

**Town of Rotterdam
Zoning Board of Appeals
Summary Meeting Minutes for November 20, 2019**

A regular meeting of the Town of Rotterdam Zoning Board of Appeals was held Wednesday, November 20, 2019 at 7:30 p.m. at the John F. Kirvin Government Center, 1100 Sunrise Boulevard, Rotterdam, New York.

| | | |
|----------|--|----------|
| Present: | Philip Eats, Chairman | Excused: |
| | Angelo Melillo, Vice Chairman | |
| | Craig Serafini | |
| | Bruce Bonacquist | |
| | Alex Stramenga | |
| | Stephanie DiLallo Bitter, Attorney for the ZBA | |
| | Peter Comenzo, Sr. Planner | |
| | Lisa Gallo, Secretary | |

The agenda for the evening was discussed. Chairman Eats called the meeting to order. The Pledge of Allegiance to the Flag was recited. Attendance was taken.

**ZBA Meeting
November 20, 2019**

1. **Felicity Wynn – 1849 Cassella Road, Rotterdam, NY, Tax Map #59.20-12-4** located in the Single Family Residential (R-1) Zoning District. Petitioner respectfully requests that she be granted variances as prescribed in the Town of Rotterdam Zoning Code being Chapter 270-216 entitled “Yard and Property Line Requirements.” **Chapter 270-216(A)(1)** “Above ground pools, including decking:” states not less than 10 feet from side and rear property lines. The applicant is seeking to install an above ground pool within four (4) feet of the side property line, which would require a variance of six (6) feet.

- a. **Felicity Wynn of 1849 Casella Road representing this application.**

- b. **Applicant addressed five (5) criteria to the satisfaction of the Board.**

Ms. Wynn explained she lives in a single family residence with three (3) adjacent neighbors and needs a variance for a pool that was installed in the summer of 2019. It is a 60% variance. She did not realize her septic was in the middle of yard. Ms. Winn stated that during the pool install her septic pipe was hit. After the install she realized it was closer to the property line than it was supposed to be. If she moves it up than it is too close to the septic. If she moves to the left it is below the power lines. If she moves it forward it is too close to the drywell. It is too expensive to move the septic. The property is slanted so there will not be any run off to the neighbors. Her neighbors also have pools.

- c. **This proposal is exempt from referral to Schenectady County Planning pursuant to Memorandum of Understanding – April 2011.**

- d. **Questions/comments from the Board.**

Mr. Bonacquist stated he visited the property but no one was home. He could not see the pool from the neighbor’s house who were also not home. There is a slope in the rear of the yard. Based on this he does not feel the pool is a detriment.

Mr. Melillo agrees with Mr. Bonacquist.

Mr. Serafini asked about the discrepancy with the application stating the pool is seven (7) feet from the property line and the legal notice stating four (4) feet. He wanted to make sure it was advertised correctly. Mr. Comenzo stated the legal notice is correct and the variance is for six (6) feet.

e. No Public Comments.

f. Motion to APPROVE: Mr. Serafini

g. Seconded: Mr. Melillo

h. Approved unanimously:

| NAME | AYES | NOES | EXCUSED | RECUSED |
|----------------|------|------|---------|---------|
| Chairman Eats | X | | | |
| Mr. Melillo | X | | | |
| Mr. Stramenga | X | | | |
| Mr. Bonacquist | X | | | |
| Mr. Serafini | X | | | |

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Town of Rotterdam
Zoning Board of Appeals

Philip Eats, Chairman
Peter J. Comenzo, Senior Planner

Telephone (518) 355-7575 Ext. 338
Facsimile (518) 355-2725

RESOLUTION NUMBER ZBA29-2019
Moved by Mr. Serafini, Seconded by Mr. Melillo
Applicant(s): Felicity Wynn

Applicant(s): Felicity Wynn

Project Location: 1849 Casella Road
Rotterdam, NY

Tax Number or Numbers: 59.20-12-4

Zoning: Single Family Residential (R-1) Zoning District

Proposed Project: The applicant is seeking to install an above ground pool.

