

Town of Stafford
Zoning Board of Appeals
Regular Meeting
October 10, 2019 – 7:00 p.m.
Veterans' Meeting Room
Warren Memorial Town Hall

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Timothy J. Mordasky
TOWN CLERK

Members Present: Anthony Guardiani, Chair
Judith Mordasky
Arlene Avery
Richard Longmore (arrived during first public hearing)
Dennis Kaba, alternate
James Greene, alternate

Also Present: David Perkins, ZEO
Alfred Gerner, applicant
Dr. David and Judith Mordasky, applicants represented by Attorney Lorin Dafoe
Brian Juliano, applicant representing property owners Ralph and Norma Faber
Public

PUBLIC HEARINGS

Variance Application of Veterinary Management Associates of Section 7.3C to operate a veterinary hospital on a lot of less than 2 acres. Location: 36/42 West Main Street, Map #70, Lot #15/31/30.1, Zone: LB. Owner: Bakers Country Furniture.

Variance Application of Alfred Gerner of Section 4.9 (15.5' front yard setback where 50' is required) to construct a 20' x 38' accessory structure. Location: 2 Tetrault Road, Map #23, Lot #031, Zone: AAA

Variance Application of Juliano's Pools of Section 4.9 (12' side yard setback where 20' is required) to construct a swimming pool. Location: 30 Colburn Road, Map #18, Lot #31, Zone: AAA. Owners: Ralph and Norma Faber.

Judith Mordasky, as Acting Chair, opened the public hearings at 7:00 p.m. She read the legal notice and established a quorum with Judith Mordasky, Acting Chair; Anthony Guardiani, and Arlene Avery, and seated alternate members James Greene for Tim Armstrong, and Dennis Kaba for Rich Longmore. She explained the process of the public hearings.

Judith Mordasky recused herself for the first public hearing application for the variance application of Veterinary Management Associates, taking a seat in the audience and handing over the chair role to Anthony Guardiani.

Attorney Lauren Dafoe of 24 Forest Road, representing the applicants said that the established veterinary hospital would like to relocate to the former Bakers Furniture building. She referenced Bakers Furniture's more than 100 year history and significance in Stafford. She said the Bakers property is only 1.3 acres in size and zoning regulations require a veterinary hospital to have a minimum of two acres in the Local Business (LB) zone.

Lauren Dafoe noted that veterinary hospitals are permitted in the LB zone. She also noted that if a zoning regulation inhibits an allowed use, then by law a variance is permissible. Their hardship is that the Stafford Zoning Regulations as written prevent this permitted use.

Lauren Dafoe said the Mordaskys plan to remodel the interior of the Bakers Furniture building to accommodate a veterinary practice, but maintain the exterior as it presently exists. She said Bakers Furniture, before it closed its doors, had been a Stafford business in town for over 100 years and the Mordaskys' veterinary practice has been in town for about forty years, and so this would meld two long time businesses in town. She noted also that the Bakers property previously included a restaurant and bar, which generated more traffic than a veterinary hospital would. The veterinary hospital would also have a lesser demand on electric power, water, and sewer services than the restaurant/bar.

Lauren Dafoe said this request is compatible with Stafford's Plan of Conservation and Development. It will be reusing a building with significant history in town and converting it to a use for a modern community. She also noted that the Bakers building has been vacant for an extended period of time, which left unoccupied will eventually result in a drain on the community. It could eventually get purchased and torn down to make way for a big-box development. This proposal would save a landmark building, and put it back on the tax rolls.

At this time, regular member Rich Longmore arrived to the meeting and was seated, unseating Dennis Kaba.

The public hearing was opened to public comment.

Jennifer Alix of 30 Woodland Drive said she was in favor of the variance request.

Joe Thon of 55 Prospect Street spoke in favor, saying the downtown area is looking good and this will benefit the community by repurposing the building and keeping a building that adds to the historic nature of the downtown. It will also increase the value of his own property.

Kristen Guglielmo, owner of Penny, Hanley & Howley, said this will be a great addition to the downtown area. She spoke favorably of the Mordaskys and their veterinary services.

Glenda Schlappkohl of 48 East Main Street spoke in favor but asked if large animals such as cows and goats might be brought into the downtown area for treatment. Lauren Dafoe said the practice does treat large animals, but typically the veterinarian uses mobile trucks to go out to the farms to treat them.

Kerry Leroux of 75 Westford Road expressed her support of the application.

