

Town of Montgomery Zoning Board of Appeals Meeting
Held at the
Town of Montgomery Government Center
110 Bracken Road
Montgomery, New York 12549

July 20, 2020
Monday

7:00 PM

Present: John Fallon, Chairman
John Cossa, Member
Georgianna Watson, Member
Robert Falk, Member
Darlene Provino, Member

Also Present: Stephanie Tunic, Blustein, Shapiro, Rich & Barone, LLP - Town Attorney
Members of the Audience
Suzanne Hadden, Clerk

Agenda

7:00 PM Fernandez – East Searsville Road - Area Variance - Public Hearing

Montgomery Group LLC - NYS Route 208
Area Variance Extension Request

Approval of the December 16, 2019 ZBA Meeting Minutes

Chairman Fallon called the meeting to order.

Fernandez - East Searsville Road - Area Variance - Public Hearing

Chairman Fallon opened the Fernandez Public Hearing and read the public hearing notice into the record.

Attorney Tunic - Reviewed the mailings that were handed to her by the applicant and found the white receipts postmarked by the post office were missing.

Chairman Fallon - I think if we were to grant the variance, we could make it subject to furnishing us with the documents within 10-days, which I think he will be able to do.

Javier Fernandez, applicant - Yes, I will bring them to the office.

Chairman Fallon - Mr. Fernandez, tell us what you are attempting to do.

Mr. Fernandez - I received a grant by ARDAC from Walden to build a wheelchair ramp for me to access the home. They gave me a \$ 25,000.00 grant and I went into my pocket 11,000 and made it a porch and a ramp hiding the wheelchair ramp. If you look at the house, you would see a railing and it would add to the property rather than just a ramp; I built the whole porch. It gave me a little area and it is a covered porch, that was the whole purpose of it otherwise I would only have 3-feet aside from the ramp and it wouldn't be usable. The covered porch keeps me out of the elements.

Chairman Fallon - Was that part of the grant?

Mr. Fernandez - That is all part of the grant, yes.

Chairman Fallon - Did you have to use the grant money by a certain time?

Mr. Fernandez - By June 22nd. We lost 7-weeks of actual building time due to COVID and they didn't grant any extensions and we only had until the 22nd of June to do it. They only gave us 2 ½ weeks to complete the job or I lose the money.

Chairman Fallon - That explains why it is already built.

Mr. Fernandez - That explains why it is built, yes. We also lost 7-weeks of time to obtain the building permit as well because everybody was closed. I figured they would give us an extension with no problem, but you can't assume because it doesn't happen that way and it didn't. We were pressed for time and if that was the case I wouldn't be able to fit the whole bill. The contractor would pretty much bankrupt me. Even the cost of the lumber tripled from the time he presented his proposal to the time that he built it and that is why my out of pocket expense went from 4,000 to 11,000 within the same timeframe to the contractor.

Fernandez - East Searsville Road - Area Variance - Public Hearing

Chairman Fallon - Does anyone have any questions?

Member Cossa - Fifteen feet is what you need for the variance?

Mr. Fernandez - I believe so, it is quite a big area. I think I am only infringing by 15-feet; it is not by a lot. I have quite a bit of property well before, at least 60-feet.

Chairman Fallon - You have a big backyard.

Mr. Fernandez - Yes, I have a large backyard, but I have a large front yard as well. I am still setback beyond. My neighbor's home, Peter Bitts, the excavator, his home is even closer than mine to the road and they don't have a porch. I am still setback a good 10-feet behind that. None of my neighbors seem to have any problems with the home or what I have done.

Chairman Fallon - None are here to complain about it.

Mr. Fernandez - It actually turned out to be very beautiful, I will show you the picture.

Chairman Fallon - I have seen it. We have a letter from Orange County Department of Planning. He read the letter into the record recommending local determination. He asked the clerk if the board had received any letters or comments in opposition?

Clerk Hadden - No, we did not.

Chairman Fallon - Is there a motion to close the hearing?

Member Cossa motioned to close the Fernandez Public Hearing, seconded by Member Watson. All in favor, all ayes, motion carried.

Fernandez - East Searsville Road - Area Variance - Discussion

Member Cossa - I don't see a problem; I would be in favor of granting the variance.

Chairman Fallon - Is there a second or any further discussion?

Member Cossa motioned to grant an area variance to Javier D. Fernandez for a 45-foot front yard setback from the road for a porch with an overhang roof, subject to within 10-days the zoning board office receiving the two white receipts and a completed Affidavit of Regularity, seconded by Member Watson. All in favor, all ayes, motion carried.

Chairman Fallon - For the record, I would like to say, normally we don't like having to be confronted with something that is already a completed job, but in this case there are exceptional circumstances and the granting of this project should not in any way be considered as condoning people in the future from going ahead and doing things that they need the board's permission.

Montgomery Group LLC - NYS Route 208 - Area Variance Extension Request

Chairman Fallon - Many years ago we granted Montgomery Group LLC a variance and for a while we were bringing them back every 6-months. I think it is 18-months now?

Clerk Hadden - Yes, 18-months.

Attorney Tunic - The application is dated December 29, 2008.

Chairman Fallon - Is there any opposition to granting another 18-months? No board members had any opposition for granting the extension.

Attorney Tunic - I wanted to state it is Zoning Code Section 13-20-60, which provides that they shall automatically expire if construction under the permit is not started within 90-days of issuance and completed within one-year. Extensions of these periods may be granted by the Zoning Board of Appeals where good cause is shown.

Chairman Fallon - Is there a motion to extend for 18-months? Going back to the date that it expired.

Clerk Hadden - Yes, June 30, 2020.

Chairman Fallon - So, it would be from July 1st to December 31, 2022.

Member Falk motioned to grant an 18-month extension to the Montgomery Group LLC for the area variance to extended from June 30, 2020 to December 31, 2022, seconded by Member Provino. All in favor, all ayes, motion carried.

Member Provino motioned to adjourn the meeting, seconded by Member Watson. All in favor, all ayes, motion carried.