WHEREAS, petitioner respectfully requests that she be granted variances as prescribed in the Town of Rotterdam Zoning Code being Chapter 270-216 entitled "Yard and Property Line Requirements;" and,

WHEREAS, Chapter 270-216(A)(1) "Above ground pools, including decking;" states not less than 10 feet from side and rear property lines; and,

WHEREAS, the applicant is seeking to install an above ground pool within four (4) feet of the side property line, which would require a variance of six (6) feet; and,

WHEREAS, a public hearing was conducted by the Town of Rotterdam Zoning Board of Appeals on November 20, 2019 to consider the above referenced variance request; and,

WHEREAS, a legal notice was published in the Schenectady Daily Gazette on Thursday, November 14, 2019 announcing that a public hearing was to take place in the V. Dalton Bambury Hearing Room, at the John F. Kirvin Government Center located at 1100 Sunrise Boulevard, Rotterdam, New York on Wednesday, November 20, 2019 at 7:30 p.m. to consider the variance requests; and,

RESOLUTION NUMBER ZBA29-2019


Applicant(s): Felicity Wynn

WHEREAS, pursuant to a Memorandum of Understanding dated April 2011 with the Schenectady County Department of Planning and Economic Development this project is exempt from review, **NOW**,

IT IS HEREBY RESOLVED, that the Rotterdam Zoning Board of Appeals has considered the foregoing five (5) criteria as evidenced by the application materials of the November 20, 2019 hearing. Taking into consideration the benefit to the applicant if the variances are granted, as weighted against the detriment to the health, safety, and welfare of the neighborhood or community by such grant, the Zoning Board of Appeals hereby **APPROVES** said application.

| NAME | AYES | NOES | EXCUSED |
|-----------------------|-------------|-------------|----------------|
| Chairman Eats | X | | |
| Mr. Melillo | X | | |
| Mr. Stramenga | X | | |
| Mr. Serafini | X | | |
| Mr. Bonacquist | X | | |

This decision is bound by the application materials, schematic drawings, site plan, and testimony submitted to the Zoning Board of Appeals.


Philip A. Eats, Chairman
Zoning Board of Appeals

**ZBA Meeting
November 20, 2019**

2. **Casey Harr – 2900 Marengo Street, Rotterdam, NY**, Tax Map #48.14-9-14 located in the Single Family Residential (R-1) Zoning District. Petitioner respectfully requests that she be granted variances as prescribed in the Town of Rotterdam Zoning Code being Chapter 270-143 entitled “Fences.” **Chapter 270-143(A)(1)** sets a front yard height limit at four (4) feet. The applicant would like to install a six (6) foot high fence, which would require a variance of two (2) feet. **Chapter 270-143(A)(4)** states that front yard fences should be less than fifty percent (50%) solid or opaque. The applicant would like to install the six (6) foot high fence that is one hundred percent (100%) solid in the front yard. The subject property is a corner lot.

- a. **Casey Harr of 2900 Marengo Street representing this application.**
Dan Valachovic, her father, of 2821 Clyde Avenue is also present.
- b. **Representative addressed five (5) criteria to the satisfaction of the Board.**
Ms. Harr stated she is a first time home buyer and did not realize she needed a permit to put up a fence. She also did not know that on a corner lot her fence is in the front yard. Ms. Harr went to the County and she measured 25’ from the center of the road and she also used her deed to place the fence on her property. There is no stop sign on her corner. She has two (2) kids and wants to keep them safe. It does not affect the neighbors. It cannot be achieved by other means because she wants it for privacy and to protect the children. Yes it is substantial. Other people in the neighborhood have fences.
- c. **This proposal is exempt from referral to Schenectady County Planning pursuant to Memorandum of Understanding – April 2011.**
- d. **Questions/comments from the Board.**
Mr. Melillo asked if the fence is located on her property. Ms. Harr stated 70’ from property line she found the stake in the back near the shed and went off her deed which says 36.5’ and 36.5’.

Mr. Bonacquist stated the issue is we can’t grant you a variance for a fence placed on Town property. The fence was installed prior to receiving a variance to install.

Stephanie DiLallo-Bitter addressed the survey from the adjoining neighbors property with applicant. Chairman Eats and Mr. Valachovic discussed the survey and how they determined the placement of the fence. As ABD Engineers prepared the neighbor’s survey and Luigi Palleschi with ABD Engineers is in attendance, he was requested to come up to discuss.

Mr. Stramenga stated he is fine with the fence as long as it is on the applicant’s property.

Mr. Serafini stated if the approval for the fence is granted, it is granted with the understanding that the fence is installed on applicant’s property and not on the Town’s property.

Chairman Eats concurs with the rest of the Board.

e. **Public Comments.**

f. **Motion to APPROVE the two (2) variances as requested with the following condition:**

1. Applicant to supply adequate information to the Building Department that existing the fence is installed on applicant's property and not Town property.

