

TOWN OF ROSENDALE ZONING BOARD OF APPEALS
RONDOUT MUNICIPAL CENTER
1915 LUCAS AVE.
COTTEKILL, NY 12419

Minutes
Tuesday, August 17th 2021

Chairwoman Ann Houghtaling called the meeting to order at 7:04 pm.

Roll Call:

Chairwoman Ann Houghtaling	Present
Richard Hermance	Excused
Kelleigh Mckenzie	Excused
Michael Camargo	Present
Gary Jacobson	Present
Councilwoman Carrie Wykoff	Present
Brisa Casas, Clerk	Present

Minutes:

Motion made by Chairwoman Ann Houghtaling, seconded by Michael Camargo, to accept the minutes from May 18th 2021.

Roll Vote: Chairwoman Ann Houghtaling –Yes, Michael Camargo –Yes, Gary Jacobson –Yes

Motion Carried

Public Hearing:

#2020-6-Area Variance

SBL: 70.4-1-3.100

Location: 613 Springtown Road

Applicant: Daniel Stanley/David Friedlander

Zoning District: A

No applicant is present on behalf of this application.

Mr. Friedlander emailed the Zoning Board prior to the May 18th 2021 meeting requesting a postponement of his application review, he stated they are in the process of having the property surveyed and the topography of the parcel mapped. The Zoning Board felt this new information justified a second public hearing since the information was not available for the public review during the initial public hearing. However, the board has not received any new documents from the applicant in the three months since the requested postponement. The second public hearing was noticed for tonight's meeting and the board feels it is obligated to open the public hearing and allow public comment regardless of not receiving new documents.

Motion made by Chairwoman Ann Houghtaling, seconded by Gary Jacobson, to open the public hearing for application #2020-6-Area Variance at 7:09pm.

Roll Vote: Chairwoman Ann Houghtaling –Yes, Michael Camargo –Yes, Gary Jacobson –Yes

Public Comments:

Curtis Shumalski - His mother's property is next to this parcel and he is not in favor of this variance.

Jon Smith - He owns property next to this parcel and he is not in favor of this variance. He feels it does not fit in the neighborhood. *He also submitted emailed written comments.

Motion made by Gary Jacobson seconded by Michael Camargo, to close the public hearing for application #2020-6-Area Variance at 7:12pm.

Roll Vote: Chairwoman Ann Houghtaling –Yes, Michael Camargo –Yes, Gary Jacobson –Yes

Resolution # 3 of 2021

WHEREAS, Daniel Stanley and David Friedlander submitted application #2020-6 for an area variance of side yard setback requirement, located at 613 Springtown Road Tillson NY 12486, SBL 70.4-1-3.100; and

WHEREAS, the ZBA conducted a public hearing on December 15th 2020 and on August 17th 2021

in regards to the above referenced application where all those wishing to be heard were heard;
and

WHEREAS, the ZBA has reviewed the Environmental Assessment Form submitted by the applicant, stating there is no environmental impact; and

WHEREAS; the ZBA has reviewed, considered and deliberated about the variance requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT RESOLVED, that the ZBA hereby determines that the application does not meet the requirements of the Zoning Code as set forth below.

1. An undesirable change will be produced in the character of the neighborhood. The neighborhood is residential and the proposed structure will be used to store business vehicles and equipment.
2. The benefit sought by the applicant can be achieved by some method other than the requested variance. The structure can be relocated on the parcel to comply with the side setback requirements.
3. The requested area variance is substantial. The requested area variance is substantial at 68% or 20.5 ft less than the required 30 ft side yard setback requirements.
4. The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The applicant appears to be utilizing the property for storage of commercial vehicles for his business. The addition of the proposed garage could further facilitate the property use for commercial purposes which would adversely impact the surrounding residential neighborhood.
5. The alleged hardship is self-created. The applicant started construction of the 2735 sq ft structure prior to applying for a variance thus creating the hardship.

