

Minutes for the Ticonderoga Zoning Board of Appeals Meeting held on May 10, 2019 commencing at 6:00 p.m.

Present: Chairman Eric Stoddard, Board Members, Joyce Barry and W. Doug McTyier, Clerk Tonya M. Thompson, Zoning Officer Bill Ball.

Absent: Board Members Erik Leerkes and Andy Belkevich

Others: Edward and Marianne Axtmann, Robert Gibson, Mike Diskin, Keith Hoffnagle, Christopher Weinman

Mr. Stoddard called the meeting to Order with the Reciting of the Pledge of Allegiance and then the board introduced themselves to the public.

Notice of the Meeting

The Zoning Board of Appeals of the Town of Ticonderoga will hold a Public Hearing and meeting on May 10, 2019 commencing at 6:00 p.m. at the Ticonderoga Community Building's Conference Room, located in the Basement at 132 Montcalm Street, Ticonderoga, NY regarding an Application for an Area Variance submitted by Edward and Marianne Axtmann concerning a property located at 1 Tim Pan Alley, Ticonderoga, NY - Tax Map #150.59-8-10.211. All parties interested may be heard at this time.

Correspondence or phone calls

The Clerk read the letter in support from Sean Walter (attached) and also relayed comment from phone conversation with Christopher O'Reilly (19 Prince Taylor Path) that he was not opposed to this project at this time.

Explanation of the Application

Area Variance - Axtmann, 1 Tin Pan Alley (#150.59-8-10.211)

Mrs. Axtmann wanted to first clarify, since talking to her neighbors they didn't seem to understand what it was that they were asking for. When you buy a house and it sits facing the street, everything from the front of the house to the street is your front yard; but when you buy a house that waterfront property, everything from the water to whatever side of the house it is, is your front yard. So the Western most part to the water is our front yard and the Eastern most part of the house to the property line, which borders where Mark Warren lives and our son Daniel owns is the rear of the yard and that is where we are asking the set back for. It is supposed to be 30 feet and we are asking for 10. The house that is there now sits 10 feet from the property line on the Northeastern most part of the house, so we intend to move it the 10 feet more from the side yard line, which borders Mr. Gibson's property, but we are asking that it stay 10 feet from the rear yard rather than the 30 feet required. The further we push it towards the lake, first we have to deal with the flood plane and second we have to deal with other regulatory agencies. She has corresponded with most of them and the paperwork is attached to the application and if they keep it as far back as we can then they have no jurisdictional say over our project. That is what we are asking for.

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Mr. McTyier clarified that you are asking for a variance of the property line on two sides?

Mrs. Axtmann stated, no. Just the rear lot line, which borders two neighbors properties.

Mr. McTyier asked what the distance is from the proposed house to the lot line?

Mrs. Axtmann again explained that on the side yard it is required to be 10 feet and it would now probably be more than the 10 feet.

Mr. Stoddard asked if anymore thought had been given to anywhere else on the lot?

Mrs. Axtmann explained that the house sits currently on the highest elevation of the property. If we move it forward it becomes over a hill and gets into the flood plane. The plan was for a ranch house and she contacted FEMA because we wanted to put the house 10 feet from the property line and build it towards the lake, but it would go over the hill. We asked if we could simply put a basement under the house over that hill and FEMA stated that you cannot put a basement in a flood plane. We talked about putting drainage in and whatever is needed and they still said no. This really limits where the placement of the house is unless we build a two story. They suggested filling in the flood plane, which we did not know we could do. We did talk with Codes and Mr. Ball did state that there had been people in the area that had dealt with that before and he gave us a couple of names. We contacted one of them and he over a course of numerous days brought in a certain kind of fill, compacted it at each fill level and then we had it tested after sitting for a year. We then sent all this information, through our surveyor to FEMA to get the elevated area out of the flood plane so we could build on it and FEMA did take that whole area out of the flood plane and said it was fine.

Mr. McTyier commented that to him it is really important that if you are doing something new, then that is the time that set backs should be met. Unless you can really show a hardship that you cannot overcome, he finds it difficult to approve a variance.

Mrs. Axtmann explained that if they do move it the 30 feet then we go over the fill area and into the flood plan and we cannot building a basement or crawl space or anything...