Mr. Bonacquist

g. **Seconded:**

Mr. Stramenga

h. **Approved unanimously:**

| NAME | AYES | NOES | EXCUSED | RECUSED |
|----------------|------|------|---------|---------|
| Chairman Eats | X | | | |
| Mr. Melillo | X | | | |
| Mr. Stramenga | X | | | |
| Mr. Bonacquist | X | | | |
| Mr. Serafini | X | | | |

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Town of Rotterdam
Zoning Board of Appeals

Philip Eats, Chairman
Peter J. Comenzo, Senior Planner

Telephone (518) 355-7575 Ext. 338
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RESOLUTION NUMBER ZBA30-2019
Moved by Mr. Bonacquist, Seconded by Mr. Stramenga
Applicant(s): Casey Harr

Applicant(s): Casey Harr

Project Location: 2900 Marengo Street
Rotterdam, NY

Tax Number or Numbers: 48.14-9-14

Zoning: Single Family Residential (R-1) Zoning District

Proposed Project: The applicant would like to install the six (6) foot high fence that is one hundred percent (100%) solid in the front yard. The subject property is a corner lot.

WHEREAS, petitioner respectfully requests that she be granted variances as prescribed in the Town of Rotterdam Zoning Code being Chapter 270-143 entitled "Fences;" and,

WHEREAS, Chapter 270-143(A)(1) sets a front yard height limit at four (4) feet; and,

WHEREAS, the applicant would like to install a six (6) foot high fence, which would require a variance of two (2) feet; and,

WHEREAS, Chapter 270-143(A)(4) states that front yard fences should be less than fifty percent (50%) solid or opaque; and,

WHEREAS, the applicant would like to install the six (6) foot high fence that is one hundred percent (100%) solid in the front yard; and,

WHEREAS, the subject property is a corner lot; and,

WHEREAS, a public hearing was conducted by the Town of Rotterdam Zoning Board of Appeals on November 20, 2019 to consider the above referenced variance request; and,
RESOLUTION NUMBER ZBA30-2019
Applicant(s): Casey Harr
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WHEREAS, a legal notice was published in the Schenectady Daily Gazette on Thursday, November 14, 2019 announcing that a public hearing was to take place in the V. Dalton Bambury Hearing Room, at the John F. Kirvin Government Center located at 1100 Sunrise Boulevard, Rotterdam, New York on Wednesday, November 20, 2019 at 7:30 p.m. to consider the variance requests; and,


WHEREAS, pursuant to a Memorandum of Understanding dated April 2011 with the Schenectady County Department of Planning and Economic Development this project is exempt from review, **NOW**,

IT IS HEREBY RESOLVED, that the Rotterdam Zoning Board of Appeals has considered the foregoing five (5) criteria as evidenced by the application materials of the November 20, 2019 hearing. Taking into consideration the benefit to the applicant if the variances are granted, as weighted against the detriment to the health, safety, and welfare of the neighborhood or community by such grant, the Zoning Board of Appeals hereby **APPROVES** said application with the following condition:

1. Applicant to supply adequate information to the Building Department that existing the fence is installed on applicant's property and not Town property.

| NAME | AYES | NOES | EXCUSED |
|-----------------------|-------------|-------------|----------------|
| Chairman Eats | X | | |
| Mr. Melillo | X | | |
| Mr. Stramenga | X | | |
| Mr. Serafini | X | | |
| Mr. Bonacquist | X | | |

This decision is bound by the application materials, schematic drawings, site plan, and testimony submitted to the Zoning Board of Appeals.


Philip A. Eats, Chairman
Zoning Board of Appeals

3. **Burdeck Street Associates, LLC, 711-731 Burdeck Street, Rotterdam, NY** Tax Map #48.9-2-4, 48.9-2-5, 48.9-2-6 and 48.9-2-7 (vacant land) located in the Multiple Family Residential (R-3) Zoning District. Petitioners respectfully request that they be granted variances as prescribed in the Town of Rotterdam Zoning Code being Chapter 270-49 entitled "Lot area," and Chapter 270-15 entitled "Yard Requirements." **Chapter 270-49** states that "the minimum total lot area shall be 20,000 square feet, except that buildings or structures with more than four bedrooms shall increase the total lot area by a minimum of 3,000 square feet for each additional bedroom over four, with a minimum lot width of 100 feet." The applicant is proposing to combine the four parcels (52,898 square feet total) and construct three (3), eight (8) unit apartment buildings with a total of 36 bedrooms. The lot size required for the location of 36 bedrooms is 116,000 square feet. The total property size is 52,898 square feet in size which would allow for 14 bedrooms. The applicant is seeking a variance of 63,102 square feet or 22 bedrooms in total. **Chapter 270-51(C)** states that the "Rear yard depth shall be not less than 25 feet, except that a private garage may be built five feet from the rear and side property line." The applicants are proposing to construct one of the apartment buildings within eleven (11) feet of the rear property line which would require a variance of fourteen (14) feet.

