

**ZONING BOARD OF APPEALS  
TOWN OF CANADICE**

Canadice Town Hall

April 14, 2021

Present: Linda Moorhouse, Chairperson

Guest: Roy Simmons

Diane Horning

Ed Bott

Marty Gascon

Renee Boone

Steve Smith, CEO

Chairperson, Linda Moorhouse called the meeting to order at 7:30 p.m.

L. Moorhouse introduced the Board Members.

L. Moorhouse - Please tell us what you would like to do here.

R. Simmons - What I would like to do is build a garage across the driveway on my property. The reason for that is because there was a right of way that comes down off the road, down the hill. It comes down the hill and there is quite a grade there. It goes along the front of 4 cottages there. When I moved there, 17 years ago, that was paved. There were two paved strips on the hill part, so I could get up and down. I live there year round. I have been trying to get them to pave it. There has been so much construction done. Each one of those neighbors have had huge additions put on their houses and huge break walls put up, landscaping and trees cut down. They just crushed the asphalt to bits. This was probably over a 6-7 year period of time. The final thing was when they put all the water lines in. All the big, heavy equipment down there, so it's gone. It's nothing now, but mud and stone. I can't get up and down it in the winter. Even if I had it plowed, the ice forms inside the gravel and I literally can't get up and down the hill. I actually had to stay at my brother's house for 3 weeks.

L. Moorhouse - Is this a year round home?

R. Simmons - Yes, I have been there year round for 17 years. I went to each one of my neighbors and asked that we pave it. They all said they didn't have the money. We are not interested in it, we don't live here year round, so we don't want to pave it. The guy who actually owns it, his cottage sets at the bottom of the hill, where the driveway comes down. He said, I don't want to pave it, because one I don't have the money and two, all the water will rush down into my house, if I pave it. The water runs down the hill and empties in front of my house, because I am at the lowest point. They don't want to change that.

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E. Bott - Even with gravel, water will make its own path. So, right now, you have gravel?

R. Simmons - Gravel and mud.

S. Smith - Kris was talking to Pat Rogers the other day with Mike Shefron, who was the engineer for Labella on Rainbow Lane. I don't know whatever became of it.

R. Simmons - I can't get the neighbors to agree to it. They just keep saying they don't have the money.

E. Bott - That's the problem with common roads, who is going to put the money into it, who's going to maintain it?

R. Simmons - They don't have any money to do it, but they all put \$30,000-\$50,000 additions on their house.

E. Bott - Priorities.

D. Horning - Is this piece of land fairly flat?

R. Simmons - It's flat, except from the road down.

L. Moorhouse - Your next to Mr. Rogers?

R. Simmons - Yes, he is like 3 houses down.

L. Moorhouse - Ok, now I know where you are.

E. Bott - Is there a topographical map?

R. Simmons went over the pictures and the map with the board members. He explained that the garage would have a cinder block base and a garage like this. The garage would be even with the road. That is what I would like to do. My neighbor had this done about 10 years ago. I would have a flat driveway going right out to the road.

E. Bott - The cinder block is better. We had a guy come in a while ago and wanted to mound it up with gravel. The problem with that is, it spreads out so far that he was going to be pretty close to his neighbors line. That's the way to do it, without water taking out everybody else.

R. Simmons - That's the way I want to do it.

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D. Horning - You could have a shed underneath.

R. Simmons - I need it, because my daughter is a traveling nurse, because of Covid. Her entire house is in my house. All her furniture. I have no place to put anything.

E. Bott - So, what's the variance for?

L. Moorhouse - The set back, instead of 50ft., you wanted 29ft. from 36.

E. Bott - Is there any way you could get us, how tall that would have to be there? We don't have any topographical information here. I don't know how far that actually drops off. For example, if you went back another 10ft., how much higher or lower is that?

R. Simmons - If you go maybe 10ft. from the road, it drops straight down. About 10ft. straight down.

E. Bott - That's what we require for the slope. How bad is the slope? Because, these pictures don't make it look that bad. Yes, it's a pretty good drop, but I don't have a reference of distance.

They discussed the location and the pictures.

S. Smith - There should be a variance request of 50ft. to 21ft. I had Rich type this up and he used the farthest measurement to the road.

E. Bott - Because of the angle.

S. Smith - Right. It should be 21ft.

E. Bott - How tall is this, to get it back to grade? How tall does that back side have to be?

R. Simmons - The cinder block?

E. Bott - Yes.

R. Simmons - Probably 10ft., 8-10ft.

E. Bott - So, you don't know?

L. Moorhouse - Get that more precise measurement for us.

R. Simmons - Ok.

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S. Smith - Before we go any farther, there is one item that has to come up. Just so you are aware, this is a county road, there are right of ways involved. He has to get permission from the county to put a driveway in from County Road 36. Just like Cathy Crane did in the variance we had. She had to go to Ontario County, Department of Public Works. Work permit under Section 136 Highway Law. You have to get permission from the county to put a driveway in and to go through their right of way.

