

VILLAGE OF HONEOYE FALLS ZONING BOARD

March 24, 2008

MEMBERS PRESENT: Hal Gaffin, Chair; Hank Besanceney; Mark Donahoe; Jim Hoh; Theresa Markham

ALSO PRESENT: Charlie Johnson (Code Enforcement Officer); Mike Tobin (Village Attorney); George Easton (167 Monroe St); Bob Steve (148 Monroe St); Fred, Pam and Jerry Bassette (181 Monroe St); Jerry and Judy D'Hont (129 Monroe St); Philip and Fawn Deitsch (175 Monroe St); Frank Brunstetter (162 Monroe St); Chris Plain (161 Monroe St)

Chairman Gaffin called the public hearing to order at 7:30 PM.

PUBLIC HEARING: FRONT SETBACK VARIANCE – 167 MONROE STREET

George Easton is requesting a variance from Village Code Chapter 190, Attachment 1 – Table Of Lot And Bulk Requirements. He's asking to exceed the required 30' or conform to adjacent properties front-yard setback by 520', making the total setback approximately 550'.

Mr. Easton explained that his lot is a 'flag lot' and that the street frontage is only 40'. Therefore, he needs to build his house further back on the property. The area on which he plans to build was chosen in consideration of bed-rock issues. He pointed out that, due to the bed-rock issue, the actual location of the house might vary slightly from that shown on the drawings. However, it will be within the area marked on the drawings.

Chair Gaffin opened the hearing to public questions/comments at 7:40 PM.

Bob Steve asked how much the location of the house might vary. Mr. Easton said it could be +/- 50'.

Chris Plain asked for clarification of required front footage. Chair Gaffin explained that the front footage requirement is generally 80' but variance was granted two years ago to grant 40' frontage to be used as a driveway for this property. M. Tobin said that the lot must be at least 80' wide at the front of the house and 40' wide at street frontage.

For clarifications purposes, M. Donahoe read the relevant paragraphs from the variance granted 10/11/05:

*"Acting Chair Markham stated that after meeting with Mr. Gaffin and Mr. Tobin, it appears the variance request should be for setback greater than allowed **not** for lot width. The lot width of 80 feet is required at the location of the dwelling on the lot, which is required to be at a setback distance of 30' or conform. The dwelling on this property will have to be built more than 170 feet back from the front lot line. The actual location will be determined through Site Plan Review with the Planning Board. Mr. Tobin would like the record to show that this application was taken without any site plans and the specific distance for setback could not be stated."*

"Motion by Hank Besanceney, seconded by Marl Donahoe, to grant the front setback variance for more than 30 feet or conform with the following conditions:

- 1. Only a single family dwelling will be developed on the site;*

2. *Good faith efforts will be made to preserve the character of the neighborhood and preserve the existing willow tree on the west side lot line; and*
3. *No development will take place without Planning Board Approval.”*

Fred Bassette asked if that meant the variance was granted. M. Donahoe said it was.

Chris Plain pointed out that the property had been sold since the 2005 variance had been granted and asked if the variance was transferable to the new owner.

M. Tobin explained that variances automatically transferable to new owners. However, this property had been rezoned as R-1 (residential, single family home). Therefore a variance is no longer needed for the 40' width at street front but a variance is required to exceed the 30' or conform front setback.

Chair Gaffin closed the public hearing at 7:54 PM.

PUBLIC HEARING: HEIGHT VARIANCE – 167 MONROE STREET

George Easton is requesting a variance from Village Code Chapter 190, Attachment 1 – Table Of Lot And Bulk Requirements. He's asking to exceed the 35' maximum allowable building height by 16', making the total height 51'.

Mr. Easton showed his plans to build a single family home on his property at 167 Monroe St. He explained that he had been working on the plans for several years and was not aware of the 35' height maximum when he bought the property on Monroe St. It wasn't until the beginning of this month that he found out about this requirement. Since then, he was able to change the plans and drop the total height down to 44 ½' instead of 51'. He commented that the bedrock is part of the problem because the house has to sit on top of the bedrock.

M. Donahoe asked what the height at the peak of the house would be if it had a typical basement instead of sitting on top of the bedrock. Mr. Easton estimated that this would bring the height down to approximately 41'.

Chair Gaffin asked Mr. Easton what he would do if he had to stick to the 35' maximum height requirement. Mr. Easton said he would probably sell the property and build somewhere else.

