

Town of Conklin Zoning Board of Appeals – December 4, 2018

MEMBERS PRESENT: William Northwood, Chairman; Harold Cole, Elizabeth Einstein
Norm Pritchard,

ABSENT: **Art Boyle**

ATTORNEY: **Keegan Coughlin**

ALSO PRESENT: Nick Vascello, Code Officer
Mary Plonski, Secretary
Willie Platt, Town Board Liaison

VISITORS: Halkaft Doski

7:00 P.M. Chairman Northwood called the meeting to order

Chairman Northwood reviewed emergency procedures to all that were present. A record of tonight's meeting will be available in the Town Clerks office in approximately 30 days.

Agenda Item #1 Halkaft Doski, 919 Conklin Rd. Conklin, NY 13748
Tax Map No: 162.14-2-53
Request for Use Variance to operate as a used car dealership.

Chairman Northwood read into record the following correspondence:

1. Broome County letter dated December 3, 2018
2. Broome County Department of Transportation comments dated November 13, 2018
3. Broome County Department of Public Works comments dated November 8, 2018
4. Short Environmental Assessment Form.
5. Application and Letter of Intent.

Chairman Northwood explained to the applicant that this board deals with two kinds of variances.

Area variances have to do with setbacks, lot size requirements etc.

A Use variance is a request to use a property in a way that is not permitted by the Town Code. The standards for a use variance are directed by New York State and the requirements are very strict and require proof of unnecessary hardship. There are 4 standards that must all be met in order to obtain a Use variance.

1. An applicant must prove, by competent financial evidence, the he or she cannot receive a reasonable return from the property under any permitted use. That involves dollar and cents proof. An example would be when a property is on the market for an extensive period of time and has not been able to be sold for a use that would be acceptable to the Town of Conklin's current code.
2. The applicant must provide that the hardship is unique to the property in question.
3. The applicant must show that the proposed use will not alter the essential character of the neighborhood.
4. The applicant must prove that the hardship was not self-created.

All four of these standards must be met in order to obtain a Use Variance.

Keegan Coughlin noted that this was an Unlisted Action and the SEQR needed to be completed.

Chairman Northwood read through the Short Environmental Assessment Form.

Hal Cole stopped Bill and asked if number 10 could be reviewed. A discussion was had that number 10 if answered no, should have something written in there.

Keegan Coughlin completed Part 2- 3 of the Short Environmental Assessment Form Impact Assessment.

Bill Northwood made a motion for a Negative Declaration for SEQR. Norm Pritchard second. All approved.

Chairman Northwood and Keegan Coughlin explained that because of the Broome County 239 Comments recommending denial of the use variance to use the property as a used car dealership, the zoning board would need a unanimous vote to overturn the County's recommendation.

Chairman Northwood asked Mr. Doski to explain to the board why this parcel cannot be used for any of the permitted uses allowed in our Town Code.

Mr. Doski explained that using the property as residential was very costly since it was in a FEMA Floodplain and would have to be raised up. The previous owner owned the property for many years and never used it for anything. The reason he purchased it and put it in his name was because he thought that would help with the variance process. He purchased the property to open a used car lot.

Chairman Northwood asked if anyone had attempted to see if a home could be placed there if it were to be raised above whatever was required by the engineers. Mr. Doski answered no. If it was he felt it would be very expensive.

Hal Cole commented that he agreed with what Mr. Doski had said, however there are a number of homes in that R-12 district that have survived the flood. There are a number of homes still in that area. The property is not unique to only this property. It is the same as all the surrounding properties. Hal felt that the hardship was self-created. He knew before purchasing that it was a residential district.

Liz Einstein affirmed that there were two of the four standards that were not met. But that this also changes the character of the neighborhood.

Chairman Northwood specified that the standards are from New York State and are very explicit as to what is required.

Hal Cole made a motion that we deny the application of Halkaft Doski for a Use Variance for property located at 919 Conklin Rd. Conklin, NY 13748, tax map no. 162.14-2-53, to allow: operation of a used car dealership. Because the applicant has not demonstrated unnecessary hardship, based on the following findings of fact:

1) The applicant has not demonstrated, by competent financial evidence, that a reasonable return cannot be realized from the property in question, under any permitted use. While he did indicate that he feels someone Could not get a good rate of return on the property, he did not show evidence or proof of this.

2) The applicant has not demonstrated that the hardship is unique to the property in questions, as shown by the following: Mr. Doski has not shown anything that makes this property different from any other property in the area. In fact, the property next to it is the exact same as this property.

3) The applicant has not demonstrated that the requested variance, if granted, will not alter the essential character of the neighborhood, as shown by the following: Nothing was provided other than the statement that across the street is zoned commercial. Allowing a Car Dealership would change the character of the neighborhood.

4) The applicant has not demonstrated that the alleged hardship was not self-created, as shown by the following: The property was purchased with the knowledge that a used car dealership was not allowed. Mr. Doski knew the property was in an R-12 Residential neighborhood.

Liz Einstein second the motion. All board members agreed.

Chairman Northwood asked for a motion to accept the minutes of our last meeting.

Hal Cole motioned to approve the minutes of the October 2, 2018 meeting.

Norm Pritchard second the motion. All present board members approved.

Chairman Northwood reminded the board that there were Workshop opportunities. There are a number of online workshops.

Chairman Northwood asked for a motion to adjourn the meeting.

Hal Cole motioned to adjourn the meeting. All present board members approved.

Next Zoning Board Meeting will be held on Tuesday, January 1, 2019.

Northwood closed the meeting at 8:05 p.m.

Respectfully Submitted,

Mary Plonski – Zoning Board Secretary