

**ZONING BOARD OF APPEALS
Town of North Greenbush
2 Douglas Street
Wynantskill, NY 12198
Meeting Minutes
June 12, 2019**

Attendance: John Dalmata, Richard French (Chairman), Leanne Hanlon (Secretary), Michael Miner (Building Department) absent, Robert Ewing, Tony Crusetti, Louise Germinerio-absent, Al Kolakowski (Legal Counsel).

Chairman French opened the meeting with the Pledge of Allegiance and roll call. Chairman French also explained the special permit rules.

Old Business:

None

New Business:

Application 19-16, for the area variance request of Thomas Dingley, 190 Pershing Avenue, Wynantskill, NY 12198, for the purpose of allowing an in-law apartment located above the existing detached garage, at the property located at 190 Pershing Avenue, Wynantskill, NY 12198, in an R1 district, having parcel ID#: 124.10-6-25.

Mr. Dingley explained his application. He wants to convert the storage area over the garage into living space. It is attached that is why he believes this would be an area variance. Chairman French stated the law requires this to be a special permit. He also said this has to be within the current building. The BD also stated to Chairman French that this is still a special permit and nothing has changed. Chairman French stated even though Mr. Dingley stated on the application that this is within the comprehensive plan and Chairman French stated it is not. He also stated the garage was built without a permit. He did not ask for an apartment he asked for a caregiver/receiver dwelling unit. If he had accidently built a garage that needed an area variance the board may have approved it however this is different. This board cannot run against the code and this is a special permit or a use variance. It is very rigid as to what the board can and cannot do. The only way around it is to petition the board to have the zoning changed.

Mr. Ewing is recommending that this application be dismissed. Chairman French asked if this is a fatal error. This is a garage with an apartment over it already built.

Public Hearing Opened:

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Andrew Mair, DeFreestville: This is not an area variance it is a use variance request. It pertains in the way the property will be used. He recited permitted uses in R1 district. A second detached dwelling is not a permitted use in an R1 District. There is a specific provision in our code that permits more than one principal building on one lot and it is clearly prohibited. You are not permitted to have two dwellings on one parcel. The town addressed the in-law apartment caregiver care receiver regulations and took time to get these zoning regulations in place because it was a problem. If granted this would harm the local law that was very well thought out. He is asking that this be denied.

Motion made to close public hearing by Mr. Ewing and seconded by Mr. Crusetti. All in favor.

Chairman French is personally opposed as to the way this was written.

Undesirable change character of neighborhood: Yes per the board

Benefits sought by applicants are pursued other than area variance: Yes, the applicant started the project without application and permits. It needs to be attached.

Substantial: Yes if we grant this we will have them all over town and disregard the law.

Adverse effect on physical and environmental conditions: No

Self created: Absolutely and does preclude for the reasons mentioned above.

Single family home – Type II SEQRA-unlisted

There are so many others in the town that have illegal apartments.

Andrew Mair stated the caregiver and care receiver is a good local law. This board now has this tool of the caregiver law. This law solves this problem.

Chairman French made a motion to deny based on the findings and seconded by Mr. Dalmata.

Roll call vote: Dalmata, Crusetti, French, Ewing all **denied**.

Motion made to approve May 2019 meeting minutes by Mr. Dalmata and seconded by Mr. Crusetti. All in favor.

Motion made to adjourn at 6:57pm by Mr. Dalmata and seconded by Mr. Crusetti.