Greg Dafoe of 24 Forest Road spoke in favor of the application. He said towns create laws for the benefit of their communities and this is an opportunity to allow a good, established business to grow in town. The variance is a mechanism to allow them to do so.

Chester Falkowski of Fleury Drive said this proposal will immensely improve the community and the traffic generated by the relocated business would be negligible.

Charles Callahan of 27 Lakeshore Boulevard spoke in favor. He said the Mordaskys would be investing significant money into the building and the community in order to accommodate their business, while also preserving the building's exterior. They will be installing modern new technologies in the building.

Karen Troiano of 20 Patten Road said she was excited about this opportunity, noting the Mordaskys' practice is a long established business in town with a next generation poised to take over and continue the business in the years ahead. She said they have long invested in the Stafford community.

Tony Guglielmo of 100 Stafford Street spoke in favor, saying the Mordaskys have a great family business with the kind of community attachment you don't usually get with corporate businesses. He said it will be another plus for Stafford in a key location in town. He said the business has a perpetuation plan and will also create new jobs. It will be good for Stafford.

Lauren Dafoe of 24 Forest Street spoke in favor. She noted her youngest brother Andrew will soon be graduating from veterinary school to take over the practice with her sister Victoria, so the business will be continuing well into the future.

Dave Mordasky of 21 Buckley Highway thanked those who turned out in support and said it is important to his family to maintain a connection to the community with a goal to help everyone, no matter their circumstances, with their pet needs. He said their family is very proud of the fact that their family's time in Stafford matches 110 years of Stafford's 300 years as a town.

Pete Alix of Woodland Drive spoke in favor, saying the Mordaskys are community members looking to invest further in the community.

Karl Milikowski of 21 Stafford Street spoke in favor, saying it was difficult to lose his family farm and stressing the importance of helping long time business owners to grow and maintain their businesses in town.

Steven Spillaci of 21 High Street said he maintained the Bakers Furniture property for the Rossi family for many years. He spoke in favor of the application.

Victoria Mordasky of 15 Buckley Highway said she was excited to have the support of the community, and said this will provide a great avenue to better serve the community.

No one spoke in opposition of the application.

Dennis Kaba asked if the building was structurally sound. Roger Rossi of 77 Stafford Street said he could vouch for its condition. He said the building is solid and they used the best materials—heavy duty solid timbers.

Arlene Avery asked if there will be adequate parking for the veterinary hospital and the other uses they plan for the property. She noted there are about 40 to 50 spaces available. Lauren Dafoe reviewed the scheduling process for the hospital. They average about 12 cars an hour for a three-hour slot. She said they don't expect more than 15 cars an hour and will have more than enough spaces even at peak hours with a full staff. David Perkins noted that if the variance is granted, the application will still need to go before the Planning & Zoning Commission and so those and any other issues would be addressed at that time.

Lauren Dafoe reiterated that the hospital is excluded from the LB zone even though it is a permitted use in that zone because there are no two-acre lots with a suitable building in that zone. She said the hospital is presently operating in a AAA zone, so the LB zone would be more appropriate.

Arlene Avery asked if they need a variance for setbacks. Lauren Dafoe said they do not. She said they meet seven of the eight criteria for zoning. The only thing they don't meet is the minimum acreage requirement.

James Greene made a motion to close the public hearing for this application, seconded by Rich Longmore. All were in favor. Judith Mordasky was reseated for the remaining two public hearings, and James Greene was unseated.

The ZBA next heard the variance application of Alfred Gerner of Section 4.9 (15.5' front yard setback where 50' is required) to construct a 20' x 38' accessory structure.

Alfred Gerner of 2 Tetrault Road said he wants to install a carport at his house at the entrance level at the existing parking area. He has a ranch house on a tiered property that drops eight feet, then eight feet again to the backyard. He would like to build it at the main level so they don't have to go uphill or up a set of stairs when doing such things as carrying in groceries. Their chosen area is pitched, has adequate drainage, and is where there is an established driveway. He said there is not much room to put it elsewhere. He also noted the house is set up for passive solar and would block the sun if the carport were placed in back.

There were no questions or comments from the public.

Anthony Guardiani asked if the carport would have enough clearance for his trailers. Alfred Gerner said there would be, and that it would be ten feet high. Judith Mordasky asked whether he would have an adequate sight line when pulling out. Alfred Gerner said he would, that he would drive 40 to 45 feet before coming to the carport.

