

TOWN OF EAST BLOOMFIELD

May 24, 2023

Zoning Board of Appeals Members Present, Sonja Torpey, Art Babcock, Tim Crocker, Rosemary Garlapow

Absent: Mark Thorn

Others Present: Christel Daggett (Secretary), Aric Lesperance (Applicant)

Torpey opened the meeting at 7:00 pm. The Board opened the public hearing and waived the reading of the public notice.

I. Area Variance, TV2-23 Owner Aric Lesperance 7600 Route 5&20 Tax Map # 67.00-1-60.100 Side setback variance of 15.5 ft. requesting 34.5 ft. at the closest corner where 50 ft. is required. Request to build in the same location as previously torn down Single-Family home slightly different footprint.

Lesperance would like to build a new house in the same footprint of the previous one that was there. He is asking for a setback variance from the 50 ft, down to 34.5 ft. as well as the pole of the flag lot. Lesperance stated he is asking for two variances. One is to put the house in the pole of flag lot the other for a setback variance from 50 ft. to 34.5 ft.

Garlapow asked if the old house was in the flag Lesperance stated yes, they tore down the old house and are starting from scratch. The old house had extensive damage to the foundation. Torpey asked Babcock if he knew of any prohibition against the building in the pole of the flag lot, other than the setbacks? Babcock stated that this is an existing, pre-existing, non-conforming lot. The other part of it is you weren't allowed to build in an AR-2 until your lot became 275 ft. of width. So, you needed 275 ft of width allegedly in order to be in a buildable location in your flag lot typically on the flag lot it didn't have the 275 ft width in the flag your setback was not from the right of way, but your front setback was from the front line of that flag.

Babcock stated what was presented in the packet wasn't shown as multiple variances just one side yard setback presented in what we are reviewing. Lesperance stated that when he and Rayburn talked the application had the variance piece it had setback, and another reference as well where Rayburn handwrote 15.5 feet variance 34.5 closest corner where 50 is required. Lesperance stated that may have been a double variance as well. He stated he had been before to get a variance for in front of the primary structure and in the pole.

Torpey said by the way of the layout it looks like the other house was smaller. Is that the footprint or an approximation? Is the setback reduced further because of the new plan. Lesperance said the original drawing of the property shows that Jeremy Years put the setback on the west side instead of the east so, he had 66.7 ft on the west side of the property to the west side of the house, but nobody put the distance from the other side. According to the scale on the maps it's close to 40 ft so they are pushing another 5 ft. closer to the property line than the other house was.

Torpey asked if there was a reason, they wouldn't design the shape of the house to be more rectangular to be similar to the barn? Just thinking about alternatives so that the setback isn't reduced by as much but if you move the house structure 100 ft to the north what is the topography like? Lesperance stated the other house didn't have a garage, The reason it's not a rectangle is because he wanted more space in the house and has plans to have a garage. So, it obviously increases the footprint. Torpey asked if the

garage was the bump out on the east side. Lesperance stated yes, it won't be all garage, he intends to put a bedroom on the back half of the garage.

Lesperance stated that for the topography part of the question, if you go from the backline of the house down to the wood line, it's about 10 ft elevation change in that 40 ft. As you continue to go further into the wood line, it continues to go down faster. You would have to remove more trees, brush and he can't grade out a 10 ft elevation change over 40 ft to put a house there, without having to put in a full basement and foundation. The house is going to be put on a slab. There is only a 5- 6 ft elevation change where he has enough room to grade out and put the slab on grade.

Babcock asked Lesperance if he was going to have a front or a side load garage? Lesperance stated, he would like it to be a front load but due to a Maple tree that is on the corner he's not sure if he wants to remove it, so, he's not sure. As far as putting it on the side is also not enough room to turn around without being too close to the neighbor's property. The previous owner cut approximately 6 ft which is pretty much right on the property line where it drops from the east to the west making his the lower side.

Torpey asked where the septic was, Lesperance stated that it was all the way down by his driveway on the west side of the property. Babcock asked if he had an as-built Lesperance stated yes, he brought a copy of it with him and said it should be on file.

Babcock asked if the house was one story Lesperance stated yes but he will have taller ceilings he may put a loft in on half of it, which would create more living space. Babcock asked how many bedrooms it was going to be? Lesperance stated without the loft it would be 2-3 bedroom if he does the loft then it would be approximately 5.

