

Decision Form

May 4, 2024 @ 6 pm - Barrington Zoning Board of Adjustment Appeals



Application/petition # 2024-4-8

FINDINGS OF FACT

Having heard the testimony and considered the evidence presented, the Board determines the facts of this case to be:

Filing Date: 4-8-24

Affidavit of publication/posting is on file.

Hearing Date: 5/4/24

A. The applicant or appellant is (name and address):

Donald Delany
1224 Tuscany Blvd
Venice FL 34292

B. The applicant or appellant is the owner/lessee/mortgagee of the following described property which is the subject of the application or appeal: 1/4 of 1/4, within the Town of Barrington in Yates County known as 832 East Lake Road, Penn Yan, NY 14527

C. The property is presently in use for Lake Residential and has been so used continuously since for the life of the property.

D. The property includes a nonconforming structure/use described as

[Blank line for description]

E. The property has been the subject of a prior appeal/variance/conditional use described as

[Blank line for description]

F. The applicant or appellant proposes (brief project description/attach plans):

G. The applicant or appellant requests:

- an appeal of the zoning administrator's determination
a conditional use/special exception
a use variance
a height variance (checked)
under Section of the ordinance.

The features of the proposed construction and property that relate to the grant or denial of the application or appeal are (refer to the language/standards of the ordinance):

The request is for a height variance of 3 - 4 feet for the planned garage which is 23 feet tall when adjusted for the slope of the property. More storage space is needed above the structure.

The plans include 2 dormers at the peak & plumbing for a bathroom in the future. A small foot-print septic system is being moved with a leach field. The design has been approved by Keuka Watershed.

CONCLUSIONS OF LAW

Based on the above findings of fact the Board concludes that:

Appeal/Interpretation – The order of the zoning administrator (is/is not) in excess of his/her authority because (or)

The zoning administrator’s interpretation of Section _____ of the zoning code (is/is not) a correct interpretation because

Variance – The variance (does/does not) meet all three of the following tests:

A. The hardship (is/is not) due to physical limitations of the property rather than the circumstances of the appellant because

B. The variance (will/will not) harm the public interest because

C. Unnecessary hardship

- For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction’s effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests. This standard reflects the new *Ziervogel* and *Waushara County* decisions.
- For a use variance, unnecessary hardship exists only if there is no reasonable use of the property without the variance.

D. Unnecessary hardship (is/is not) present because

Conditional Use – The application for a conditional use permit (does/does not) qualify under the criteria of Section _____ of the ordinance because

ORDER AND DETERMINATION

On the basis of the above findings of fact, conclusions of law and the record in this matter the board orders:

Appeal/Interpretation – The zoning administrator’s order/interpretation of the zoning code or map is (affirmed/modified/reversed) and the administrator is ordered to:

Variance/Conditional Use – The requested (variance/conditional use) is (denied/**granted**/granted-in-part) subject to the following conditions/mitigation:

1. The garage **cannot** have any livable space.
2. _____
3. _____
4. _____
5. _____
6. _____

The zoning administrator is directed to issue a zoning permit incorporating these conditions and certifying by the petitioner/applicant’s signature that he/she understands and accepts the conditions.

Expiration of permit. Any privilege granted by this decision must be exercised within 12 months of the date of this decision after obtaining the necessary building, zoning and other permits for the proposed construction. This period will be extended if this decision is stayed by the order of any court or operation of law.

Revocation. This order may be revoked by the Board after notice and opportunity to be heard for violation of any of the conditions imposed.

Appeals. This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

Barrington Zoning Board of Adjustment/Appeals

Signed  _____
Chairperson

Attest Helene Ribble
Secretary _____

Dated: September 12, 2024

Filed: September 12, 2024