

Supplemental narrative for Area variance

2080 New Scotland Road, Town of New Scotland

CONSIDERATIONS FOR AN AREA VARIANCE

The Town of New Scotland Zoning Law Governing the Board of Appeals § 190-76. Standards for granting of appeals states:

The ZBA shall grant an appeal only when it finds that the following standards have been met:

B. Area variances.

- (1) The ZBA shall have the power, upon an appeal from a decision or determination of the Planning Board, to grant area variances as defined herein.
- (2) In making its determination, the ZBA 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 district, neighborhood or community by such grant. In making such determination the ZBA shall also consider the following:
 - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the district or neighborhood; and
 - (e) Whether the alleged difficulty was self- created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.
- (3) The ZBA, in granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate while at the same time preserve and protect the character of the district or neighborhood and the health, safety and welfare of the community.

The sections below address these matters.

CHANGE IN CHARACTER OF THE NEIGHBORHOOD OR DETRIMENT TO NEARBY PROPERTIES

The surrounding properties include Long Lumber to the west, an ice-cream shop and automobile repair building to the north, the Vloman Kill to the east and vacant land to the south. The construction of 72 units of multi-family housing will not be a detriment to neighboring properties.

WHETHER CHANGE CAN BE ACHIEVED BY ANOTHER MEANS

The cost to development this properties infrastructure is not sustainable if a smaller less dense development is proposed.

WHETHER VARIANCE IS SUBSTANTIAL

The overall property size is approximately 18.8+- acres of which approximately 6.1 acres is unconstrained lands. The proposed base density with 72 units of multi-family residential housing would be 11.8 units per acre of unconstrained lands or 3.8 units per acre of total property. The maximum allowable base density is specified as 1 unit per acre. The difference appears to be substantial although the applicants believe there is a discrepancy between the intent of the code and it's wording. As stated in the code "They are intended to ensure that all new development in the Hamlet District will have a character compatible with small-scale hamlet or village development patterns and are meant to establish a small town identity. They are also intended to ensure that development is pedestrian in scale and walkable Hamlet zone's". The base density of 1 unit per acre appears to be contradictory to the intent of a small-scale hamlet development. This site will have approximately 6.1 acre of unconstrained land, which would only allow 6 units to be developed by current zoning. This does not appear to be consistent with the "small-scale" or "small town" intent of the zoning.

WHETHER VARIANCE WILL HAVE AN ADVERSE EFFECT

The Applicant does not believe that granting this variance will result in the creation of any adverse impacts.

LACK OF SELF CREATED SITUATION

The Applicant believes that this situation may not be considered “self-created”. The applicant had originally asked for an opinion by the Planning Staff to determine the density. The inconsistency with the wording of the Zoning Ordinance is confusing and misleading. The portion of the Code that refers to Density and bulk standards allows a Residential lot area for Multi-family in the HD-E sub-district to be a minimum of 3,000 s.f. while the Base Density only allows 1 unit per acre. Using the minimum of 3,000 s.f. lot size will allow 14.5 units per acre which would appear to be more consistent with the “small-scale” or “small town” intent of the zoning.