to Mr. Myers and the surveyor several times, but she did not want to proceed further unless she knew the subdivision was approved. She repeated that pending approval she is willing to make whatever adjustments she needs to do.

Mr. Myers informed this is the best approximation they could come up with. He said it usually goes to Planning first but Ms. Couch did not want to pay for the survey if, by some chance, the subdivision wasn't approved. He opined this is reasonably close to what it would be and all variances are covered. He reminded the subdivided lot, regardless will be under 40,000 sq. ft. and if something drastically changes they will come back. He added he thinks John Scavo and he can work it out.

Mr. Peller asked Mr. Myers if there have been any other subdivisions on Ray Road, similar to this. Mr. Myers said he didn't think so but there have been in other CR zones on other roads, such as Grooms Road. He informed that there was a question about wetlands, but Ms. Couch had DEC look at it and there was no issue. He added Mr. Scavo said he had no problem with this.

Mr. Bloss asked whether it would be two narrow lots and if there was enough room for the septic systems. Mr. Myers said there is room and it would not be a keyhole lot but two narrow lots.

Mr. Dudick wanted to know how long Ms. Couch had owned the property. She responded she has had it at least fifteen years. Mr. Myers interjected that it predates current zoning, pre-existing lot.

Mr. Dudick asked Mr. Myers what was the rationale for 3 acres in CR zoning. He responded he believes the Town wanted more rural landscape, adding they did put the options in about family and how to subdivide it. He said Ms. Couch just doesn't quite meet all the options and they have done it with other pre-existing lots smaller than the three acres. Ms. Couch interjected that her neighbors are brother and sister and they have two houses on their lot which is similar, size-wise, to hers.

Mr. Dudick asked for public comments. No comments. Mr. Dudick made the motion to close the public hearing. Seconded by Mr. Gifford. All approved. Public hearing is closed.

Mr. Myers informed he has no problem with the application. Mr. Dudick asked if he had any issue with sewer or water. Mr. Myers had no issues but added they need to provide viability of the well and approval of the septic design.

Mr. Peller asked if they would have separate septic systems. Mr. Myers said that is correct. He informed there is public water to the new subdivision which would eventually get to them.

Mr. Fantini made the motion to approve the application as submitted. Mr. Cifor seconded the motion. Mr. Dudick commented he thinks these are large lots, close to an acre. Mr. Myers said one is smaller but Ms. Couch said they could change and she wouldn't have a problem making it

larger. Mr. Dudick continued: saying there are numerous homes without as much acreage and he considers it important that the lot was owner prior to the current zoning.

Ayes: Bloss, Vucetic, Gifford, Dudick, Cifor, Fantini    Noes: none  
Application approved.

The board approved the minutes for the October 7, 2014 meeting with Mr. Bloss and Mrs. Vucetic abstaining as they were not at that meeting.

The next meeting is November 18, 2014.

Mr. Dudick made the motion to adjourn. The motion was seconded by Mrs. Vucetic. The meeting was adjourned at 7:25 pm.

Respectfully Submitted,

Susan White  
Secretary

cc:    Town Clerk, Town Board, Town Attorney, Zoning Board Members, Joel Peller, Counsel, Steve Myers, Department of Building and Development, ..., ECC, Assessor, Highway