David Perkins said another hardship for the applicant is that his property is a corner lot, creating two front yards. This is a hardship if the structure is required to be behind the front plane of the house.

Arlene Avery made a motion to close the public hearing for this application, seconded by Judith Mordasky. All were in favor.

The ZBA next heard the variance application of Juliano's Pools of Section 4.9 (12' side yard setback where 20' is required) to construct a swimming pool at 30 Colburn Road.

Brian Juliano of Juliano Pools, 321 Talcottville Road in Vernon, said he went to build an in-ground pool at the property. He said he had a permit, laid out the pool, excavated for it and installed it. He said he had to remedy some drainage and engineering issues, and it was difficult to determine the property lines. As a result the pool was installed 8 feet too close to the property line. He said this was his error. He said some gravel was taken from the neighbor's property in the process and he will need to build a retaining wall, pack and grade it. He said he will also have to pull the drainage pipe back so that it discharges to his clients' property. He would like to get approval to do this as soon as possible as the recent rain has caused erosion and the area is starting to disintegrate.

Brian Juliano said the pool installation also includes a hot tub and he will move the hot tub to be well within the parameters of the property line. He said the pump, filter, and mechanicals will also be moved to be within the 20' setback, so that only the pool will not meet the setback requirements. He said he would reseed and restore the neighbor's property that was impacted by the installation.

The public hearing was opened to public comment.

Ralph Faber of 30 Colburn Road, the property owner, spoke in favor saying he wants to rectify the situation as soon as possible to stop further deterioration of the property.

Kristen Guglielmo of Goodell Road spoke in support of the variance request and fixing the error.

Wendell Avery of West Stafford Road asked about a reference in the application to ledge. Brian Juliano said they want to avoid doing any blasting. He said he installed the pool as far away as possible from the driveway as he could get and if he has to move the pool, he would have to blast the ledge rock vein which would be a tremendous undertaking.

David Perkins noted that work on the pool had continued after he issued a stop work order. He said the pool was operating all summer even though he was told the pool was not being used. Brian Juliano said the pool was unusable, and was just turning into a swamp, and his company put in pool chemicals and circulated the water to prevent a mosquito problem. David Perkins noted the stop work order was placed on March 14, but the liner was installed on March 15th and then the pool was filled. Brian Juliano said he told then-building official Dennis Milanovich that they needed water in the pool to maintain the structure. He said the pool was not being used and he did not feel this was pertinent to the variance request. David Perkins said he was working without a permit and was told by Norma Faber that their children had not been using the pool all summer. He noted he had to bring out Officer Duncan and Dennis Milanovich to stop the activity.

Attorney Wendell Avery with law offices at 72 West Stafford Road, representing the abutters Mr. and Mrs. Eric Schaefer of 34 Colburn Road, spoke in opposition of the variance request. He provided a handout that outlines his clients' objections. He reviewed their objections, noting the project was started without permits and Juliano Pools excavated and installed a drain line on the Schaefer's property. He said the applicant planned on going back on their property to rectify the situation without consulting with them.

Attorney Avery said Stafford regulations require that a sign be posted and to the best of his knowledge no sign was every posted. He said variances need to be based on a hardship and the applicant has not established a unique situation. Nor has the applicant established how this is in compliance with the town's Plan of Conservation and development, he said. Attorney Avery said the applicant created the problem and should have known where the property lines were before starting any excavation. He said the erosion coming off of his client's property is a result of his actions.

Ralph Faber asked what the Schaefers would want them to do to rectify the situation. Norma Faber said they are willing to restore the neighbor's property to the condition it was before the work was started, but questioned how they could do it if they are not granted the variance. David Perkins said this would be a civil matter between the two property owners.

Brian Juliano said if they could turn back the clock to February 1, 2019, they would be sitting here asking for the variance to move away from the driveway. He said that is the hardship. He said he is trying to look at the practicality of the situation and how it can be rectified. He said he's never had a problem before in getting a variance.

Arlene Avery made a motion to close the public hearing for this variance application, seconded by Rich Longmore. All were in favor.

