

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

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

Chairman Herbert Linderman called the meeting to order at 7:30PM.

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 September 19, 2012 with the same notice being posted on the same day at the Town Hall and on the Town website:

DENISE PHILLIPS, 9802 Haight Road, Barker, NY 14012 for property located at 9800 Haight Road, Barker, NY 14012, (Tax Map ID: 19.00-1-15.12) for a VARIANCE to allow for a primary residence to be built on a lot measuring 230.93' (frontage) by 250' 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 Agricultural District must have a 60,000 sq. ft. minimum lot space.

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

Chairman Linderman said the lot is in between two other houses. He asked where on the lot the house would be built.

Tim Phillips, 9802 Haight Road, said the house will be in the middle of the lot.

S. Ecker said the lot was purchased in the 70's and he asked when the 60,000 square footage took effect.

Clerk Connolly said around 1984.

Chairman Linderman said it was a legal lot prior to that.

S. Ecker said the lot is just shy of the required square footage and the rear lot line is straight with the other properties.

Chairman Linderman asked who owns the property to the rear.

Tim Bergman, 9776 Haight Road, said he did.

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Chairman Linderman asked who sectioned off the lot.

Mr. Phillips said his grandfather did. He explained various lots were given to family members.

Chairman Linderman asked if it would be possible to obtain more property.

Mr. Bergman said he would hate to have a jog in the property of 11 feet in case he put up a fence.

Attorney Jones said they would need 50 feet more as the survey shows it from the middle of the road and includes the road right of way.

Mr. Phillips said the lots are all the same and it was legal at one point.

Jane Phillips said Howard Diez (grandfather) owned all the property. She said the lots were sectioned off and all the lots are owned by relatives.

Mr. Phillips said the east side of him is owned by his nephew, Atwater farms.

J. Provencher asked who legally owns the property.

Denise Phillips stated she did.

With all people desiring to be heard, Chairman Linderman closed the hearing at 7:40PM.

REGULAR MEETING

Chairman Linderman opened the regular meeting at 7:41PM.

APPROVAL OF THE MINUTES

On a motion of F. Leuer, seconded by S. Ecker, the following resolution was

ADOPTED Ayes 5 Linderman, Atwater, Ecker, Leuer, Wakefield

Nays 0

Resolved the minutes of the January 24, 2012 meeting be approved as submitted.

COMMUNICATIONS

Code Enforcement Officer's monthly reports for January through August were received and filed.

NEGATIVE SEQR DECISION

On a motion of S. K. Wakefield, seconded by S. Ecker, the following resolution was

ADOPTED Ayes 5 Linderman, Atwater, Ecker, Leuer, Wakefield

Nays 0

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Resolved in the matter of the application of **DENISE PHILLIPS, 9802 Haight Road, Barker, NY 14012 for property located at 9800 Haight Road, Barker, NY 14012, (Tax Map ID: 19.00-1-15.12)** for a VARIANCE to allow for a primary residence to be built on a lot measuring 230.93' (frontage) by 250' 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 Agricultural District must have a 60,000 sq. ft. minimum lot space; 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 a variance as follows:

1. The property will be in harmony with the area.
2. There will not be a detriment to the adjacent use.
3. There will be no problem with traffic or parking.
4. There will be no overload to the water system.
5. The property is suitable for building a house.
6. There will be no excessive noise or other nuisance.
7. There will be no adverse effect to the adjacent properties.
8. There will be no congestion nor be unattractive to visitors.
9. The hardship is not self-created.
10. The lot is 83% of the 60,000 square feet.
11. There will be no detriment to the community.

Attorney Jones said there is sufficient area for a septic system.

Mr. Phillips said they have completed the perk test.

DECISION – Denise Phillips for 9800 Haight Road

On the motion of S. Ecker, seconded by K. Wakefield, the following resolution was
ADOPTED Ayes 5 Linderman, Atwater, Ecker, Leuer, Wakefield
Nays 0

RESOLVED that the application of **Denise Phillips**, for property located at 9800 Haight Road, 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 variance.
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.

JOINT MEETING WITH PLANNING BOARD

Clerk Connolly said NYSEG is applying for a variance and special use permit from the Planning Board for a telecommunications tower at their substation on power plant property. She said the Planning Board would like to have a joint meeting with the Zoning Board of Appeals on October 10, 2012. She presented packets of information regarding the application.

Attorney Jones said he has reviewed the information with the NYSEG Attorney stating the tower will be free standing; however, the ordinance says they have to have a fall zone. He said with the size of the lot, they are required to have a variance. He said they are putting the tower in the northeast corner of the lot.

RULES OF PROCEDURE

Clerk Connolly presented the Board with draft 'Rules of Procedure'. She stated the Town Board would like the Board to establish procedures for the conduct of meetings and they have asked the members review the draft and offer comments.

There being no further business, F. Leuer moved to adjourn the meeting at 8:25PM, seconded by S. Ecker. Carried unanimously.

Respectfully submitted,

Rebecca A. Connolly, MMC
Town Clerk/Secretary