T. Markham asked if there were any fire safety concerns with the house being so tall. C. Johnson said sprinklers would be required if there is a habitable 3rd story but nothing is required if it is just storage space.

Chair Gaffin noted that, after its review of Mr. Easton's plans, which showed a height of 51' for the house, at its meeting on March 3, 2008, the Planning Board wrote a letter to the Zoning Board, recommending that the height variance not be granted. Chair Gaffin read the letter aloud and made it part of the record (letter is attached).

Chair Gaffin opened the hearing to public questions/comments at 8:13 PM.

Frank Brunstetter asked why the architect didn't know there was a 35' maximum height requirement. Mr. Easton said he doesn't know. Mr. Brunstetter also expressed concern that a house that tall will dominate the view and asked if there was a geometric sketch of how the house, at 44 ½', will look from the road and from other houses in the immediate area.

Chris Plain said that the variance granted in 2005 stated that the house must conform to other houses in the area. Several of the area houses are ranch style. Therefore it is his opinion that this house doesn't conform.

Bob Steve said he wanted it to go on record that his objection to Mr. Easton's plans is nothing personal. He pointed out that the rock formation is throughout the entire neighborhood. His home at 148 Monroe St. has an 18" crawl space and asked Mr. Easton if he had considered having a crawl space instead of a full basement? He also commented that, if the house was moved further back on the property, it might diminish the negative visual impact from the road.

Fred Bassette raised the following:

- 1 Has the architect done work in this area before? Mr. Easton said he didn't know.
- 2 "When is a 3rd floor considered a 3rd floor"? Mr. Johnson advised an attic is not considered a 3rd floor.
- 3 Are there any other homes in the Village over 35'? Mr. Johnson advised, to his knowledge no
- 4 44 ½' is very tall and this house will dominate over the other homes and look out-of-place. Mr. Easton said that he would agree with Mr. Bassette if his house lined up along the road with the other houses but he thinks it will look OK since his house is set so far back.

Jerry D'Hont said that Mr. Easton's house is not in character with the neighborhood on Monroe St. Most of the houses are ranches or small single family homes. There are no Victorian style homes in the immediate area.

Bob Steve asked the height of the planned basement. Mr. Easton said 8'. Mr. Easton also added that he would be willing to consider blasting in order to drop the basement deeper into the ground. This could bring the house down to about 44 ½'.

Fred Bassette expressed concern that this could still set a precedence for allowing homes 44 ½' high.

Chair Gaffin closed the public hearing at 8:31 PM.

Motion by Hank Besanceney, seconded by Jim Hoh, to grant a variance for a front set-back of 550'.

ROLL CALL VOTE

1. H. Besanceney – Aye
2. H. Gaffin – Aye
3. M. Donahoe – Aye
4. J. Hoh – Aye
5. T. Markham – Aye

ALL IN FAVOR

MOTION CARRIED: SETBACK VARIANCE GRANTED

The Board granted the variance based upon its findings set forth in the Area Variance Determination Worksheet which is attached and made part of the minutes.

Motion by Mark Donahoe, seconded by Jim Hoh, to deny request for height variance of 51'.

ROLL CALL VOTE

1. H. Besanceney – Aye
2. H. Gaffin – Aye
3. M. Donahoe – Aye
4. J. Hoh – Aye
5. T. Markham – Aye

ALL IN FAVOR

MOTION CARRIED: 51' HEIGHT VARIANCE DENIED

The Board denied the variance based upon its findings set forth in the Area Variance Determination Worksheet which is attached and made part of the minutes.

The Applicant, during his presentation, suggested adjusting the height of the structure to 44 ½ feet or 41 ½ feet. The Board discussed these suggestions and to clarify the record, a motion was made by Hank Besanceney, seconded by Jim Hoh, to deny a variance for any structure over 35' and, based on evidence presented tonight, specifically deny variance for 44 ½' and 41 ½'.

ROLL CALL VOTE

1. H. Besanceney – Aye
2. H. Gaffin – Aye
3. M. Donahoe – Aye
4. J. Hoh – Aye
5. T. Markham – Aye

ALL IN FAVOR

MOTION CARRIED: HEIGHT VARIANCES DENIED

The Board's denial of any variance above 35' was based upon the same findings for the denial of the 51' height variance. M. Donahoe asked for clarification as to whether this denial is across the board or just for this structure. Chair Gaffin stated that it is just for this structure.

Motion by Theresa Markham, seconded by Mark Donahoe, to adjourn the meeting at 9:21 PM.