Mr. McTyier continued that there is no way you could build a house anywhere else on that lot?

Mrs. Axtmann stated correct, because of the flood plane area.

The board asked to see the flood plane map. Zoning Officer Ball will retrieve one.

Mr. McTyier stated that you already brought in fill and it did work to remove it from the flood plane.

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Mr. Stoddard added that there is nothing to stop you from filling in a bit more then to meet the set backs?

Mrs. Axtmann agreed that she supposed not.

Mr. Stoddard asked if she knows the actual set back of the proposed house to that north property line?

Mrs. Axtmann stated that it would probably be 11 to 12 feet. Right now it is 2 1/2 feet on one side and 4 feet on the other.

Mr. Stoddard asked if there were any issues with the driveway.

Mrs. Axtmann stated no.

Mr. Stoddard wanted to thank the Axtmann's on their very thorough application. He also asked if the Axtmann's were planning on using any part of the current foundation.

Mrs. Axtmann stated that the plan is that everything is coming down and they will be starting fresh.

Public Comment

Robert Gibson Jr. handed paperwork out the board which will be attached to these minutes. He is an adjoining property owner on the Water Street - on the North End, he owns six (6) lots. He was confused with the application, normally when you remove a structure the Town would then help the applicant to create what is called a building envelope which would show exactly where the new property can go and meet all of the zoning criteria without having to apply for a variance. In this case, he does not see that in the application and he knows that there has got to be numerous other places where you can put this house where it can possibly comply unless you are trying to tell him that the flood plane is covering the entire property. Which we can find out from the map, regardless there is nothing that forces the applicants to create a foot print of 2650 square feet where it used to be 702. That is an improvement of about 368% and there are regs. that he has left you. Once the non-conforming use has been removed, you really should try to follow the set backs because they are very important. He had the lots created next door and his lots had to have a building envelope and the set backs are in place on his lots and they are fully conforming. What he is trying to say, is the applicants moving forward with the idea of a footprint of 2650 square feet and that is pushing them down towards the late into the flood plane - they are trying to pound a square peg into a round hole and there is a way to come up with a design, certainly, where they would be able to build a new structure on that .57 acres which is over 24,000 square feet without the necessity of going to the board and asking them to relieve them of the 66% of a 30 foot rear set back when in reality it is possible to create a structure on the property, brand new that is much bigger than what they have.... he is not sure that they can put 2650 square feet in a foot print and....

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Mr. McTyier stated that the building envelope does dictate what you can put there, but we are not talking size here. We are only here for an Area Variance.

Mr. Gibson realizes that but continued that the idea is, if the size of the new home is not that big then the variance goes away because you don't have a necessity to put it in that particular spot. If we had the envelope then we could see where the house could be placed whatever size it could be, but he does not see that in the plans. The regs are very specific, he won't go over them. The location of the house, where they are going to place it has a lot to do with the need of even asking for a variance because if they don't need to be that close to the flood plane because of the design of the home, then they certainly do not need any relief from a 30 foot set back, which should be preserved from a non-conforming use. The one thing you don't want to do in a non-conforming use situation is increase any burden that might be pre-existing. In other words, when you have a non-conforming use, if you can enlarge it to a certain degree and it is in the regs; but you don't want to improve it to the point where it is still going to be non-conforming because you need a variance in order to make it enlarge that non-conforming use to the point to where the burden that pre-existed triples in size. So now, instead of adding a structure that is going to be within...(inaudible)

Mr. McTyier stated that if it is in the building envelope now then conformance is no longer an issue.

Mr. Gibson stated that the building envelope that we are talking about is only referring to what FEMA is talking about with the flood plane, we are not talking about the rear envelope. The rear envelope is 30 feet. That would be conforming. If you know the Flood Plane then that is part of the line of the envelope, the Northerly line the applicant said it would be compliant 11 or 12 feet but the rear Easterly line is the issue, that is what they are asking for is to be given permission to set the home within that 30 foot set back and what he is saying is if the envelope were drawn by the town and they use that information from FEMA, that envelope would be 30 feet from the back of the rear of the yard, which would be compliant without the variance. The house would then sit in that envelope.

