

**TOWN OF SOMERSET
ZONING BOARD OF APPEALS
November 27, 2012**

Present: Herbert Linderman, Chairman
Scott Ecker
Frederick Leuer
Kent Wakefield
Joseph Provencher, Alternate
Morgan Jones Jr., Counsel

Absent: Norman Atwater

Chairman Herbert Linderman called the meeting to order at 7:30PM and invited Joseph Provencher to participate in the absence of a regular member.

PUBLIC HEARING

Chairman Linderman opened the public hearing at 7:31PM.

Clerk Connolly read the notice of said hearing that was duly published in the Lockport Union-Sun & Journal on November 1, 2012 with the same notice being posted on the same day at the Town Hall and on the Town website:

D. ELIZABETH HIGGINS OF 8735 Lakeview Drive, Barker, NY 14012 for property located at 8734 Lakeview Drive Barker, NY 14012 (Tax Map ID: 2.14-1-75) for VARIANCE to allow for a primary residence to be built on a lot measuring 75 feet (frontage) by 194 feet located at the above location pursuant to Article VI Section 205-23 of the Code of the Town of Somerset. The Code of the Town of Somerset states that all lots located in the Lake Shore Residential zone must have a minimum frontage of 100 feet and 20,000 sq. ft. minimum lot space.

Clerk Connolly stated all neighbors were notified with no comments being received.

Chairman Linderman addressed Elizabeth Higgins asking her if she owned the lot and for how long.

Elizabeth Higgins said she did and has owned it since 2006.

Chairman Linderman asked if her intentions were to build.

E. Higgins said at some point. She said the plan is when one of them is left the remaining one will move across the street.

Chairman Linderman said it is exactly like the neighboring lot.

F. Leuer asked what the side yard setback is.

Attorney Morgan said it is 15 feet from the side.

F. Leuer asked is what the distance a driveway and the property lines.

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Attorney Jones said there is none.

F. Leuer said so technically you could get out of their vehicle and step onto the neighbor's property.

Chairman Linderman asked if the lot is adjoining the Reimer lot.

Mrs. Higgins said yes.

Attorney Jones asked if there is any structure on the lot now.

Mrs. Higgins said no.

Chairman Linderman said the lot is on the sewer line, is the same as the other lots in the area and is part of the Coates subdivision.

Kent Wakefield said the subdivision went into effect in 1958.

Chairman Linderman asked if there has to be two variances.

Attorney Jones said everything can be covered in one.

Paul Higgins said the stakes are 25 feet from the center of the road and go to the back.

Attorney Jones said the tax map shows 194 feet from the edge of the road.

S. Ecker asked if this is the same issue as we had at the October 25, 2011 meeting with the Reimer property.

Chairman Linderman said yes with the difference being they (Reimer's) had owned it for many years.

S. Ecker said at that point the neighbors were against a house being put on that.

F. Leuer said the Reimer's wanted to sell the lot as a building lot.

K. Wakefield said the owner of the Reimer lot had a non-conforming lot and had owned it prior to the change in the zoning in 1984.

Chairman Linderman said the lots are the same and part of a subdivision and there is no physical reason that it shouldn't be treated like all the other 75 foot lots in the area. He said there is no drainage going through it.

Attorney Jones said the lot to the east is a double wide lot.

Chairman Linderman said it has a house and barn on it. He asked if she owns directly across from the lot.

Mrs. Higgins said yes.

F. Leuer asked if you have a plan to build in the future.

Mrs. Higgins said at some point I would like to start.

S. Ecker asked what her concerns were with Mr. Reimer.

Mrs. Higgins said he wanted to have permission to sell the lot as a building lot without any information on the building. She said he was not going to build to live there; he was going to rent it or sell the lot. She said there were too many unknowns and that she owns this lot.

S. Ecker said he was going to build a house on an undersized lot. He asked if you had any other concerns.

Paul Higgins said the lot is overgrown and not kept up. He said the lot is still for sale.

Chairman Linderman said he feels it is a legal lot because it is part of a subdivision.

K. Wakefield said the lot was bought in 2006 and asked if they knew it was a non-conforming lot at that point.

Mrs. Higgins said correct.

