



Environmental, Planning, and Engineering Consultants

34 South Broadway
Suite 300
White Plains, NY 10601
tel: 914 949-7336
fax: 914 949-7559
www.akrf.com

Memorandum

To: Town of Washington Zoning Board of Appeals
From: Aaron Werner, AICP
Date: January 12, 2024 – **Updated February 15, 2024**
Re: 324-346 Fowler Rd
cc: Heather Croner & Catherine MacKay Croner (property owners)
Douglas E Larson (Larson Architecture Works, PLLC) (Applicant)
Alicia Moore (AKRF, Inc.)
Kyle Barnett; Meghan Clemente (ZBA Attorney)
Jonathan Ialongo (Town Building Inspector)

AKRF, Inc. has reviewed the following documents and plans for the above referenced application:

- Area Variance Application notarized 10/23/23; revised 12/20/23.
- Property Survey prepared by Kevin Cunningham and dated 6/28/1984; revised 12/15/23.
- Site Plan (5 sheets) prepared by Larson Architecture Works, PLLC and dated 10/23/23; revised 12/22/23.
- Short EAF dated 10/26/23; revised 12/20/23.
- Deed conveying subject property to Heather Croner Personal Trust.
- Letter of “No Certificate of Occupancy required” (predates zoning) dated 4/3/98.
- Certificate of Occupancy for new front porch, dated 11/15/05.
- Consent to Inspection, dated 10/13/23.
- Owner’s Endorsement, signed by Heather Croner, notarized 10/13/23.
- Owner’s Endorsement, signed by Catherine MacKay Croner, notarized 10/13/23.
- Owners Affidavit, signed by Heather Croner and Catherine MacKay Croner.

PROJECT DESCRIPTION

The Applicant, Douglas Larson, on behalf of the property owner Heather Croner Personal Trust (Heather Croner & Catherine MacKay Croner), proposes to construct an addition to a single-family house located at 324-346 Fowler Road (tax parcel 6565-00-934683-0000), a 26.55-acre lot in the RL-5 zoning district and Agricultural District 21. The property is currently improved with a two-story 3,796-SF house, a barn/office, accessory structures, and a gravel driveway. Existing uses are listed as single-family house, home occupation, and agricultural farm. The proposed addition includes a bedroom, bathroom, dressing room,

deck with pergola, and a new cellar. The existing house is preexisting nonconforming, as the front setback is 45 feet where 100 feet is required. The proposed addition would have a front setback of 19 feet, which would increase the nonconformity by 16.5 feet. Therefore, this project requires a 16.5-foot front yard setback area variance. In addition, the project requires a special permit to increase the size of the house as a nonconforming structure (by 13.5%), pursuant to Zoning Code Section 391.7. An expansion of up to 949 SF is permitted under § 391.7 (25% of 3,796 SF) through a special permit. The special permit, if granted, also requires Site Plan approval by the Planning Board.

The property includes wetlands/watercourse located south of the proposed project – a pond and stream that runs east-west across the property. However, the project is located outside the 100-foot buffer.

COMMENTS

Comments shown in *italicized text* are recited from AKRF’s initial November 19, 2023 memorandum to the ZBA. Discussion from the November 21, 2023 ZBA meeting, as well as any new information received from the Applicant or follow-up comments are presented in **bold text**.

This memorandum was initially prepared January 12, 2024 for the January 16, 2024 ZBA meeting. However, that meeting was cancelled due to inclement weather.

APPLICATION COMPLETENESS

1. *11/19/23: The property is within Agricultural District 21. The Applicant should submit an Agricultural Data Statement.*

2/15/24: Comment addressed through resubmission dated December 21, 2023

2. *11/19/23: The submitted survey is dated 6/28/1984. Based on the aerial image from Dutchess County Parcel Access, as well as the enlarged plan on Sheet G-0, it appears that no new buildings have been constructed since the survey. The Applicant should confirm. However, per the Certificate of Occupancy dated 11/15/05, a front porch was constructed since the survey was performed. While the front porch is not shown on the survey (which predates its construction), it is shown on the enlarged plan on Sheet G-0. The ZBA may request a more recent survey, which, in the ZBA’s discretion, may be limited to the project area, instead of the entire parcel. Alternatively, the ZBA may deem that the submitted materials, as updated as appropriate, are sufficient.*

2/15/24: A new and updated survey has been filed with the revised application submitted December 21, 2023.

3. *11/19/23: The Applicant should confirm that the proposed addition would not encroach on the existing utilities, including septic and water. If/when the Applicant proceeds to the Planning Board for site plan review, these items should be added to the site plan.*

2/15/24: Comment addressed through the updated survey. According to the Applicant, the domestic well is outside of the project area and located on the east end of the farmhouse; the septic field in its current location has more than the required 20 feet of clearance from the new addition; and the electric meter and feed to the generator will require relocation.