- a. **Luigi Palleschi of ABD Engineers, LLP representing this application.**
*Zac Viscusi of Burdeck Street Associates, LLP is in attendance.
- b. **Representative addressed five (5) criteria to the satisfaction of the Board.**
Mr. Palleschi stated the southwest of this existing parcel was purchased by the applicants. They have enhanced the exterior and interior of the existing Burdeck Street Apartments located adjacent to this property. The proposed 24 unit complex consists of four (4) tax parcels totaling 1.2 acre parcel. The Town Board approved of the Change of Zone to Multi-Family Residential earlier this year. The Planning Commission has conceptually reviewed the project. There is one (1) proposed curb cut. There are technically two (2) buildings: one (1) is a stand-alone 8 unit and the other two (2) 8 unit buildings are connected by an Amazon room. There is a three (3) car garage proposed for maintenance, storage of lawn mowers and snow blowers. Lighting will all be shielded down. The Solara project currently under construction is installing a pump station. Once that is turned over to the Town, the applicant is willing to install 1000' of sewer to continue up Burdeck Street which will be paid for by the applicant and dedicated to the Town. The project needs two (2) variances: one for area and one for yard requirements. There is a 25 foot setback and one (1) of the buildings will be 11' from property line requiring a 14' variance. It will not affect the neighborhood. It is 63' away from the nearest building proposed for the Solara project adjoining the property in the rear. There are no windows on that side of the proposed building so it will not affect privacy and therefore it is not substantial. There are one (1) and two (2) bedroom units proposed for this development. The rents will be comparable to Solara. Mr. Palleschi stated that the Rotterdam Zoning Code is old and the calculations for density is based on septic. He feels that with the extension of sewer, this project will result in a public benefit.

c. This proposal is exempt from referral to Schenectady County Planning pursuant to Memorandum of Understanding – April 2011.

d. Questions/comments from the Board.

Mr. Stramenga asked if it would be easier to eliminate a building to put up two (2) buildings because of the density. Mr. Palleschi stated the applicant is installing 1000' of sewer main and when you reduce the number of units then the numbers don't work. Mr. Stramenga asked if the sewer system would be owned by the developer or the Town. Mr. Palleschi explained that developer will construct it and design it with direction from the Town Designated Engineer and once completed, the Town will own it. This will allow for others to hook into the sewer. An easement will be granted to the Town on the applicant's property and construction will occur outside the NYSDOT right-of-way which will save the Town money.

Mr. Serafini stated that we cannot base our decision on your profitability. He said we are considering the square footage and the density. There are no current parameters. He feels they need more information. Mr. Palleschi explained there is a Town Designated Engineer (TDE) assigned to the project of installing the sewers down Burdeck Street to Mariaville Road which is Doug Cole. They will review the sewer lines. The size required currently is 10" which typically they are 8". Mr. Serafini asked Stephanie DiLallo-Bitter if they would be setting a precedent by allowing this variance. Stephanie DiLallo-Bitter explained that variances are granted on a case-by-case basis.

Mr. Bonacquist asked if it would be okay with the applicant to make approval based on TDE approval of the sewer line.

Mr. Comenzo explained the TDE will need to review and approve the sewer. Mr. Viscusi will need to install the sewer lines correctly and turn over to the Town as part of the Planning Commission process.

Chairman Eats stated the Town Code does not differentiate between sewers and septic. Square footage wise it is dense. Chairman Eats asked the prices of the apartments. Mr. Viscusi stated \$1200 per month with cable and Wi-Fi included.

Mr. Bonacquist stated the Town Code is based on septic and not sewers. The Town Code needs to be updated. He does not feel that since the project is going to be on sewer that the variances are substantial and there will not be any adverse effect in the area.

e. Public Comments.

f. Motion to APPROVE conditioned on the following:

1. During the Planning Commission process, the proposed sanitary sewer line shall be reviewed and approved by the Town Designated Engineer and shall be sized to allow for additional connections as part of the proposed Burdeck Street Sewer District extension.

