

# TOWN OF ERWIN

## Zoning Board of Appeals

### MINUTES 07/28/15 MEETING

**PRESENT:** Vice Chairman Ruth Fisher McCarthy, Jay McKendrick, Kris West  
**ABSENT:** Chairman Frank Thiel, Bridget Ackerman, Angela Narasimhan  
**GUESTS:** Gavin Roush, Gary Roush, Rita McCarthy, Barbara Lucas

#### **CALL TO ORDER:**

At 7:00 PM, Vice Chairman Ruth Fisher McCarthy called the meeting to order in the meeting room of the Erwin Town Hall, 310 Town Center Road, Painted Post, NY 14870.

#### **MINUTES:**

Minutes of the 5/26/15 meeting were not adopted due to insufficient members present to vote.

## **2015-05**

**Request from Gavin B. Roush for an Area Variance at 48 Overbrook Road to allow two driveways where one is allowed. Variance of §130-67.D is requested. With Public Hearing.**

Notification of this action was sent to 26 adjacent property owners. A legal notice of this action printed in the Town's official newspaper, the Star Gazette on July 19, 2015, and in The Leader.

This is a Type II action under the State Environmental Quality Review Act. ***No SEQR action is required.***

The property is located in an R-12.5 Residential Zone.

The Applicant seeks to add a second driveway as the current driveway is very steep. The request is to have two driveways where one is allowed.

Therefore, the Applicant is requesting a variance of one additional driveway.

The application was presented by Gavin Roush. Mr. Roush noted that he had previously hired Doug Gross Construction to remove trees and stumps on his property. A temporary gravel path was created by the contractor to facilitate the large equipment in use and to prevent erosion during the work. The temporary path provides access to the house elevation which is much less steep than the existing driveway. He noted that he has had difficulty in the winter with the existing driveway because his vehicle does not have 4-

wheel-drive. He would like to pave the temporary path created by Doug Gross Construction creating a fairly level approach to the rear of his garage and create a drive through garage. He emphasized that although it appears he started construction prior to seeking approval of the Zoning Board, the apparent construction is the result of the Doug Gross project.

Member Kris West noted that the existing driveway does not appear to be very steep and asked if the slope was known.

Mr. Roush noted that the first ten feet of the driveway is not very steep, but it becomes very steep from that point on continuing to the top. Although he did not know the measured slope, he noted that he was not able to reach the top of the driveway on two occasions the previous winter.

Acting Chairman Ruth Fisher McCarthy noted that the proposed design would be similar in character to a circular driveway already in existence in the neighborhood. She asked Mr. Roush whether he had considered any alternatives to paving the temporary construction path.

Mr. Roush noted that he had considered possibly creating a loop from the existing driveway without extending the construction path to the road creating a curb cut. Another alternative would be to simply leave the path unpaved and use the existing driveway.

Member Kris West directed a question to the Board regarding the purpose of the Zoning law which limits the number of curb cuts for a property.

Town Manager Rita McCarthy noted that it is a safety issue which limits the number and distance between possible intersections.

It was noted that the minimum distance between any two driveways is 30 feet, when the driveways are on one property or on adjoining properties. The distance between the proposed curb cuts on Mr. Roush's property was estimated at 70 feet. The distance from the proposed driveway to the curb cut on the neighboring property would be designed to meet the required minimum.

#### **VICE CHAIRMAN MCCARTHY OPENED THE PUBLIC HEARING AT 7:16 PM**

The following responses to notices were received prior to the meeting and noted:

*Gary and Susan Roush of 43 Overbrook Road:*

*We live directly across the street from 48 Overbrook Road so we are property owners within 500 feet per the letter we received dated 8 July 2015 pertaining to a request from Gavin Roush to allow two driveways. His driveway is very steep making its use in the winter time problematic. A second driveway further up Overbrook to access the back side of his garage is a good idea as it would be almost flat. So we support his request for a two driveway variance.*

Thomas Barry and Susan Barry of 46 Overbrook Road:

*We own the property adjacent to the Roush Home. We would just like to advise the Board that we have absolutely no problem with the request of Mr. Roush to allow for another blacktop driveway on his property. We are on the downhill side of his property and do not believe that there would be adverse effects on the physical or environmental condition of the neighborhood. As with most homes in the area, water will drain off the side of the driveway into his own yard and some drainage will go out to Overbrook Road and into the drainage system. From an appearance point of view we believe that this parcel of land is large enough to easily allow for a second driveway as the two driveways are at the opposite ends of the property allowing for a fairly large separation for landscaping.*

*Thus we support the request of Mr. Roush. Additionally we note that our neighbor is doing a number of improvements to his property which will only serve to enhance the value of our properties.*

Janis Dieringer and Chris Dieringer of 47 Overbrook Road:

*We are writing in response to your letter dated July 8<sup>th</sup>. With regard to the pending request for an Area Variance related to two driveways at the above stated property, we have no objection to granting this request.*

*We appreciate the opportunity to comment on this request. Please relay these comments to the Zoning Board of Appeals at the 7/28 session.*

**VICE CHAIRMAN McCARTHY CLOSED THE PUBLIC HEARING AT 7:17 P M.**

**The ZBA considers the Area Variance application and the public comment and makes findings on each of the Area Variance criteria:**

**(1) THE REQUESTED VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD.**

**All members agreed that the variance would not produce an undesirable change. The lots are large and there are two similar driveways in the area.**

**(2) THE REQUESTED VARIANCE WILL NOT CREATE A DETRIMENT TO NEARBY PROPERTIES.**

**All members agreed that the variance will not create a detriment. The location of the property is along a straight section of road so that line of site is acceptable and safety would possibly be improved.**

**(3) THERE IS NO OTHER FEASIBLE METHOD AVAILABLE FOR THE APPLICANT TO PURSUE TO ACHIEVE THE BENEFIT THE APPLICANT SEEKS OTHER THAN THE REQUESTED VARIANCE.**

**All members agreed that there are other feasible methods available. It was noted that given the existing conditions the most feasible method would be to take advantage of the opportunity presented by the temporary construction.**

**(4) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL.**

**All members agreed that the requested variance is substantial.**

**(5) THE VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT.**

All members agreed that there would be no adverse effects.

**6) THE ALLEGED DIFFICULTY WAS NOT SELF-CREATED. (THIS CONSIDERATION SHALL BE RELEVANT BUT SHALL NOT NECESSARILY PRECLUDE THE GRANT OF THE AREA VARIANCE)**

All members agreed that the difficulty was self-created. The steep driveway existed when the house was purchased .

**MOTION TO APPROVE VARIANCE REQUEST 2015-05 FROM GAVIN ROUSH FOR A SECOND DRIVEWAY ON THE PROPERTY AT 48 OVERBROOK ROAD SUBJECT TO APPROVAL OF THE HIGHWAY SUPERINTENDENT**

**MOVED: KRIS WEST**

**SECONDED: RUTH FISHER McCARTHY**

**VOTE: 3-0**

**THE MEETING WAS ADJOURNED BY UNANIMOUS CONSENT.**