The Board understands this.

Mr. Gibson wanted to be sure that he was explaining himself properly. He thinks it is very important, that if a new home is going to be constructed and you are tearing the other down to enlarge the new home this size, you would certainly want to conform with set backs. The set backs that are in place are very important, because this is going to be a new build.

Mr. McTyier again stated that we are here for one reason and that is the rear set back. When they decide to build, then that will go in front of the Planning Board and all of that will be addressed.

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Mr. Gibson is just trying to let you know what he knows about the relations and he is trying to share that. He understands the process. The other question he has, if you can ask the applicants is what is their plan with the driveway. Are they covering that with asphalt?

Mr. McTyler stated that this is not for us to discuss in this setting. It has nothing to do with us.

Mr. Gibson stated, ok; but being an adjoining property owner and knowing the regulations and how he has to abide by these regulations in the same situation, he would hope that the set backs would be on top of the situation because that is very important and that is what we are talking about is the relief from the rear set back which should be recognized and should be upheld.

Keith Hoffnagle - 27 Water Street. He has no objection to the variance, he thinks it is a good idea. If he is not mistaken, they are going to put the house on that mound of dirt - it is farther away from the water and it is going to be something new and it is going to be farther away from Mr. Gibson's property line. He just wants to make sure, when he went through this the APA had to be notified, you have to be 50 feet away from the water, the Flood Zone, you have to get an engineer to look up the flood zone because the maps we have right here are no good, they wouldn't accept it. It was all approved by zoning, approved by planning, the APA was never approved we had issues and went to court, the whole nine yards, but he has no problem with the plan that they have with their changes. The problem you are going to have is these two don't get along..... the board interrupted well, that is the issue, but he has no issue at all.

Michael Diskin - 53 Water Street. He is not adjoining to this property, but is four of five parcels away. He has lived in Ticonderoga for most of his 70 years and has always been a big proponent of precedents and not setting precedents and he is just concerned that setting something like this would be a precedent that anyone else could fall back on. The character of that neighborhood and the character of all along the lake front has always been that houses sit facing the water. He knows that talking to the Code Enforcement Officer that water front is the front yard and the intent is to sit the house in the front. As you look across the lake, he doesn't see any other house that sits that way and he is concerned with the precedent that is sets for this town for the future. Also, the size of it, if it is going to go above the allowed amount sets a precedent concern also if it goes over the 25% that it is allowed once a non-conforming house comes down, he believes there is a maximum 25%.

Mr. McTyler again interjected that this would be a Planning Board concern, not theirs.

Mr. Diskin again stated that his concern is the precedent, as a long time member of this community and what he has seen of the properties that have been built along the lake they have always faced the lake. This would be different.

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Mr. McTyier noted to the Axtmann's that obviously they have found a remedy to do this diagram, so he has a difficult time that you have a hardship that you cannot overcome in some way. You filled some ground to build this proposed house, if you have to conform to be in a building envelope, which everybody does when they build a house, you may have to do other things to accomplish that; or change the shape of the house. He is a strong advocate that when you have the chance to conform, one thing is not conforming can be created, but when you have the chance to make it conforming he strongly believes you should.

Mrs. Axtmann asked if the flood map that you now see shows the flood plane.

Mrs. McTyier again added that you have already brought fill in to remedy this for this proposed building, you may have to bring in more to conform to set backs.

Area Variance -- Applicant must prove

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to near by properties will be created
- Whether the benefits can be achieved by some method feasible other than a variance
- Whether the requested area variance is substantial
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the area
- Was the alleged difficulty self-created; which consideration can be relative to the decision of the board of appeal, but shall not necessarily preclude granting

Mr. Stoddard stated that obviously this is self-created, but he does understand you want to build a new house. For him, it is whether the benefits can be achieved by some other method feasible other than a variance... it seems like you filled already to meet what you wanted, he is sure you can fill in more.

Mrs. Axtmann stated that the only other thing they can do other than filling is to build a two story house. They are getting older

Mr. McTyier explained that you seemed to have found a remedy a couple of years ago with the intention of building right there instead of thinking that maybe you should meet the set backs.