4. *11/19/23: On the Area Variance Application, the Applicant checked “yes” to the question: “Are there any patios, structures, pools, or fences that exist on your property that are not shown on the survey that you are submitting?” The Applicant should confirm that this refers only to the new front porch (see Comment #2). An updated survey may be required.*

2/15/24: See follow-up comment #2 above. Comment addressed through updated survey.

5. *11/19/23: On the Area Variance Application, the Applicant checked “yes” to the question: “Do you or any co-owner own other land adjoining or close to this parcel?” In addition, on the EAF, question 3c. says that the total acreage (project site and contiguous properties) owned by the applicant is 152.38*

acres. The Applicant should clarify the location of such land. An updated survey that labels nearby properties owned by the Applicant may be required.

2/15/24: Comment addressed through resubmission dated December 21, 2023.

6. 11/19/23: The project description and square footage is inconsistent across the Area Variance Application, EAF, and site plan.
 - a. The application describes the addition as a bedroom, bathroom, and dressing room. However, the EAF description includes “an open deck with pergola,” in addition to the bedroom and bathroom. The site plan shows a new bedroom, new bathroom, new dressing room, new vestibule, and new deck w/pergola (see Sheet A-1); the site plan also shows a new cellar (Sheet A-2). Applicant should clarify the description of the project and confirm that the project is accurately depicted in the site plan.
 - b. The application provides the square footage of the addition as 737 SF. The EAF provides that the addition will be “512 SQFT of conditioned space and an open deck with pergola of 126 SQFT,” which comes to 638 SF. The total square footage of the addition is not provided on the site plan. The Applicant should clarify the total square footage of the proposed project. (Note that, if/when the ZBA refers this application to the Planning Board for Site Plan review, the site plan should be updated to include the square footage, which should be consistent throughout the application.)

2/15/24: According to the Applicant’s resubmission, the conditioned space of the proposed addition consists of 1 bedroom, 1 bathroom, vestibule and dressing room and is 512 sf. The proposed open deck with pergola is 126 sf (does not count toward gross floor area per the Code).

The drawings and application lot coverage calculations have been updated based on new survey numbers. Note that the site plan denotes building area/lot coverage. The floor plans denote gross floor area. The new proposed lot coverage is 1.91 percent versus the existing which was 1.88 percent. Note that the new proposed addition overlays existing lot coverage/building area of the flagstone path and cellar access, which negates the increase of lot coverage to 415 sf.

7. 11/19/23: The property includes wetlands and a watercourse – a pond and stream located south of the existing house and proposed project, which runs east-west across the property. Based on a visual assessment, it appears that the project is more than 100 feet from the wetlands. (However, if/when the ZBA refers this application to the Planning Board for Site Plan review, the site plan should be updated to show the area of disturbance (which is 0.014 acres per the EAF) and the 100-foot wetland buffer. The ZBA may review the application and make its determination regarding the variance and special permit independent of any wetlands issue.)

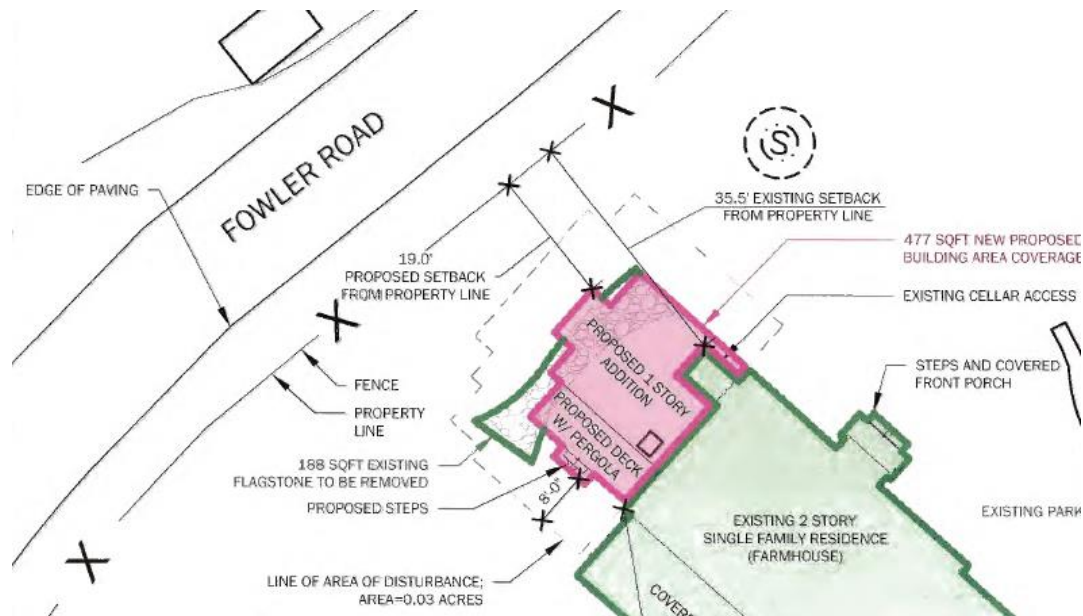
2/15/24: The proposed addition is 188.9’ from the edge of the pond as delineated on the new survey. A 100’ buffer line has been added to the site plan for reference. Based on this information a wetland permit should not be required.