AGENDA

1. Call to order.
2. Establish a Quorum.
3. Approval of September 12, 2019 meeting minutes.
4. Review public hearing items and discuss possible decisions.
 - A. Veterinary Management Associates – 42 West Main Street – Waiver of 2 acre minimum requirement for Veterinary Hospital.
 - B. Alfred Gerner – 2 Tetrault Road – Carport in front setback – 40 feet required, 15 feet requested.
 - C. Juliano’s Pools – 30 Colburn Rd. – Swimming pool in side setback – 20 feet required, 1 foot requested.
5. Adjournment

1. Call to order.

Anthony Guardiani, Chair called the meeting to order at 7:59 p.m.

2. Establish a Quorum.

Anthony Guardiani established a quorum with Anthony Guardiani, Chair; Arlene Avery, Rich Longmore, and alternate members Dennis Kaba seated for Tim Armstrong, and James Greene seated for Judith Mordasky.

3. Approval of September 12, 2019 meeting minutes.

Arlene Avery made a motion to approve the September 12, 2019 meeting minutes as written, seconded by Dennis Kaba. All were in favor.

4. Review public hearing items and discuss possible decisions.

- A. Veterinary Management Associates – 42 West Main Street – Waiver of 2 acre minimum requirement for Veterinary Hospital.

There was consensus that it would be an asset to have a veterinary clinic in the LB zone and that a hardship had been established.

James Greene made a motion to approve the waiver of the two-acre minimum requirement for a veterinary hospital at 36/42 West Main Street, Map #70, Lot #15/31/30.1, Zone: LB, Owner: Baker’s Country Furniture, the hardship due to the fact that a veterinary hospital is a permitted use in the LB zone but the Zoning Regulations do not permit veterinary hospitals on less than two-acres of land and there is no such suitable lot/building of that size in the LB zone. The veterinary hospital in this location is also in harmony with the area, conforms with the Plan of Conservation and Development, and is not detrimental to the health, welfare, and property values of the area. Arlene Avery seconded the motion. All were in favor.

Following the decision, Judith Mordasky was reseated, and James Greene was unseated.

- B. Alfred Gerner – 2 Tetrault Road – Carport in front setback – 40 feet required, 15 feet requested.

There was consensus that the request was reasonable and the topography of the lot and the position of the house on the corner property lot creates a hardship.

Judith Mordasky made a motion to approve the variance application of Alfred Gerner of Section 4.9 (15.5’ front yard setback where 50’ is required) to construct a 20’ x 38’ accessory structure at 2 Tetrault Road, Map #23, Lot #031, Zone: AAA, the hardship due to the

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topography of the lot and the position of the house on the lot. The applicant should not be deprived of reasonable use of his property. Arlene Avery seconded the motion. All were in favor.

- C. Juliano's Pools – 30 Colburn Road – Swimming pool in side setback – 20 feet required, 1 foot requested.

The Board discussed the application. Judith Mordasky questioned why work was started on the property before permits were taken out. Arlene Avery said she felt there was a lack of due diligence on the pool company's part. Anthony Guardiani asked why the neighbor did not speak up sooner. David Perkins said the houses are not that close to each other. Dennis Kaba said he did not think this was the best place to install a pool.

Judith Mordasky asked if there might be room for fencing around the pool area. David Perkins said the plan shows sidewalks, and a patio and there could be room for a fence.

Arlene Avery said she would prefer more time to review Attorney Avery's brief, and suggested they might want to postpone making a decision until their next meeting. David Perkins noted that the public hearing is closed so they won't be able to take in any more information, nor will they be able to discuss this with each other or anyone in the public during that time. Judith Mordasky and Rich Longmore preferred to make a decision that evening.

Rich Longmore said if they asked for a variance back in February, it might have been granted, or if not granted, they might have come up with a new design. He questioned if a negative decision would just be punishing the applicant. Judith Mordasky said they also have to consider the neighbors and their protection.

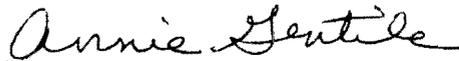
David Perkins reviewed Section 8.16.B.2 in the Zoning Regulations regarding variances. Judith Mordasky suggested the applicant could have gone with a smaller pool to minimize the variance request. Anthony Guardiani asked if the applicant did this, would they need to come back before them. David Perkins explained that if the plan conformed to the Zoning Regulations, he could just sign off on it.

The variance application was denied with a 5-0 vote.

5. Adjournment

Arlene Avery made a motion to adjourn, seconded by Rich Longmore. All were in favor. The October 10, 2019 meeting of the Stafford Zoning Board of Appeals was adjourned at 8:30 p.m.

Respectfully submitted,



Annie Gentile
Recording Secretary