Mr. Axtmann stated that another concern to keeping it back there was because of connection to the Town sewer line.

Mr. McTyier says he lives farther down the road and his line is just black pipe. You can connect to the pipe.

Resolution #1-2019 brought by Eric Stoddard, seconded by Doug McTyier to declare the application complete for an Area Variance - Axtmann, 1 Tin Pan Alley (#150.59-8-10.211). **3 - Ayes, 0 - Nays. Carried.**

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Public Hearing was closed at 6:40 p.m.

Resolution #2-2019 brought by Joyce Barry, seconded by Doug McTyier to deny the application for an Area Variance - Axtmann, 1 Tin Pan Alley (#150.59-8-10.211) because it does not meet the criteria to grant an Area Variance. **3 - Ayes, 0 - Nays. Carried.**

Meeting adjourned at 6:42 p.m.

Respectfully submitted, Tonya M. Thompson, Clerk

LAW OFFICE OF
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May 1, 2019

Eric Stoddard, Chairman
Zoning Board of Appeals
Town of Ticonderoga
132 Montcalm Street
Ticonderoga, New York 12883

RE: Application for Area Variance 150.59-8-10.211
Ed and Marianne Axtmann

Dear Chairman Stoddard:

I am unable to attend the Zoning Board of Appeals meeting scheduled for May 10, 2019. As one of the Axtmann's closest neighbors, I am writing to express my support for Ed and Marianne Axtmann's area variance. I believe the proposed home will enhance the value of the neighborhood as well as be an environmental improvement in terms of energy efficiency.

In considering the factors under Town Law 267-b, I believe you will find that not only does this application benefit the applicant it also benefits the community as a whole. First, there will be no undesirable change in the character of the neighborhood in that approval of this application will allow the construction of a new home in a single family residential neighborhood that will only increase the value of the surrounding homes. In addition, the placement of the new home closer to Tin Pan Alley allows for a larger rear yard setback than the current home has. This is a benefit to the applicants rear yard neighbor.

Second, the benefit sought by the applicant really cannot be achieved by any other means as the current home has virtually no back yard. The rear wall of the home sits on the property line. That combined with restrictions on how close you can build to the lake inhibit the applicant from constructing anything on his property beyond the substandard house he currently has. The Axtmann's should be commended for investing in my "adopted hometown" as well as trying to increase the conformity of the home on the lot by moving the proposed home away from the rear property line.

Third, I do not believe the requested variance is substantial given similar variances granted by the Zoning Board in the past. That combined with the fact that the proposed house will be more in conformance with the Town setback requirements than the current structure militates to the variance not being substantial.

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Fourth, the proposed variance will not have an adverse effect on the physical or environmental conditions of the neighborhood. In fact, the new house will do just the opposite. The new house will be more energy efficient. It will have the potential to reduce runoff to the lake through the design of the house. When the current structure was built draining everything into the lake would not have been on the minds of the builders. That will not be the case with new construction.

Fifth, I do not believe the alleged difficulty was self created. In the law there is an old Latin phrase *Res Ipsa Loquitur*. It means "the thing speaks for itself." My point here is this, the location of the house speaks for itself. The Axtmann's did not construct the house right up on the rear property line. This was done by another party presumably with the consent of and under the color of law of the Town of Ticonderoga. The applicant in this instance seeks to correct this situation to the best of their ability by making the house more conforming on the lot. This difficulty could never be considered self created.

I believe the Axtmann's request is the minimum variance necessary after balancing the equities in this situation. Therefore, I support the application.

I am,

Yours truly



SEAN M. WALTER

Town of Ticonderoga
Assessment Office
132 Montcalm Street, Suite 5
P O Box 471
Ticonderoga, NY 12883
(518) 585-5285

May 10, 2019

To Whom It may concern,

Mr. Gibson has 4 lots that he is waiting to develop in the future. If the neighbor, Mr. Axtmann builds his house he is proposing I feel Mr. Gibsons lots will not be as valuable as they are now. He will lose his view of the Lake and will lose privacy and suffer unnecessary encroachment.

