

PUBLIC HEARING AND MEETING OF THE HANCOCK ZONING BOARD OF APPEALS
MONDAY, FEBRUARY 11, 2019 AT 3:00 P.M., HANCOCK VILLAGE HALL,
85 EAST FRONT STREET, HANCOCK, NEW YORK

The Meeting/Public Hearing was called to order at 3:00 P.M. by James Picozzi. Roll call was taken by Clerk/Treasurer Phyllis Falsetta

Present: James Picozzi
Edward White
Patricia Morgan-Rosas - Excused

Also Present: Phyllis Falsetta, Clerk/Treasurer
Peter Hathaway, Village Code Enforcement Officer
Wanda Raksyk, Bozena McNeill, Glen & Nancy Roberts and Leonard E. Sienko, Jr.

Chairman James Picozzi introduced the members of the ZBA and read the Notice of Public Hearing. It was confirmed that Clerk Falsetta had not received any written correspondences from neighbors. Mr. Picozzi explained that in reference to SEQRA, this matter is a Type II action which presumes that there will be no environmental impact and was not necessary to complete. Mr. Picozzi also spoke with Shelly Johnson of the Delaware County Planning Department regarding the 239 review application that had been submitted and presented to the county. The county agreed that there was no action necessary. The 239 approval will be mailed and then submitted as part of the record.

Mr. Picozzi also explained to the applicants the purpose of a ZBA hearing and the questions that must be answered.

1. Purpose – Is the applicant entitled to what they are requesting
2. Need – The applicant must present evidence of necessity

Mr. Picozzi also pointed out that he reserves the right to stop the meeting in the event of an argument or inappropriate behavior.

The purpose of the public hearing was to consider an area variance submitted by Wanda Raksyk of 171 West Main Street. Ms. Raksyk had submitted a building permit application for a “car port”. The permit was issued based on the information provided in the application. Once it was discovered that the setback requirements were not met on the south (back) and west sides of the property and that a deck was being built on top of said “car port” the Village Code Enforcement Officer issued a stop work order.

Ms. McNeill spoke on behalf of Ms. Raksyk due to a language barrier. Ms. McNeill pointed out that Ms. Raksyk was not aware that she didn’t have the setback requirements. She believed that the issuance of the building permit was all she needed.

According to Mr. Hathaway, Village Code Enforcement Officer, upon inspecting the “car port” it was discovered that the “car port” was larger than originally presented with the permit application, the setbacks had not been met and that there had been no mention of a deck on the application. At that time, Mr. Hathaway phoned Ms. Raksyk to inform her of the issues and that the project was to be stopped immediately. A formal stop work order was issued. He also informed her that she would have to apply to the ZBA for a variance.

ZBA Member Ed White pointed out that the drawings presented with the building permit application were very vague.

Leonard E. Sienko, Jr., Esq. was present to represent Viola Rhodes of 186 West Front Street whose property abuts the south (back) side of Ms. Raksyk’s property.

Mr. Sienko pointed out that Ms. Raksyk's contractor was the previous owner of the property, Mr. Opalka. He also pointed out that Ms. Raksyk does not have access to a "car port" as she does not have a driveway or a right of way to it. Mr. Sienko cited that according to NYS Building Code, an elevated deck must be attached to a structure's framing and that there can be no storage beneath "never mind a car port". It is his belief that the frost footing requirements, live loads, and guard rail requirements have not been met. Nor were the proper materials used in construction. Photos of the project were submitted into record. Mrs. Rhodes is opposed to the project as it is almost on the property line and against her lilac bushes. Mr. Sienko's opinion is that Ms. Raksysk is not merely requesting an area variance but also a use variance, since it was never disclosed their intention to build an elevated deck.

Mr. Sienko requested that no variance be granted and that the "offending" structure should be ordered removed as a safety hazard. A written summary of Mr. Sienko's statements were submitted into record.

Glenn Roberts of 159 West Main Street, the neighbor that a-butts Ms. Raksyk's property on the east side expressed concerns regarding the safety of the elevated deck.

Ms. Raksyk is more than willing to cooperate with both the neighbors and the Code Enforcement Officer. By removing approximately 5 ½ feet from the back of the deck facing Mrs. Rhodes' property, an area variance would not be required. It was agreed that upon direction from the Code Enforcement Officer the completed project would comply.

No action was taken and another hearing will be scheduled within the 60 day time period.

The meeting was adjourned at 3:40 P.M.

Respectfully Submitted by:

Phyllis Falsetta, Clerk/Treasurer