BE IT FURTHER RESOLVED, that the ZBA therefore denies the requested area variance. Duly adopted this 17th day of August 2021 by the following vote:

Motion made by Chairwoman Ann Houghtaling, seconded by Michael Camargo to deny approval for the requested Area Variance for application #2020-6 with Resolution #3 of 2021.

Chairwoman Ann Houghtaling – Yes
Michael Camargo – Yes
Gary Jacobson – Yes

Roll Vote: Yes

Motion Carried.

#2021-2-Area Variance

SBL: 70.12-2-3

Location: 49 Grist Mill Road

Applicant: Kathleen McGahan

Zoning District: R-2

Sharon Wiacek is present for this application. The applicant, Kathleen McGahan, emailed written permission for Sharon to represent her on behalf of this application.

Public Comments:

Bob Ryan – He is concerned about potential for problems with emergency vehicles not being able to access the structure (Fire, EMS), he claims he has knowledge of the existing garage containing a finished non-permitted apartment on the second floor, concerned that there was a multiple septic system installed and if it may potentially affect a nearby stream and other neighboring wells, he claims there is no hardship.

Lawrence and Wanita Yarter – They are concerned about the water usage. They don't understand why another dwelling is needed when the current house is large and has at least four bedrooms. Mrs. McGahan lives alone and her daughter could live with her without needing to convert the sugar shack. Why is there AC/Heat in the garage? They claim she already has an apartment on the second floor of the garage. They submitted pictures of the property and they are not in favor of this variance being granted. They claim there is no hardship.

Carol – She is not in favor of this variance and is concerned that if this is granted other properties may apply to do the same in the neighborhood.

Lisa Jerkowski – She asks how many bedrooms will be in the sugar shack? She is not in favor of this variance being granted. She says there is no hardship.

Sharon responds to the public comment:

- There will only be one bedroom in the converted sugar shack, it is a very small structure and it would not be able to accommodate more than two people comfortably.
- There are no issues with the water on her property and adding one bedroom should not put a significant strain on the current well. When she was younger the main house had her whole family of five living there using more water than she does now. Currently her mother lives in the house, water usage is minimal and the surrounding neighboring wells should not be significantly affected by her living in the sugar shack.
- There is AC/Heat on the first floor of the garage for the dogs. The second floor of the garage is unfinished storage space.

- She has no knowledge of alleged multiple septic systems on the property.
- Yes, she believes emergency vehicles can reach the sugar shack, for example her brother has a large truck with an attached utility trailer that he pulls in and out without an issue.

Chairwoman Ann Houghtaling conducted a site visit to the property and observed the following:

- The sugar shack was not converted, the applicant is following the correct protocol by apply for the variance prior to the requested conversion.
- There is no apartment on the second floor of the garage, it is unfinished storage space.
- She spoke with a local fireman about emergency vehicles access. A firetruck hose is 750 feet long, the sugar shack is 275 feet from the road, therefore in the event of a fire they could reach the structure without having to drive the truck to the rear of the parcel.

Motion made by Chairwoman Ann Houghtaling, seconded by Michael Camargo, to close the public hearing for application #2021-2-Area Variance at 7:51pm.

Roll Vote: Chairwoman Ann Houghtaling –Yes, Michael Camargo –Yes, Gary Jacobson –Yes

Old Business:

#2021-3-Area Variance

SBL: 70.26-2-2

Location: 1018 Keator Ave

Applicant: Sean Nixon and Hope Windle

Zoning District: R-2

Sean Nixon is present on behalf of this application.

A letter was received via email from the neighbor at 1016 Keator Ave, she is in favor of this variance being granted. She is the only neighbor on the road where this parcel is located, now that the board has her input, they feel a decision can be made.