Patricia A Osier
Sole Assessor
Town of Ticonderoga
518-585-5285

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May 8, 2019

Dear Zoning Board Members,

My name is Robert J. Gibson Jr. And I am responding to an application for an area variance submitted by my next-door neighbors the Axtmann's. My family has owned and enjoyed lakefront property on the East side of Lake George in the Town of Ticonderoga continuously since the 1930's. I currently own # 43 Water Street , # 45 Water Street which consists of Lot # 1 , Lot # 2, Lot # 3, and Lot # 4 . All approved building lots . And # 49 Water Street. I have owned # 45 since 1996 , purchased # 43 from my neighbors Mr and Mrs Huntley in 2006 and purchased #49 from my neighbor Mary Jane McCaughin in March of 2008. I have a strong interest in American History and am very proud to be a part of such an historical community. I come from a family with a strong military background. I love my country, and I am very fond of my neighborhood . I have made many friends here and hope to make many more. I like to mind my own business , and avoid a conflict whenever possible. I have worked very hard to keep what I currently have . I have my life's savings invested in 6 properties here in Ticonderoga, all contiguous to each other. I can't afford or allow an act by another party to jeopardize what I have worked so hard to keep. Like any proud homeowner, you are always trying to protect your property from losing value and never welcome an act that might cause "harm " to your greatest investment. After many years of hard work and improvements, my home at # 43 Water Street (next door to Axtmann) has become a lovely vacation destination for many happy , friendly , families that love Lake George and love everything Ticonderoga has to offer . My guests add to the local economy by visiting all of the sites and businesses that are so close to this wonderful location I am proud to call " Home ". It gives me great satisfaction to see other families enjoy what I have created over the years. I personally " meet and greet " every houseguest when they stay at my property . I went through the legal process for my subdivision and gained strong support from my neighbors . I made final design changes to be sure that my " Improvements " would not harm anyone else . I made sure all of my building lots were designed with the current zoning setbacks in place. I received unanimous Town approval in 2008. It is my intention to build a new home on one of my building lots in the near future when financially possible.

In a 2-page letter addressed to the Ticonderoga ZBA dated July 27, 2008 (attached), the current applicants (Axtmann) responded to my application for my subdivision . In the letter the Axtmann's felt it was important to make sure that my lots met the " necessary setbacks " However , it is clear to me now that they don't believe they should have to follow the same rules and regulations. Then they decided to start discussing their future plans for their own property stating that they " would like to remove the present structure and build another house more central to the property, with an attached garage in the back". Essentially "move" their existing non-conforming home to another location more "central" to the property . They also mentioned that I had concerns that the new structure would limit the view of the outlet that (Lot # 2) would have". I still have those same concerns , 11 years later , including a great loss of privacy and an increase in encroachment that is already very evident . The most disturbing part of the letter was the last paragraph which ended the letter by asking for "assurances " from the Town ? What exactly happened there ? I would like to know .

I am very disappointed that my neighbors have put me in this defensive position but as I stated earlier, I can't afford or allow some act by another party to jeopardize or harm my

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greatest investment and will fight for what is right and just. I find it quite hypocritical for the Axtmanns to insist that my subdivision comply with all required setbacks, and then when it comes time for them to build, they want to increase the footprint of their new home from 702 sq. ft. to 2,650 sq. ft. an increase of over 365%, nearly 4 times the size of the present structure. Then, in the same breath, they feel they have a "hardship" because they have "chosen" to design a new house so large and have selected the layout in an area that they know is non-conforming. This by itself, is grossly "self-created". To use another design that is not so large and or is placed farther away from the property lines so it "complies" with the required setbacks will cure the self-created "hardship" and will remove the need for the area variance. This is not the only home design in the world. Nor is this the only spot on a 24,829 sq. ft. lot to place a modest, home that fits within the "building envelope" without having to "deal with" a variance from the Town of Ticonderoga, or other agencies they are trying not to "deal with". Instead of simply moving the proposed location of the new build to a spot on the lot that meets all setbacks, or reducing the size so it will meet the setbacks, the Axtmanns are asking the Town to change the rules for them when they can simply change the design so the new build is compliant. This would save everyone a lot of "heartache". This is Not reasonable, and very self-serving. I must insist that the 30 foot rear setback be recognized and enforced between the Warren property line and the Axtmanns as required by law if any new construction occurs on this property.