Torpey asked Lesperance if he knew when the previous house was put there. Lesperance stated he wasn't sure he thought maybe the late 80's early 90's. It was moved there from Crosman's and was in disrepair. The foundation was in bad condition. Garlapow asked how many feet closer to the edge of the property line is it? Lesperance stated 5 ft. He stated he didn't have the exact dimension from the east property line to the existing house but roughly from the 66.7 ft. to the west boundary line it is roughly 30 – 40 ft. off the east side. Not much more than 5 ft. Torpey stated small difference, small change.

Babcock stated at one time the area was zoned AR-1 which was 20,000 sq. ft., zoning lot size, lot width was 170 ft The side yard was 50 ft on one side and 100 ft total. The area from the Northwest corner of Rt. 64 and 5& 20 the zoning changed to AR-2 in the late 80's which made the subdivision of Rabbit Run problematic because the lot lines laid out with smaller zoning. Over the years it was subdivided with different size lots that's why there's always a problem when it comes to Rabbit Run. They couldn't fit a house in a lot without violating AR-2 setback, none of the lots are 275 ft. wide and don't have enough room for a 75 ft setback and the septic systems are in the back yard. Babcock thinks this parcel was in that re-zoning area that became AR-2. Babcock doesn't know when the house was moved there but does remember it being there for quite a while. There are no records of any previous variances for that lot, in the flag or side variances there's no history of it.

Babcock sees no issues with it being located approximately over the previous house's footprint and being in the flag where the previous house was. The side yard's setback is 34.5 ft being requested where 50 is required. Seeing how we're in the flag 170 ft is still wide. Other Towns typical flag lots are 20-30 ft. wide or 60 ft. That's what the zoning standard calls for now if you're going to have a flag it has to be a minimum width of 60ft. and there's no room to build a house in a 60 ft width. This is 170 approximate

width and there's still plenty of room for a house and they are using the same septic system again, it would be expensive if he moved the septic back from the leech field.

Torpey motioned Babcock seconded to close the public hearing, all Board members in attendance voted aye.

The Board then started their review of the State mandated five (5) criteria tests.

1. **Undesirable change to the neighborhood:** Not much different from the position of the previous house. Looking at the arial photographs it looks like it's got a fair amount of vegetative screening.
2. **Alternative method:** Alternatives would render it more difficult to have flow to the leech field and moving it back to the north would create a substantial amount of grading would have to be done to level the property enough for a house without a basement. Significantly less desirable.
3. **Substantiality:** Roughly 30% requested variance 12% change from what it was before, not problematic.
4. **Impact on the environment:** There's not a significant difference between the house footprint that was formerly there to the one being proposed. No other environmental changes have been proposed. For example, cutting into the bank on the eastside, Clear cutting trees.
5. **Self-creation:** The Board feels this is self-created.

Torpey declared SEQR a Type II with no further action required.

Torpey motioned and Crocker seconded to grant the area variance, TV2-23 Owner Aric Lesperance 7600 Route 5&20 Tax Map # 67.00-1-60.100 Side setback variance of 15.5 ft. requesting 34.5 ft. at the closest corner where 50 ft. is required. Request to build in the same location as previously torn down Single-Family home with a slightly different footprint.

Whereas:

1. The variance and setback would not represent an undesirable change to the neighborhood.
2. Alternative methods would present financial hardship as well as engineering challenges for other utilities and systems already in place on the property for the residents.
3. The requested change is not significant beyond 50% of the code regulations. If you factor in the pre-existing footprint, it is only 12% change from the previous residential measurement.
4. There will be no adverse impact on the environment.

Record of Vote:

**Torpey Aye Babcock Aye Crocker Aye Garlapow Aye
All Board members present voted Aye, Vote was carried unanimously.**

Meeting Minutes

Minutes of November 23, 2022

**Torpey motioned and Crocker seconded to approve the minutes from 11/23/2022.
All Board members present at the 11/23/2022 ZBA meeting voted Aye. Vote was carried unanimously.**

Minutes of February22, 2023

**Babcock motioned and Torpey seconded to approve the minutes from 2/22/2023.
All Board members present at the 2.22.2023 ZBA meeting voted Aye. Vote was carried unanimously.**

II. Discussions:

A brief discussion was held about Collage Cellars coming to the area. Babcock asked what they were doing for water and discharge waste. Daggett stated Rayburn requested a copy for the DPW. Daggett stated that they were meeting on June 1st for the Public Hearing and that we needed to wait for the other agencies to declare The Planning Board as Lead Agency before further review.

III. Meeting Adjourned

Babcock motioned and Crocker seconded to adjourn at 8:00 pm. All Board Members present vote Aye. Vote was carried.

Respectfully submitted,

Christel Daggett

Planning & Zoning Board Secretary