E. Bott - Got to love the Government. Their right of way is actually from your property line. You have a line here, is that distance from the right of way? Do we know?

S. Smith - I don't know what the right of way is down there.

E. Bott - I was wondering where they got the 21ft. from.

S. Smith - I can get on Oncor and look it up.

E. Bott - Where is that 21ft. coming from?

R. Simmons - That's from the right of way.

E. Bott - It looks like it here, but there is nothing labeled. A lot of times they own the bank, so you have to know what the right of way is. So we know what we are actually dealing with.

S. Smith - He has to get a work permit from the county to even put a driveway in there.

R. Simmons - I know there is still a post right here from the surveyors.

S. Smith - Your pin might be up there, but the county still has a right of way.

E. Bott - If it is done right, the pin should be outside their right of way.

S. Smith - There is no sense going any farther, if you can't put a driveway in there.

L. Moorhouse - Just for your information, from what we learned with Cathy Crane's right of way, the county, because of Covid, was not coming out and looking at things. They wanted the contractor that was building her place, send the information to them.

S. Smith - Actually, it was the architect. She needed a site plan for the Planning Board, so I believe they used the site plan. I don't know what the county is going to want. If they are going to want depth or what. I don't know.

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E. Bott - Here's the problem, we could grant you the variance and the county could say you can't have the driveway, you can't have the driveway. Two separate pieces of Government working on this.

R. Simmons - Could you grant the variance under the grounds that if the county says yes?

E. Bott - That is kind of irrelevant. We could grant you the variance and if the county says you can't have the driveway, it wouldn't make any difference. If the county says you can have the driveway, then it becomes a mute point. It's really two separate things.

S. Smith - Our Town Law says 50ft. from any county road.

E. Bott - That's why you need the variance.

R. Simmons - That's why I need the variance?

E. Bott - If this is something you want to do, and we get enough information, I don't want to delay this another month while you wait for the county. We come back next month and you are right where we are here and we can't move any farther. There are some things we want to know. How high is that going to be. That could affect if you have room to move it back or not. We aren't going to make someone put in a two store building just because of the way their property lays. I can't speak for everyone, but that is my personal feelings on it.

L. Moorhouse - You have a month from now. So, you can get in contact with the county. Get the information you need from them and have the approval. Then, we can go ahead next month and have the Public Hearing.

D. Horning - We need to know how high it is.

R. Simmons - I do want to have a two story building.

E. Bott - Yes, but we need to know the first floor.

L. Moorhouse - Are you having someone build it for you, or are you doing it?

R. Simmons - I'm having someone build it.

E. Bott - This is going to be safer than the driveway you have now.

L. Moorhouse - See what you can do Mr. Simmons.

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S. Smith - Get in touch with my office and let me know how you are making out.

R. Simmons - In a month, what do we do then?

L. Moorhouse - In a month would be the Public Hearing.

R. Simmons - What does that entail?

E. Bott - There are several parts. One, we finalize what you are applying for. That's where you want to get the extra information that we asked for. How tall that block is going to be? You are going to find out about the driveway before then, hopefully. Once we decide that we have all the information that we need to proceed with the variance and anyone that wants to speak on your behalf or against is done. We close the public portion of the hearing and we vote to either accept the variance application as it stands, or not. If we need more information, we won't accept it. Then, we have the actual vote on the variance.

R. Simmons - Does it matter how high the cinder block part is to you guys?

E. Bott - To a point. Not for the building part of it. You are close and one of the things we have to review is if you have other options. If one of the options is clearly available, depending on how restrictive it is with height, you could move it farther away from the road.

L. Moorhouse - If your neighbors want to come up and speak, that is what the Public Hearing is about.

R. Simmons - They already told me that it was fine with them.

L. Moorhouse - It is definitely safer. Coming in and out of those places down there. May 12th at 7:30 p.m.

Preliminary Hearing concluded at 7:50 p.m.

#### **OLD BUSINESS**

E. Bott made a motion to accept the minutes from the March 10, 2021 Public Hearing, seconded by R. Boone, all in favor.

E. Bott made a motion to adjourn, seconded by D. Horning, all in favor.

The meeting adjourned at 7:54 p.m.

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Respectfully,

Stephanie Seeley, Secretary