

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

October 19, 2020  
Monday

7:00 PM

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

Absent: Darlene Provino, Member

Present via call in: Stephanie Tunic, Blustein, Shapiro, Rich & Barone, LLP - Town Attorney

Also Present: Members of the Audience  
Suzanne Hadden, Clerk

Agenda

7:00 PM Planning Board Interpretation/ Appeal of  
Building Department's Determination regarding  
Butler Construction - Dunn Road - Public Hearing

7:00 PM Redner - Smith Lane - Area Variances - Public Hearing

Approval of the December 16, 2019 ZBA Meeting Minutes

Approval of the July 20, 2020 ZBA Meeting Minutes

Chairman Fallon called the meeting to order.

Redner - Smith Lane - Area Variances - Public Hearing

Stanley Redner, applicant handed the mailings to the zba clerk. The mailings will be reviewed by Attorney Tunic.

Chairman Fallon read the Redner Public Hearing notice into the record.

Mr. Redner - I had two heart transplants and I can't do work around my house anymore because of the funguses in the air. My cousin moved in with me upstairs and he is doing the work for me, so I don't have to take a chance of getting sick. All I want to do is take the stairwell that goes from the first floor to the second floor and close it off, so he has privacy. I don't want to add anything else; I just want to close it off. The second floor has been there since I bought the house. The bedroom and bathroom are up there already, I just want to close it off for him because his girlfriend has been coming over more, just to give them some privacy.

Chairman Fallon - Does it have a kitchen up there?

Mr. Redner - There is a kitchen up there now. I put in a small stove for him, so he can cook.

Chairman Fallon - How do you exit from that apartment?

Mr. Redner - There is an entrance that has always been there on the outside, that goes up to the second-floor platform and then he has an emergency ladder that will go out the window for a second escape.

Chairman Fallon - And how about parking?

Mr. Redner - The parking is on the side of the house. There are probably three or four spots that have always been there. I use two spots in my main driveway and then there is a stone section on the side of the house, right where his entrance is to go in.

Chairman Fallon - This property is on a private road?

Mr. Redner - Yes sir.

Chairman Fallon - Does it have its own separate electrical services for that?

Mr. Redner - No, it is all part of the main house. The sewer is all part of the main house as well. The bathroom was up there and all the electrical was up there when I bought the house.

Chairman Fallon - Has the building inspector inspected the house, or did he just write the letter that we have?

Mr. Redner - He wrote the letter.

Redner – Smith Lane – Area Variances – Public Hearing

Chairman Fallon – He hasn't looked at the house itself, as to whether it can be converted?

Mr. Redner – No.

Member Falk – Was this always a separate second dwelling?

Mr. Redner – No, there is a stairwell that goes from the first floor to the second floor.

Member Falk – Inside or outside?

Mr. Redner – Inside and there is a stairwell outside as well. The bedroom, bathroom and kitchen area were always up there. There was always a sink there. When I bought it there was no stove there, but there was a gas line. I just set the stove in there for him, I got one of the small ones just so he could cook up there and he wouldn't have to come downstairs for anything.

Member Falk – It wasn't a separate second apartment?

Mr. Redner – No, I think the original owner, I think his son lived up there.

Member Falk – That access comes from your area of the house.

Mr. Redner – Yes, there is a stairwell in my living room, that goes up into the living room upstairs and then there is another stairwell outside that goes to a 10 by 10 platform.

Member Falk – And you want to block that stairwell off?

Mr. Redner – Just the stairwell that goes from the first floor to the second floor. I want to take his living room and give him more living room space and put a floor there and then it would be a closet downstairs for me. I wouldn't take the stairwell out, I would leave the stairwell and put one of those sliding doors on the bottom to make it a closet.

Chairman Fallon – How is the upstairs heated?

Mr. Redner – From the boiler on the first floor, it is all baseboard.

Chairman Fallon – So, basically all the utilities would still be one.

Mr. Redner – Yes, they are still under the house.

Chairman Fallon – I would like to see if the building inspector could inspect the property to see if it could be, forgetting about the requirements of the square footage, that it could be made into two units of livable space there.

Redner – Smith Lane – Area Variances – Public Hearing

Attorney Tunic – I agree with the chairman. I think that an inspection would be in order here because I'm assuming you did not get a permit for when you put in the stove, when you connected that gas line. I think that would be prudent to ask the building inspector to make sure everything was done up to Code in that regard, because nobody inspected when you put in the kitchen, right?

Chairman Fallon – Your kitchen consists of a stove?

Mr. Redner – Yes, it doesn't have the gas line hooked up to it.

Chairman Fallon – Does he have a refrigerator?

Mr. Redner – He has a frig up there.

Chairman Fallon – I think I would like to see the building inspector inspect the premises to see if it can be changed into a two-unit house. The other fact is, you only have so much square footage of lot area, that can't be changed and that wasn't caused by you. Since you are not asking for any additions to the house, that is a good thing in your favor, but I think I would like the building inspector to be able to tell us that this can successfully and legally be changed into what you want. Does anyone object to that? No board member present objected. What we would like to do, is hold open the public hearing until November 16<sup>th</sup> at 7:00 p.m. Sue, can you talk to the building inspector?

Clerk Hadden – It would be best for Mr. Redner to call Walt and set up an appointment, so he can come to your home when it is convenient for you. You can call the building department and set up an appointment and I will let Walt know in the morning.

Member Cossa motioned to adjourn the Redner Public Hearing to November 16, 2020 at 7:00 p.m., seconded by Member Watson. All in favor, all ayes, Member Provino was absent, motion carried.

Planning Board Interpretation/ Appeal of Building Department's Determination regarding Butler Construction - Dunn Road - Public Hearing

Attorney Tunic - I'm assuming there is nobody in the audience?

Chairman Fallon - There is somebody in the audience. Are you here for some reason?

Beverly Mertz, audience - I was just wondering what the ruling was going to be on the Butler Construction appeal?

Chairman Fallon - Butler Construction is not on tonight. It is going to be November 16<sup>th</sup>.

Attorney Tunic - I wanted to say for any members of the public that are there and for the record, for the minutes to reflect that the Butler Construction appeal by the planning board, the entire matter was cancelled for tonight until November 16<sup>th</sup>.

Chairman Fallon - There is no public hearing tonight on it, it is going to be on November 16<sup>th</sup> at 7:00 p.m. and you are more than welcome back.

Approval of the December 16, 2019 ZBA Meeting Minutes

Member Cossa motioned to accept the December 16, 2019 ZBA meeting minutes as presented, seconded by Member Watson. All in favor, all ayes, Member Provino was absent, motion carried.

Approval of the July 20, 2020 ZBA Meeting Minutes

Member Falk motioned to accept the July 20, 2020 ZBA meeting minutes as presented, seconded by Member Watson. All in favor, all ayes, Member Provino was absent, motion carried.

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