Furthermore, whose decision was it to increase the size from 702 sq. ft. to 2,650 sq.ft.? It was not my decision. It was not the ZBA's. It was not The Lake George Park Commission. It was not the APA. Nor was it FEMA. It was the applicants decision. The Axtmanns "created" this Monstrosity on paper. They did it by themselves. (self-created). Furthermore, who decided to choose the site and the way this was laid out along my property line instead of some other location "more central to the property" as stated in the 2008 letter they wrote to the ZBA? A site I might add, that clearly will cause more "encroachment" and less "privacy" for me and my adjoining properties. This is why we have setbacks to begin with, so each neighbor can enjoy "privacy" from another. Why can't a new home be placed in the center of the lot (24,829 sq.ft.) far enough from all setback concerns? Then they would not have to "deal with" any setback issues and they would have a "compliant" build. A home that fits within the "building envelope". This "building envelope" should have been shown on the survey so the Axtmanns could show the ZBA and the public the entire area that could possibly be used for future development and be compliant with all setbacks. Instead, the Axtmanns place the proposed new home in a way that "creates" an "imaginary hardship", a "hardship" that does not exist if they simply follow the rules and choose a house size that "fits". This is all Backwards. You need to know your "boundaries" Before you choose a house design. You can't just pick the biggest and most obtrusive design and then expect every one else to just "accommodate" your every need, and "bend" the rules for your personal satisfaction? That is ridiculous. If you will excuse me for saying so, The ZBA has absolutely no obligation to approve this application. This is such an obvious case of a "self-created" hardship, to approve it would basically legalize "encroachment" and open the flood gates for future applicants to ask for and receive an area variance simply because they want to build a larger or longer house than the setbacks allow. Again, self-created hardships are in fact "created by the applicants" Not "imposed". I am at your mercy as the one property owner who will be adversely affected and "harmed" the most if you allow such a request by the applicants. I would then be forced to challenge it, which I do not look forward to being forced to do. I would hope that when property owners have an opportunity to "improve" a non-conforming structure, they would be encouraged to use designs that would make the new structure "compliant", and Not increase the the intensity of the non-compliant structure by virtually "Expanding" the non-compliance

with a use variance and thereby "adding" to the losses of privacy and encroachment that have existed when a real "improvement" could be made by proper planning. This would also give true "relief" to a nearby property owner who may already be suffering from the non-conforming structure that could be razed and replaced with a new structure that follows the zoning regulations. By increasing the non-conforming structure by 3 times so also do the negative impact on others also increase. To assist in enlarging an already non-compliant-non-conforming structure also increases the burden of encroachment on another property owner. This does not improve the quality of life and goes against the purpose of Zoning and Planning. Does it not?

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To approve such a request would not only cause a major loss of value to my properties (especially Lot # 2) and permanently damage the visual beauty I currently enjoy, but also burden me with a certain loss of "privacy" and a certain increase in encroachment . But it would also set a very dangerous precedent that would certainly be challenged . And if it were by some chance allowed to stand , it would " lower the bar " for others to follow with similar requests and cause many years of unnecessary division and harm amongst property owners in Ticonderoga. Once you open Pandoras Box The same bad decision would be duplicated because of a bad " precedent " . It is so important to enforce these setbacks . And to reserve the use of a variance strictly as the only option . This application in my opinion and others as well, does Not warrant such relief .Any deviation from the current regulations will certainly cause an immediate and permanent Negative impact on my properties. I will oppose any effort to bend the rules for the Axtmanns convenience . My lot next to the Axtmanns is only 54' wide . I will not support any design that does not employ the required setbacks .My subdivision was designed for new building with all required setbacks in place . If I follow the zoning regulations , why shouldn't they ? Can't they respect my property rights ? I would hope that in all fairness and common decency , a design can be proposed that is reasonable, without creating the need to bend or alter the zoning regulations simply because that is the design and location the applicant wants. To impose undue or unfair restrictions or encroachments on others for the convenience of the applicant is simply unjust . I appeal to your sense of fairness and good will and ask that this application be denied as written . Perhaps the Planning Board can then help the Axtmanns come up with a "building envelope" and a reasonable design that complies with zoning regulations but does not "harm" others in the process. Then, a sensible , and reasonable design could be put forth that I may be able to support . But not this application . I would like to be able to get along with all my neighbors , but helping them ignore the rules is Not a good way to start . If the shoe were on the other foot , how would the Axtmanns like it ? The burden of proof lies with the applicants , not everyone else. There is no way in good conscience and honesty that anyone should approve this application . To approve this application would in a sense , be " weaponizing " the ZBA to be used by others in the future to "legally encroach" at will simply because they chose a design that is clearly too large for the allotted space . That is why we have "Regulations" Right ? There are many options open to the applicants that they have not explored .Good Zoning and Good Planning protects everyone. Please make the only "just" decision and deny this application for an area variance and let the applicants pick a "Friendly" design that complies . Again , I am at your mercy as a property owner who respects the law. I feel confident that you will judge fairly . They have plenty of "area" to work with .Thankyou for all of your consideration in this matter.