S. Ecker said there is no created hardship.

Attorney Jones said it is a self created hardship but doesn't preclude granting the variance.

Chairman Linderman said it is part of a subdivision.

Mr. Higgins said they tried to buy the Reimer lot.

Attorney Jones said he reviewed the LWRP (Local Waterfront Revitalization Plan) and it says the area along Lakeview Drive should be developed for residential use as allowed under the zoning code.

F. Leuer asked if they will be able to sell it as a building lot if they don't use it.

Attorney Jones said yes.

F. Leuer said the Coates may sell off more property in the future.

S. Ecker said they may get depth but not frontage.

K. Wakefield asked if a variance is granted do they have to be 15 foot back from the property line.

Attorney Jones said yes.

F. Leuer said there is plenty of space and will not be encroaching on the neighboring property.

Mr. Higgins said they can meet the 1,000 square foot minimum building.

Mrs. Higgins said it would be the same size as their house across the street that is on a 50 foot lot.

F. Leuer said they cannot build a garage on the lot without a house.

Attorney Jones said correct.

Chairman Linderman said the lot is big enough.

With all people desiring to be heard, Chairman Linderman closed the hearing at 7:52PM.

REGULAR MEETING

Chairman Linderman opened the regular meeting at 7:52PM.

APPROVAL OF THE MINUTES

On a motion of F. Leuer, seconded by H. Linderman, the following resolution was
ADOPTED Ayes 5 Linderman, Ecker, Leuer, Wakefield, Provencher
Nays 0

Resolved the minutes of the October 15, 2012 meeting be approved as submitted.

NEGATIVE SEQR DECISION

On a motion of F. Leuer, seconded by H. Linderman, the following resolution was
ADOPTED Ayes 5 Linderman, Ecker, Leuer, Wakefield, Provencher
Nays 0

Resolved in the matter of the application of **D. ELIZABETH HIGGINS OF 8735 Lakeview Drive, Barker, NY 14012 for property located at 8734 Lakeview Drive Barker, NY 14012 (Tax Map ID: 2.14-1-75)** for VARIANCE to allow for a primary residence to be built on a lot measuring 75 feet (frontage) by 194 feet located at the above location pursuant to Article VI Section 205-23 of the Code of the Town of Somerset; the Town of Somerset Zoning Board of Appeals names itself Lead Agency and declares there will not be a negative impact on the environment based upon the application submitted.

Chairman Linderman went through the check list for granting the variance as follows:

1. The benefit cannot be achieved by other means.
2. The property will not be an undesirable change to the neighborhood.
3. The request is on par with the neighborhood.
4. There will be no adverse environmental effects.
5. The difficulty was self created but could be done by any unsuspecting person looking at the lot from the character of the neighborhood.
6. The lot conforms to the LWRP for residential use.

DECISION – D. Elizabeth Higgins for 8734 Lakeview Drive

On the motion of J. Provencher, seconded by F. Leuer, the following resolution was

ADOPTED Ayes 3 Linderman, Leuer, Provencher
Nays 2 Ecker, Wakefield

RESOLVED that the application of **D. Elizabeth Higgins**, for property located at 8734 Lakeview Drive, Barker, NY 14012 shall be **APPROVED** in accordance with the application with the following conditions:

1. This Variance shall conform to ordinances of the Town of Somerset in all other respects.
2. Any violation of the conditions shall be grounds for revocation of this permit.
3. The premises shall be kept neat and orderly.
4. A building permit must be obtained from the Code Enforcement Officer prior to commencing construction.
5. The Variance is granted for a residence to be built as the principal use on the property.

COMMUNICATIONS

Code Enforcement Officer's monthly reports for October was received and filed.

RULES OF PROCEDURE

Extensive review and discussion was held regarding the rules of procedure. Chairman Linderman asked Clerk Connolly to finalize the document for review at a future meeting.

Chairman Linderman called a meeting for December 20, 2012 at 7:30PM to further discuss the rules of procedure.

There being no further business, S. Ecker moved to adjourn the meeting at 9:25PM, seconded by F. Leuer. Carried unanimously.

Respectfully submitted,

Rebecca A. Connolly, MMC
Town Clerk/Secretary