

**Town of Hamilton**  
**Zoning Board of Appeals Meeting**  
**PUBLIC HEARING**

Tuesday, May 15, 2018 at 7:00pm  
Hamilton Town Office  
40 Milford Street  
Hamilton, NY

**Present:** Harmon Hoff, Harvey Kliman, Jeff Schindler, Erwin Lamb, Lydia Slater, Deputy Clerk  
Elisa Robertson, Codes Enforcement Officer Mark Miller

**Audience:** Mr. Cengiz Cigeroglu, Ms. Emily Oren, Mr. Khaled Sanad

Meeting called to order at 7:12 pm at the Town Office due to a scheduling conflict at the Hamilton Courthouse. All present were agreeable to the change of venue.

Chairman Hoff asks the Board to review the minutes and asks if there are questions or comments.

**Resolution 2018-1: Motion to approve Minutes from Zoning Board of Appeals Meeting dated June 21 and July 5, 2017.**

Motion: Lydia Slater

Second: Jeff Schindler

Vote: Aye – 5 Nay – 0

ADOPTED

**Application for an Area Variance: Cengiz Cigeroglu, 1718 Preston Hill Road, Hamilton, Tax Map # 168.-1-45**

There was some confusion originally about what type of variance was needed; the town attorney suggested that it was an area variance, and the County referred to a use variance in its GML 239 that was returned to the Town Office on the day of the meeting. This application has many issues surrounding it. Ultimately, it is up to the Hamilton ZBA to determine.

The property presently has 2 buildings on it, a residence and a garage. The upstairs of the garage is unfinished space. The survey map in the applicant's possession show two parcels but according to the tax map from the county it is all one parcel. The parcel has not been subdivided. There was a dispute over some acreage with the neighbor in the past and both

parties agreed to split the disputed land in half. It increases the lot size by a very small amount; .116 acres.

The Chairman states that the standards for ag/residential district include a one-acre minimum lot size for a single-family residence or business use. Another issue facing this application is that the current lot is already a flag lot.

The applicant was given a survey at purchase in 2013 which shows two parcels. He bought the property and started fixing it up and adding the garage. He now wants to build because of the survey stating that there are two parcels and the right of way goes all the way to the back of the second parcel. He is unsure whether a variance is needed or if he needs to subdivide. He consulted with CEO Miller and he suggested this process, to see if he can or cannot build on it.

He assumed that he would have to separate the parcels and that would be better anyway if they ever wanted to sell one of the houses off if something unexpected were to happen. It is Mr. Cigeroglu's opinion that many people would want to buy a lot with two houses on it. He wants to legally separate them and legally build a house, to possibly create income, make a job for himself, and possibly sell someday.

Chairman Hoff asks the applicant and his neighbor, Mr. Sanad, to show where both of their wells and their septic systems are on the map. Mr. Sanad is next door and slightly downhill from Mr. Cigeroglu; he has had problems in the past with septic drainage from Mr. Cigeroglu's property. The concern for him is that two septic systems on one acre seems to be too much. They are selling their house and are worried that it could be a problem. They have had a bad water test before; whether it was due to drainage from his neighbor's septic, cannot be determined. There is more discussion about location of septic systems.

Ms. Emily Oren is representing her parents who own an adjacent lot. She came for informational purposes; and asks about the use of the right of way. She asks to see the application and the Deputy Clerk informs her that anytime that there is a public hearing interested parties are welcome to come into the Town Office and view the application and its addendums.

Chairman Hoff turns the meeting over to the board to ask questions or make comment. Board Member Jeff Schindler restates the motivation for the application and the issues surrounding it. Board Member Lydia Slater sympathizes with the applicant and states that it is very understandable why he would believe that this property was two lots instead of one. There is only one deed and one parcel on the tax map; therefore officially, according to Madison County it is one parcel of land. Mr. Cigeroglu questions why someone would make the right of way go through to the end of the parcel if they only needed to access the front of the parcel? It is

impossible to know the answers to these questions because everyone who was involved at the time is now deceased.

The Board and applicant have all had the opportunity to read the GML239. It states that this would be a substantial variance. Chairman Hoff feels that putting a second house on a double flag lot does change the character of the community.

The Deputy Clerk has provided the Board with a new decision-making form that helps the board formulate the findings. Chairman Hoff always likes to review the criteria for any variance. The board is in agreement; after more discussion, that this is an area variance. Chairman Hoff reads the criteria for granting an area variance, as follows Town of Hamilton Zoning Law, Page 69 Section 10.1-3B (**Comments in Bold**):

*B. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. In making this determination the Board shall also consider:*

*(1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; **They have addressed some of these issues. It is very clear that it would be out of the character of the neighborhood because all the lots are more than one acre, in compliance with the zoning.***

There is some discussion about zoning law and the survey that the applicant has. It shows two lots but there is only one on the tax map. There is no explanation as to why the survey shows two parcels, and anyone who could explain it is no longer around. There is some discussion about conservation development. The board is required to follow the current legal description of the land in which there is only one parcel.

*(2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; **There is no other option available.***

*(3) Whether the requested area variance is substantial; **This is considered substantial***

*(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or land use area or overlay area; **It is a concern for the neighbors and it increases the density of the parcel X2.***

*(5) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board, but which shall not necessarily preclude the granting of the area variance. **Yes, but it is understandable considering what the survey the applicant has shows. It lead him to believe that there were two parcels there.***

These are the standards, and if there is to be a variance granted it its to be the minimum necessary to grant relief.

**Resolution 2018-2: Motion to deny the area variance for Gengiz Gigeroglu' property located at 1718 Preston Hill Road, Hamilton, Tax Map # 168.-1-45.**

Motion: Jeff Schindler

Second: Lydia Slater

Vote: Aye – 5 Nay – 0

ADOPTED

Reasons for denial are; size, detriment to neighboring properties, substantiality, adverse impact on intensity of the land use and that it is a self-created hardship. Additionally, the property is a flag lot.

Emily Oren asks some questions about multiple residences on one lot. There is some ambiguity in the zoning law. The ZBA has always interpreted the Zoning by the standards set forth on page 11.

The Board decides on the next meeting. The applicant wants to build a garage on a substandard lot. It will be scheduled be for Tuesday, June 5, 2018 at 7pm.

**Resolution 2018-3: Motion to Adjourn at 8:11 PM.**

Motion: Harvey Kliman

Second: Lydia Slater

Vote: Aye – 5 Nay – 0

ADOPTED

Respectfully submitted by

Elisa E. Robertson

Deputy Clerk