RESOLUTION

AV-1403
Tate Family Limited Partnership
Crossroads Subdivision Wemple Road, Glenmont
4/16/2014

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York (“the Board”) seeking a Variance under Article VI, Supplemental Regulations, Section 128-48(A)(10), Flag Lot requirements (length of “pole”), requested by Tate Family Limited Partnership (“Applicant”) for vacant property in the proposed Crossroads subdivision at Wemple Road, Glenmont, New York; and,

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on March 19, 2014, and

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

BE IT RESOLVED, that the Zoning Board of Appeals makes the following Findings of Fact and Conclusions of Law in this matter:

FINDINGS OF FACT

The Applicant is proposing a “flagpole” lot as part of a 3-lot subdivision. The “pole” section of this lot would be one hundred twenty feet (120’) long which is eight feet (80’) shy of the two hundred feet (200’) required. If the variance is granted, the Applicant will have to apply
to the Town Planning Board for subdivision approval. The property is located in a Residence “A” Zoning District and is vacant land.

By Resolution dated March 4, 2009, the Board previously approved the identical variance application.

James Easton of WSP, the Applicants’ consultant, testified in support of the Application.

Except for the “pole” length that is the subject of this application, the three lots in the proposed subdivision would meet the density and dimensional requirements of the Zoning Law.

The present plans for the subdivision call for a 77 foot separation between the house on the “flagpole” lot (Lot 3) and the house on the lot in front of the “flagpole” lot (Lot 2). Mr. Easton testified that given physical constraints on the property (wetlands, sewer and power line easements) different configurations of the “flagpole” lot were not feasible and would not enhance this proposed separation distance.

At the public hearing, a neighboring property owner testified concerning drainage and traffic issues and activities on a nearby National Grid easement. These issues are within the jurisdiction of the Town Planning Board or National Grid.

The Board noted a discrepancy on one of the Applicant’s maps regarding the square footage on Lot 2, and asked that it be corrected as part of the application for subdivision approval.

**CONCLUSIONS OF LAW**

Based on the above Findings of Fact, and after reviewing the application, sketches and plans submitted, testimony at the hearings, and other documents submitted by the Applicant, the Board determines that the proposed area variance (“flagpole” lot, length of “pole”) will be granted.
The Board, consistent with its prior (2009) determination, finds that the requested variance will be a benefit to the Applicant and will have no detrimental impact on the health, safety or welfare of the community and the neighborhood.

The benefit sought by the Applicant cannot be achieved by some method other than a variance.

The requested variance will have no adverse affect on the physical or environmental conditions in the neighborhood. These issues will be addressed during subdivision review by the Town Planning Board.

The requested variance is the minimum that is necessary and adequate to the Applicant’s needs, while still preserving the character of the neighborhood.

The alleged difficulty necessitating the requested variance has been created by the Applicant, but this is not a bar to the grant of the variance.

The requested variance (“flagpole” lot, length of “pole”) is GRANTED, on the following conditions:

1. The project will be completed in accordance with the plans, specifications, testimony and exhibits given by the Applicant at the March 19, 2014 hearing except as the same may be modified by the Town Planning Board or Building Department;

2. The project shall be completed within the time required by section 128-89 (R) of the Town Code.

3. The Board recommends that, in its consideration of the subdivision application, the Planning Board give particular attention to landscaping and/or other means of creating a buffer between the home on the “flagpole” lot (Lot 2) and the home on the lot in front of the “flagpole” lot (Lot 3).

April 16, 2014

Daniel Coffey
Chairman
Zoning Board of Appeals
The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York, on April 16, 2014

Kathleen Reid, Secretary
Zoning Board of Appeals