CODE COMPLIANCE

8. 11/19/23: The existing house is preexisting nonconforming, as the front setback from Fowler Road is 45 feet, where 100 feet is required. The proposed addition would extend from the western end of the house, decreasing the setback to 26.5 feet. An area variance for this additional 18.5 feet of encroachment is required.

2/15/24: At the November 21, 2023 meeting, the ZBA directed the Applicant to measure the existing/proposed front setback from the property line and not the street line. The Applicant updated both the existing and proposed setbacks as directed. The existing setback to the property line is 35.5 feet and the proposed setback with the addition is 19 feet. Based on the resubmission

dated December 21, 2023, the Applicant is requesting an area variance for the additional 16.5 feet of encroachment. See image below.



9. 11/19/23: As the house is nonconforming, expansion requires a special permit pursuant to Zoning Code Section 391.7. This section permits expansion by up to 25% of the house size. The existing house is 3,145 SF; therefore, expansion is permitted by up to 786.25 SF. It appears that the proposed addition would comply with this requirement (737 SF per the application; 638 SF per the EAF); however, this should be confirmed once the square footage is clarified.

2/15/24: As noted in their December 21, 2023 resubmission, the Applicant is proposing a 13.5 percent increase in gross floor area to the farmhouse as it was on May 13, 1971 (approximately 3,796 gsf on this date). The Applicant is proposing an additional 512 sf of gross floor area. Note that the 126 sf open deck with pergola has not been included as it is precluded from gross floor area per the Zoning Code (it is not roofed).

REFERRALS

10. 11/19/23: The subject parcel is within a farm operation in an agricultural district (AD 21). This application is therefore subject to General Municipal Law (GML) 239-m, which requires referral to Dutchess County. However, under the Referral Reduction Agreement between the Town and Dutchess County, special use permits and variances for residential uses are exempt from referral. (Note that the Planning Board, as part of its site plan review, will be required to refer this application to the County, as site plans are not exempt under the referral reduction agreement.)

2/15/24: Comment noted.

SEQRA

11. 11/19/23: This application is considered a Type II Action under the State Environmental Quality Review Act (SEQRA), which requires no environmental review or submission of an Environmental Assessment Form. The applicable Type II citations are as follows:

“6 NYCRR 617.5(c)(11) – construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (13) of this subdivision and the installation, maintenance or upgrade of

a drinking water well or a septic system, or both, and conveyances of land in connection therewith”

“6 NYCRR 617.5(c)(16) – granting of individual setback and lot line variances and adjustments”

2/15/24: The application was classified as a Type II action at the 11/21/23 ZBA meeting.

NEW COMMENT

12. **2/15/24: Although currently used as two-bedroom home, the subject house contains three bedrooms, one of which was previously converted into a dressing room. As discussed at the 12/19/23 ZBA meeting, the proposed addition would add a “fourth” bedroom, which gives rise to the question of whether the house’s existing septic system could accommodate four bedrooms – if at some point in the future, the dressing room were converted back into a bedroom by the current or future owners. After consulting with the Town Building Inspector, the Applicant has agreed to retain a septic professional to assess the existing system and generate a report on whether it can adequately accommodate four bedrooms. The Applicant should advise on the status.**

For this issue, the ZBA may either: (1) require, as part of the ZBA process, that the Applicant complete the assessment of the septic system and provide a professional report on the adequacy of the system for four bedrooms (i.e., continue review of the application until the next ZBA meeting (or until such time as the Applicant has obtained the septic report)); or (2) proceed with without the report and make any approval conditioned on the adequacy of the septic system being addressed as part of Planning Board site plan review and approval.

RECOMMENDATION

At the February 20, 2024 meeting, AKRF recommends that the ZBA (1) open the public hearing; (2) discuss the septic system issue (AKRF Comment #12); and (3) either, require the Applicant to produce a report on the septic system and continue review of the application until the 3/19/24 ZBA meeting, or consider approval of the requested special permit and variance, conditioned on the adequacy of the septic system being addressed as part of Planning Board site plan approval.