

**WATERVLiet CHARTER TOWNSHIP  
ZONING BOARD OF APPEALS  
MEETING AND HEARING MINUTES  
JULY 28, 2021**

Site Address: Lot 5 of Block 5 of the Bowe's Landing Subdivision

Property #: 11-21-0970-0066-01-5

Request: The hearing was called at the request of Donald and Kathleen Falduto for property they own between Park St. and Lakeshore Dr. in the Bowe's Landing Subdivision directly across the street from their home located at 5272 Park St. The property number is: 11-21-0970-0066-01-5. The lot is currently undeveloped. The Faldutos would like to build a 20 foot by 30 foot garage on this lot, however, due to the width of the lot, the intended dimensions of the garage would bring both the east and west side walls of the proposed structure to within 4.6 feet at their closest points.

Present: Robert Wallace, Mark Vander Linden, Stephen Myers, Carl Spessard, Thys Van Hout, Deanna Heminger, Deane Fizzell

Also Present: Donald and Kathleen Falduto, Linda Rinek, John Gibson, Darin Frieling, Catherine Nybro, Richard Nybro, Joseph Stepich, Thomas Scheid, John Fulton,

Chairman Spessard called the meeting to order at 2:00 p.m.

Roll Call was taken.

The minutes of the June 11, 2021 meeting and hearing were read. R. Wallace made a motion to approve the minutes as read. T. Van Hout seconded and the motion carried.

At 2:02 p.m. Chairman Spessard entertained a motion to close out of the regular meeting and enter into the scheduled public hearing concerning the requested variances. S. Myers made the motion to close out of the regular meeting and enter the scheduled public hearing. M. Vander Linden seconded and the motion carried.

At this point, Spessard asked the Faldutos if they wished to address the Board. D.

Falduto asked the proposed contractor, J. Fulton, to speak on their behalf.

Fulton opened discussion by noting that the Falduto's long range plan is to raze their existing dwelling and replace with a new house at some point in the future. He added that, in anticipation of that, a garage would make the transition easier and be a benefit once the new house is built.

He mentioned that there is currently a drainage system installed on the lot that consists of two catch basins connected by 6" PVC pipe which empties into another catch basin near the road. He elaborated by noting that the drainage system could be moved by placing

one catch basin on each side of the property which would handle any runoff coming off the hill to the southeast of the site and, at the same time, keep runoff from entering the neighbor's yards. R. Wallace requested verification on the amount of fill that would be used if constructed. Fulton said there would not be that much fill as the property is currently nearly even with the road and anticipated not more than 6 inches. He added that if there are areas that hold water, the catch basins could be moved to those locations to alleviate the accumulation.

S. Myers asked if the vehicular access would only be from Park St. Fulton confirmed that it would only be from Park St. Myers then questioned the feasibility of this configuration as, he pointed out, there is a large utility pole on the Park St. side of the lot. Fulton noted that there is 16' between the utility pole and the corner of the lot. Myers then pointed out, in that case, entering the lot to the garage would require a 110° turn. Fulton stated that the pole favors the west side of the lot and, as such, the east side of the lot would be used for access to the garage.

At this time Chairman Spessard requested that the submitted correspondence be read into the record. That correspondence is attached to these minutes.

After the reading of the written correspondence Spessard invited those in attendance to be heard, if they wished. D. Frieling told the Board that he was in favor of the proposed structure for all the reasons stated previously in the read correspondence.

R. Nybro stated that the lot in question accumulates a considerable amount of water during heavy rains and storms and was concerned that with the addition of the structure occupying a large area of the lot, if that would force the storm water onto his mother's property to the west. J. Fulton reiterated the fact that there is a drainage system on the property and large quantities of runoff, that may flow on to his mother's property should not be an issue as it would be captured before getting there.

D. Falduto stated that he will do whatever is necessary to correct any adverse affects the construction may cause to adjoining properties.

C. Spessard commented that this should not even be a matter before the ZBA, explaining that if the lot was of adequate width to meet the required setbacks, "We wouldn't even be here today." He further reasoned that the drainage and runoff issues would be under the purview of the zoning and building departments who would deal with those issues during their site plan review process. S. Myers stated that there are a variety of reasons why a 10' setback is mandated. One of those reasons is to provide more space to distribute runoff water and provide distance to lower velocities of that runoff. He further added that he believes, however, the principal reason for the 10' setback rule is for fire protection. Myers cited the fact that variances run with the property in perpetuity and, as such, there would be nothing stopping someone, someday, from building a taller garage with perhaps living quarters above.

With there being no further questions or comment from those in attendance, C. Spessard requested a motion to close out of the public hearing and reenter the meeting.

R. Wallace made the motion to close out of the public hearing and reenter regular session.

T. Van Hout seconded and the motion carried.

The public hearing was closed at 2:21 p.m.

Back in regular session, S. Myers noted that there has been discussion in the past regarding hardships and an owner not being able to use their property. He also mentioned

that a 20 foot width for a garage is a recent concept further adding that most garages had been built to single car width and still provided considerable storage space. He went on to state that just because the applicant desires a 20 foot width does not make it either practical or necessary and added that the request, as proposed, is too close taking into consideration the 2+ foot setback from the common property line of the contiguous structure to the west.

Wallace stated that he felt a 1 car garage is not practical these days for the fact that most households have 2 cars and a number of recreational vehicles and further stated that most garages, extant, in the Bowe's subdivision are mainly 2 car in size. Myers' responded by stating that just because everything else on the Landing is nonconforming, adding another nonconforming structure is; "...not the mission we've been given."

At this point R. Wallace made a motion to grant the variance as requested. C. Spessard seconded. A roll call vote resulted as follows: M. Vander Linden, yea; R. Wallace, yea; T. Van Hout, yea; S. Myers, nay; C. Spessard, yea. Motion carried.

With there being no further business before the Board S. Myers made a motion to adjourn. T. Van Hout seconded and the motion carried.

The meeting was adjourned at 2:26 p.m.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Robert Lohr", is written over a horizontal line.

Robert Lohr  
Zoning Administrator