Resolution # 2 of 2021

WHEREAS, Sean Nixon and Hope Windle submitted application #2021-3 for an area variance of minimum side yard setback requirement, located at 1018 Keator Ave Rosendale NY 12472, SBL: 70.26-2-2; and

WHEREAS, the ZBA conducted a public hearing on May 18th 2021 in regards to the above referenced application where all those wishing to be heard were heard; and

WHEREAS, the ZBA has reviewed the Environmental Assessment Form submitted by the applicant, stating there is no environmental impact; and

WHEREAS; the ZBA has reviewed, considered and deliberated about the variance requested and the written and verbal comments received in connection with the variance application;

NOW, THEREFORE, BE IT RESOLVED, that the ZBA hereby determines that the application meets the requirements of the Zoning Code as set forth below.

1. An undesirable change will not be produced in the character of the neighborhood. The neighborhood is residential and the previous residential structure existed on the property from approximately 1925-2019 when it was condemned.

2. The benefit sought by the applicant cannot be achieved by some method other than the requested variance. Although the applicant does own an adjoining lot even if he combined the two parcels it would still not meet the density setback requirements.

3. The requested area variance is substantial. The requested area variance is substantial at 52.5% or 10.5 ft. However, the lot previously contained a residential structure for many years that was even less compliant to the required side setback.

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The proposed use is residential and is consistent with surrounding parcels in the neighborhood.

5. The alleged hardship is self-created. However, the board determined that it is not a significant factor in the granting of this variance.

BE IT FURTHER RESOLVED, the proposed variance is the minimum variance that is necessary and adequate to achieve the applicant's goal and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

BE IT FURTHER RESOLVED, that the ZBA therefore grants the requested area variance. Duly adopted this 17th day of August 2021 by the following vote:

Motion made by Gary Jacobson, seconded by Michael Camargo, to grant approval for the requested Area Variance for application #2021-3 with Resolution #2 of 2021.

Chairwoman Ann Houghtaling – Yes
Michael Camargo – Yes
Gary Jacobson – Yes

Roll Vote: Yes

Motion Carried.

New Business:

#2021-4-Area Variance

SBL: 62.4-2-21 and 62.4-2-22

Location: 190 & 194 Breezy Hill Road

Applicant: Marcia Kline and Ellen Sribnick

Zoning District: R-1

Marcia Kline and Ellen Sribnick are present on behalf of this application.

- The applicants are requesting an area variance to transfer land from 194 Breezy Hill to 190 Breezy Hill. The parcels share a lot line and the transfer of land will be in the rear of both properties.
- Both parcels are pre-existing undersized non-conforming to the required acreage pursuant to the Town of Rosendale Code Chapter 75: ZONING - Density Control Schedule.
- Both parcels are in a R-1 Zoning District with no municipal Sewer or Water which requires 1 acre per dwelling.
- 190 Breezy Hill Road - Current acreage = 0.209
 - Proposed acreage after land transfer = 0.369
- 194 Breezy Hill Road - Current acreage = 0.612
 - Proposed acreage after land transfer = 0.452
- Total amount of area being transferred = 0.160
- The proposed land transfer would make 190 Breezy Hill more conforming to current code however it would make 194 Breezy Hill Road less conforming than it already is.
- Mrs. Sribnick states that she already allows Mrs. Kline to use the land in the backyard but they would like to officially transfer the land.
- No structures are proposed in the variance, it is a simple parcel line adjustment in the rear (backyards) of both parcels.
- The applicant still needs to submit an Environmental Assessment Form Part 1 for the boards review.

Motion made by Chairwoman Ann Houghtaling, seconded by Gary Jacobson, to set a public hearing for this application, #2021-4-Area Variance, to be held on September 21st 2021 at 7:00pm

Roll Vote: Chairwoman Ann Houghtaling –Yes, Michael Camargo –Yes, Gary Jacobson –Yes

Motion Carried.

Adjournment:

Motion made by Gary Jacobson, seconded by Chairwoman Ann Houghtaling, to adjourn the meeting at 8:28pm.

Roll Vote: Chairwoman Ann Houghtaling –Yes, Michael Camargo –Yes, Gary Jacobson –Yes

Motion carried.

Respectfully submitted,
Zoning Board of Appeals Clerk
Brisa Casas