

APRIL 11, 2013

A regular meeting of the Zoning Board of Appeals of the Village of Lakewood, NY, was held Thursday, April 11, 2013, 6:30 PM, in the Board Room of the Anthony C. Caprino Municipal Building, 20 W. Summit Street, with Deputy Chairman Louis S. Drago, Jr. presiding. Board Members present were Myra V. Blasius, Duane F. Anderson and Willard Anderson. Also present were Village Clerk/Secretary Joseph M. Johnson and Building Inspector Charles L. Smith. Absent was Zoning Board of Appeals Chairman William F. Chandler.

APPROVAL OF MINUTES

Motion by Duane F. Anderson, seconded by Willard Anderson, to approve the minutes of the last regular meeting of the Zoning Board of Appeals held December 13, 2012.

Adopted: 4 ayes, no nays (Drago, Blasius, D. Anderson, W. Anderson)

REQUEST FOR INTERPRETATION NUMBER OF ACCESSORY STRUCTURES ALLOWED WITHIN THE R-1, RESIDENTIAL DISTRICT

Building Inspector Charles L. Smith was asked by Deputy Chairman Drago to provide a little background in connection with his request for interpretation regarding the question of how many accessory structures are allowed in a Single-Family (R-1) Residential District.

Mr. Smith indicated that he received a verbal complaint from a neighbor of Mr. F. Scott Farrell, 108 Sunset Ave., regarding the two accessory structures that are located in his back yard, with the knowledge that one of the structures has the appearance of a children's "playhouse". Section #25-47, [Accessory Storage Structures] of the Village of Lakewood Zoning Law indicates that only one (1) storage structure per lot shall be allowed in a Single-Family (R-1) Residential District.

Following an inspection of the property known as 108 Sunset Ave., Building Inspector Smith indicated he issued Mr. Farrell and "Order to Remedy Violation" dated November 9, 2012. The violation notice ordered the property owner to comply with the local zoning law and to remedy the condition on or before November 30, 2012.

Building Inspector Smith indicated he then received a letter dated November 16, 2012 from Stephen E. Sellstrom, Esq., legal counsel for Mr. F. Scott Farrell, stating that his client denies being in violation of Section #25-47 of the Village of Lakewood Zoning Law, and contends the "playhouse" situated in Mr. Farrell's back yard is not an accessory storage structure. The letter then stated that Mr. Sellstrom's client, Mr. Farrell has no intention of voluntarily removing the "playhouse" from his property.

Mr. Smith indicated that on the advice of Village Attorney Edward P. "Tad" Wright, it was suggested that he as Building Inspector request an interpretation of Section #25-37, [Accessory Storage Structures], in particular the number of accessory storage structures that shall be allowed in a Single-Family (R-1) Residential District.

Building Inspector Smith said it is his opinion that a building is anything with four walls and a roof. A residence would be considered as a primary structure/principal use while any other building/structure on the lot, regardless whether it is called a shed, greenhouse or "playhouse", shall be called an accessory structure.

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In accordance with Section #25-47, [Accessory Storage Structures] of the Village of Lakewood Zoning Law, only one (1) storage structure shall be permitted in a Single-Family (R-1) Residential District. Mr. Smith said he will proceed upon receiving an interpretation of the intent of the local zoning law from the Zoning Board of Appeals.

Board member Myra V. Blasius indicated the zoning law specifically states that only one (1) accessory storage structure shall be allowed in an R-1, Residential District and added it is the intent of the local zoning law to allow only one (1) accessory storage structure per lot. In keeping with the intent of the local zoning law it is reasonable to only allow one (1) accessory storage structure and is consistent with the definition of a building as previously described by Building Inspector Smith. Rather than making Mr. Farrell raze or remove the “playhouse” from the property so as to comply with the zoning law, it would be reasonable to ask that he apply for a variance.

Deputy Chairman Drago agreed with Ms. Blasius’ opinion with respect to the zoning law’s intent and its interpretation with respect to the number of accessory storage structures allowed in an R-1, Residential District. Mr. Drago said once during the course of the year the so called “playhouse” is no longer utilized as a “playhouse” and something is placed inside it out of the weather, it becomes a storage structure. Mr. Drago again agreed with Ms. Blasius saying in this particular case the reasonable remedy is for Mr. Farrell to apply for a variance asking for permission to maintain a second accessory structure.

Building Inspector Smith indicated although the definition for storage structure is pretty sound, it would be more inclusive to list any structures as either primary or accessory buildings. It was his opinion it doesn’t matter what the accessory buildings are being used for, rather it is the zoning code’s intent not to allow multiple small buildings surrounding the primary or principal structure.

The consensus of opinion voiced by members of the Zoning Board of Appeals regarding Building Inspector Smith’s request for an interpretation with respect to Section #25-47, [Accessory Storage Structures], in particular the maximum number of accessory structures allowed is as follows. Only one (1) accessory storage structure, which is considered any building with four walls and a roof, shall be allowed per lot in a Single-Family (R-1) Residential District. Individuals wishing to maintain more than one (1) accessory storage structure should apply for a variance. In this particular case, rather than require Mr. Farrell to either raze or remove one of his two storage structures from his property, the Board of Appeals respectfully asks that he apply for a variance.

Meeting adjourned: 6:50 PM

Joseph M. Johnson
Village Clerk/Secretary