Mr. Bonacquist

g. Seconded:

Mr. Melillo

h. Approved unanimously:

| NAME | AYES | NOES | EXCUSED | RECUSED |
|----------------|------|------|---------|---------|
| Chairman Eats | X | | | |
| Mr. Melillo | X | | | |
| Mr. Stramenga | X | | | |
| Mr. Bonacquist | X | | | |
| Mr. Serafini | X | | | |

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Town of Rotterdam
Zoning Board of Appeals

Philip Eats, Chairman
Peter J. Comenzo, Senior Planner

Telephone (518) 355-7575 Ext. 338
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RESOLUTION NUMBER ZBA31-2019
Moved by Mr. Bonacquist, Seconded by Mr. Melillo
Applicant(s): Burdeck Street Associates, LLC

Applicant(s): Burdeck Street Associates, LLC

Project Location: Burdeck Street (711 – 713)
Rotterdam, NY

Tax Number or Numbers: 48.9-2-4, 48.9-2-5, 48.9-2-6 and 48.9-2-7 (vacant land)

Zoning: Multi-Family Residential (R-3) Zoning District

Proposed Project: The applicant is proposing to combine the four parcels (52,898 square feet total) and construct three (3), eight (8) unit apartment buildings with a total of 36 bedrooms.

WHEREAS, petitioners respectfully request that they be granted variances as prescribed in the Town of Rotterdam Zoning Code being Chapter 270-49 entitled "Lot area," and Chapter 270-15 entitled "Yard Requirements;" and,

WHEREAS, Chapter 270-49 states that "the minimum total lot area shall be 20,000 square feet, except that buildings or structures with more than four bedrooms shall increase the total lot area by a minimum of 3,000 square feet for each additional bedroom over four, with a minimum lot width of 100 feet; and,

WHEREAS, the applicant is proposing to combine the four parcels (52,898 square feet total) and construct three (3), eight (8) unit apartment buildings with a total of 36 bedrooms; and,

WHEREAS, the lot size required for the location of 36 bedrooms is 116,000 square feet; and,

WHEREAS, the total property size is 52,898 square feet in size which would allow for 14 bedrooms; and,

RESOLUTION NUMBER ZBA31-2019

Applicant(s): Burdeck Street Associates, LLP

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WHEREAS, the applicant is seeking a variance of 63,102 square feet or 22 bedrooms in total; and,

WHEREAS, Chapter 270-51(C) states that the "Rear yard depth shall be not less than 25 feet, except that a private garage may be built five feet from the rear and side property line; and,

WHEREAS, the applicants are proposing to construct one of the apartment buildings within eleven (11) feet of the rear property line which would require a variance of fourteen (14) feet; and,

WHEREAS, a public hearing was conducted by the Town of Rotterdam Zoning Board of Appeals on November 20, 2019 to consider the above referenced variance request; and,

WHEREAS, a legal notice was published in the Schenectady Daily Gazette on Thursday, November 14, 2019 announcing that a public hearing was to take place in the V. Dalton Bambury Hearing Room, at the John F. Kirvin Government Center located at 1100 Sunrise Boulevard, Rotterdam, New York on Wednesday, November 20, 2019 at 7:30 p.m. to consider the variance requests; and,

WHEREAS, pursuant to a Memorandum of Understanding dated April 2011 with the Schenectady County Department of Planning and Economic Development this project is exempt from review; and,


IT IS HEREBY RESOLVED, that the Rotterdam Zoning Board of Appeals has considered the foregoing five (5) criteria as evidenced by the application materials of the November 20, 2019 hearing. Taking into consideration the benefit to the applicant if the variances are granted, as weighted against the detriment to the health, safety, and welfare of the neighborhood or community by such grant, the Zoning Board of Appeals hereby **APPROVES** said application with the following condition:

- 1. During the Planning Commission process, the proposed sanitary sewer line shall be reviewed and approved by the Town Designated Engineer and shall be sized to allow for additional connections as part of the proposed Burdeck Street Sewer District extension.**

RESOLUTION NUMBER ZBA31-2019
Applicant(s): Burdeck Street Associates, LLP
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| NAME | AYES | NOES | EXCUSED |
|-----------------------|-------------|-------------|----------------|
| Chairman Eats | X | | |
| Mr. Melillo | X | | |
| Mr. Stramenga | X | | |
| Mr. Serafini | X | | |
| Mr. Bonacquist | X | | |

This decision is bound by the application materials, schematic drawings, site plan, and testimony submitted to the Zoning Board of Appeals.


Philip A. Eats, Chairman
Zoning Board of Appeals

Meeting adjourned: 8:40 PM
Motion to adjourn: Mr. Serafini
Seconded: Mr. Bonacquist
Approved unanimously

Next meeting: December 18, 2019

Respectfully Submitted,
Lisa Gallo