Sincerely,



Area variances. ZBA weigh the benefit to the applicant if the variance is granted vs. the detriment to the health, safety and welfare of the neighborhood or community by such grant.

ZBA must consider (and Applicant must prove):

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;*
- (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;*
- (3) whether the requested area variance is substantial;*
- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and*
- (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.*

ZBA shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

DISCUSSION:

- The area variance is more of a balancing test. The impact to the neighborhood is an overall consideration for the Board in reviewing a variance. Low impact perhaps equates to granting a variance whereas larger impacts may warrant denial.
- Substantial need not be simply a numbers question. A variance of 50 feet from a 100 foot setback may be 50%, but a variance of 4 feet from a 10 foot setback being only 40% may have more of an impact. As such, the "numbers" are relative to the variance at hand. Some people focus more on numbers than impact which may or may not be correct given the circumstances of the particular request.

For both area and use variances, the ZBA shall have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Practice Tip: For each variance requested, the ZBA is required to set forth its determination, and the reasons for that determination. This should be included in the minutes or in a written decision.

Minutes for the Ticonderoga Zoning Board of Appeals Meeting held on May 10, 2019 commencing at 6:00 p.m.



Friday, May 10, 2019

RE: 1 Tin Pan Aly

Dear members of the Ticonderoga Zoning Board,

Since meeting with Mr. Gibson regarding his parcels on Water Street in Ticonderoga, I felt compelled to share my concerns regarding Mr. Gibson's investment lots.

As a home designer for almost 20-years in the region as well as a licensed New York State Realtor my opinion is that Mr. Gibson's investment lots have been negatively affected by decisions outside of his control since the time of his initial investment purchases. One of the main reasons for Mr. Gibson's investment purchases was the unobstructed views of the water to the south and south-west from his parcels. Since the time of his investment the neighboring home has installed stockade fences, signs and surveillance cameras, numerous eye sores and debris, as well as boat storage both on their lot as well as the adjacent neighboring parcel.

The residential structure located at 1 Tin Pan Aly is currently a pre-existing non-conforming structure. With the information presented to me at the time of the site-meeting it appears the residential structure has additionally cleared and prepared the land closer to the water for the location of a new structure. This would certainly further impact Mr. Gibson's investment in a negative manner. With the changes to the grade at 1 Tin Pan Aly in potential preparation for the new structure the ground water on the lower neighboring lots have become extremely marshy. My opinion is that Mr. Gibson should be allowed to weigh in regarding any non-conforming structures that would further impede his view to prevent any further financial hardship on his behalf.

Respectfully,

A handwritten signature in black ink that reads 'Walter S. Swartz'.

Walter S. Swartz
Cell 518-791-1545
E-mail waltswartz@gallorealty.com

Minutes for the Ticonderoga Zoning Board of Appeals Meeting held on May 10, 2019 commencing at 6:00 p.m.



Brannock Properties, LLC
Terry Brannock, Broker, GRI
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<http://www.lakegeorgewaterfront.com>

May 9, 2019

RE: 43 Water Street-Ticonderoga, NY
45 Water Street-Ticonderoga, NY

To whom it may concern:

I have been in the local Real Estate business for 36 years and am very familiar with local valuations.

