

Decision Form

July 11, 2023 @ 6 pm - Zoning Board of Adjustment/Appeals

Application/petition # 2023-5-30

FINDINGS OF FACT

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

Filing Date: 5/30/23

Affidavit of publication/posting is on file.

Hearing Date: 7/11/23

- A. The applicant or appellant is (name and address): Mark & Karen Griffin
743 Sowards Place
State College PA 16803
- 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,
Town of Barrington in Yates County known as **628 East Lake Road, Penn Yan NY 14527**
- C. The property is presently in use for residential and has been so used continuously since _____.
- D. The property includes a nonconforming structure/use described as _____
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- E. The property has been the subject of a prior appeal/variance/conditional use described as a new residential home with a side-setback variance.
- F. The applicant or appellant proposes (brief project description/attach plans):
- G. The applicant or appellant requests:
- ✓ **Interpretive review appeal**
 - an appeal of the zoning administrator's determination
 - a conditional use/special exception
 - a use variance
 - an area variance
- 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):

No more than one livable space per parcel.

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 board concluded unanimously that the zoning officer’s interpretation of Section **6.18** of the zoning code is a correct interpretation because in **Line F**, all applicants must conform to regulations in **Schedule A** from **Page 39** of the current zoning book.

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 officer’s order/interpretation of the zoning code or map is affirmed.

The interpretation of the Zoning Board was affirmed; therefore, the application was unanimously denied.

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

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

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 _____ 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.

July 11, 2023 @ 6:13 pm - Zoning Board of Appeals

Signed 
Chairperson

Attest: Helene Ribble
Secretary

Dated: July 25, 2023

Filed: August 1, 2023