ROLL CALL VOTE

1. H. Besanceney – Aye
2. H. Gaffin – Aye
3. M. Donahoe – Aye
4. J. Hoh – Aye
5. T. Markham – Aye

ALL IN FAVOR

MOTION CARRIED: MEETING ADJOURNED

*Respectfully submitted,
Judi Barrett
Clerk for the Zoning Board of Appeals*

Dear members of the Honeoye Falls Zoning Board:

This letter is in regard to the property at 167 Monroe Street, owned by Mr. George Easton.

Plans for the development of this property were presented to the Village of Honeoye Falls Planning Board at a March 3rd meeting and will be under review for a variance for height requirements at the March 26 meeting of the Zoning Board. The variance being sought is to allow for the construction of a single family residence with a height of approximately 50 feet in an area with height requirements of 35 feet.

The Village Planning Board supports the right of individuals to develop their properties within the guidelines and requirements of the zoning regulations and the granting of relief from these requirements when they pose true hardship to the owner or in the rare case that they are overly restrictive of appropriate development. It is the opinion of the majority of the Planning Board members, however, that granting a variance from the requirements for this property would not be advisable for the following reasons:

- 1. Building design and construction options that would allow the property to be developed within conformance to zoning regulations have not been exhausted. That surmounting the challenges of the existing site conditions within zoning regulations was not taken into consideration in the property owner's current financial or aesthetic planning is a self imposed hardship despite the considerable efforts made in this regard.*
- 2. The request of an additional 15' exceeds the height requirements by 42%. The extra height requested amounts to more than a full story above what is allowed for this site.*
- 3. Although appealing to the owner, the resultant building will be much larger than the average Village residence. It will be inconsistent with the scale and character of neighboring properties. As presently designed, there is a real possibility that this house will adversely affect the visual quality of the environment enjoyed by these properties as well as other aspects of their properties .*
- 4. Granting this variance will set precedent for the ever growing numbers of developers and property owners seeking to build new structures or improve existing structures to seek variances on the basis of similar self imposed hardships. Upholding the carefully considered zoning rules will give them and various Village board's intent to enforce them credibility.*

We hope that the Zoning Board will take these factors under strong consideration when deciding on the appropriateness of the variance that is being sought for the above mentioned property.

Thank you for your continued consideration of the opinions of the Village Planning Board and for your shared commitment to preserving the character and quality of our unique Village environment.

Sincerely,

*Joseph Cooley
Planning Board Member*

Village of Honeoye Falls
ZONING BOARD OF APPEALS
AREA VARIANCE DETERMINATION

Applicant/Owner: George Easton

Property Address: 167 Monroe Street

Variance(s) Requested: Variance to exceed required 30' front set-back by 520' for a total front set-back of 550'

Requirement: In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

The Zoning Board made the following findings:

1. An undesirable change will will not be produced in the character of the neighborhood or a detriment to nearby properties will will not be created by the granting of the area variance, because
similar lot (Flag Lot) East of this property.
2. The benefit sought by the applicant can cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance, because
configuration of lot will not allow a
3. The requested area variance is is not substantial, because
unique characteristics of lot
4. The proposed variance will will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, because
consistent with other R-1 properties in area
5. The alleged difficulty has has not been self-created, because
of the creation of the Flag Lot

Zoning Board Decision: Based upon the above findings the Zoning Board

grants denies the area variance application.

X C. Harold Gaffin
Chairman Signature

3/24/08
Date

Village of Honeoye Falls
ZONING BOARD OF APPEALS
AREA VARIANCE DETERMINATION

Applicant/Owner: George Easton

Property Address: 167 Monroe Street

Variance(s) Requested: Variance to exceed required 35' maximum building height by 16' for a total building height of 51'

Requirement: In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

The Zoning Board made the following findings:

1. An undesirable change will will not be produced in the character of the neighborhood or a detriment to nearby properties will will not be created by the granting of the area variance, because exceeds the height of ~~houses~~ neighboring structures.
2. The benefit sought by the applicant can cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance, because design changes.
3. The requested area variance is is not substantial, because 42' to increase over allow height.
4. The proposed variance will will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, because conditions are similar to neighboring properties
5. The alleged difficulty has has not been self-created, because

Zoning Board Decision: Based upon the above findings the Zoning Board

grants denies the area variance application.

X C. Hamilton
Chairman Signature

3/24/08
Date