I have physically inspected the above properties and I have reviewed the application for an area variance submitted by the Axtmann's at 1 Tin Pan Alley.

The proposed location and size of the new structure would only further injure (monetarily) and encroach on Mr. Gibson's properties next door to the North where Mr. Gibson already suffers from what appears to be an almost continuous 'wall of visual interference' right down to waters edge. This is not the way I remember the property line when Mr. and Mrs. Huntley sold the property to Mr. Gibson in 2005. It was wide open with superior views! Now there is a very 'Angry' looking stockade fence and other debris piled along the property line!

I have also seen a document dated July 27, 2008 that is authored by the Axtmann's where they state to the ZBA that they intend to remove the existing house and build a new house more to the center of the lot complying with zoning setbacks. If approved, I would assign a great loss of value and desirability to Mr. Gibson's adjacent properties with the greatest loss to Lot # 2 which I can see was designed to maintain a wonderful view of Lake George. The possibility of resale would be greatly 'diminished' causing serious financial losses.

This view would be forever 'spoiled' by allowing any structure or improvements to be built between the Warren property line and the 30' rear yard setback required by zoning law.

This would set a very bad example or precedent for others to follow. There seems to be no reason for an 'area' variance where there is plenty of 'area'.

To approve this application would 'cause a hardship'... for Mr. Gibson. Setbacks are important to maintain 'privacy', one of the most valuable components in a real estate transactio along with a great view" Especially on Lake George!

Sincerely,


Terry Brannock
Brannock Properties/Broker/Owner

<http://www.lakegeorgewaterfront.com>

**Minutes for the Ticonderoga Zoning Board of Appeals Meeting held on May 10,
2019 commencing at 6:00 p.m.**



111 Fulton Avenue
Poughkeepsie, NY 12603-2807
July 27, 2008

Linda K. Moore, Clerk
Zoning Board of Appeals
Town of Ticonderoga
Ticonderoga, NY 12883

Dear Ms. Moore:

The Axtmanns, of 1 Tin Pan Alley in Ticonderoga, are in receipt of the letter regarding the hearing of Robert J. Gibson, Jr and his application for a variance and subdivision at 45 Water Street. Unfortunately, we will not be able to attend this meeting.

We recently spoke with Mr. Gibson regarding his subdivision and made known to him some of our concerns. We inquired as to what the structures on the proposed four parcels would be and what purpose they would serve. Mr. Gibson told us that he is proposing four houses that might possibly be used to house family members or could possibly be rented out during the summer months.

We voiced our concern over the fact that there might be transient people in the neighborhood. We were assured by Mr. Gibson that he would efficiently screen each and every possible tenant, because he is also planning on building a home for himself on one of these parcels. He would not want anyone on his property that might possibly destroy anything that he builds, including his relationship with the neighbors.

We also voiced our concern about the possibility of his changing the character of the neighborhood, and once again we were assured by Mr. Gibson that that would not be an issue. He hopes only to make the neighborhood better by his future construction.

**Minutes for the Ticonderoga Zoning Board of Appeals Meeting held on May 10,
2019 commencing at 6:00 p.m.**

If the Town feels that Mr. Gibson meets all the necessary setbacks and any other requirements that the Town has set, and is willing to grant him the variance to establish four individual lots on this property, then the Axtmanns have no objections.

The only other concern that we have involves the future development on our own property. Our present house sits on the far Northeastern most corner of our property. In the future we would like to remove the present structure and build another house, more central to the property, with an attached garage in the back. This would all be done within the designated Town setbacks. A preliminary drawing of our future plans has been presented to Mr. Wayne Wagner in the Zoning Department.

Mr. Gibson voiced a concern that our plans for future development would limit the view of the outlet that his second structure would have.

We would like some kind of assurance from the Town that if we agree to the present request by Mr. Gibson for his subdivision, that we would not have any repercussions from the neighbors, when we proceed with the future developments on our property.

Thank you for giving us this opportunity to voice our opinion.

Sincerely,

Marianne K. Axtmann
Edward J. Axtmann

Marianne K. Axtmann
Edward J. Axtmann