

**ZONING BOARD OF APPEALS
TOWN OF LEWISBORO
MINUTES**

Minutes of the Meeting held by the Zoning Board of Appeals on Wednesday, May 22, 2013 at 7:30 p.m., at the Town of Lewisboro Offices at Orchard Square, Cross River, New York 10518

Board Members: Present: Geoffrey Egginton, Chairman
Thomas Casper
Robin Price, Jr.
Jason Krellenstein

Absent: Carolyn Mandelker

Also Present: Aimee Hodges, ZBA Secretary

The Meeting was called to order at 7:30 P.M. Chairman Egginton introduced the members of the Board and noted the emergency exits. He announced that the next ZBA meeting will be Wednesday, June 26th with a site walk scheduled for Saturday, June 22, 2013.

I. Review and adoption of the Minutes of April 24, 2013

Chairman Egginton moved to approve the minutes of the April 24th. The motion was seconded by Mr. Krellenstein; In favor: Mr. Price, Mr. Krellenstein, Chairman Egginton, and Mr. Casper. Absent: Ms. Mandelker

II. DECISIONS (Tentative)

Cal. No. 10-13-BZ Waccascape LLC

Chairman Egginton noted that the Board had walked the site a month ago; due to the size of the proposal, the Board had requested that the applicant return with a revised plan and gave every indication that if the applicant proceeded with the application as presented that it would not be approved. This matter will be held over until the applicant returns with revisions.

III. PUBLIC HEARINGS

Cal. #13-13-BZ

Application of Michael DeCandia, 174 North Salem Road, Katonah, New York 10536 (Owner of Record: Malcolm Frank & Tara Owen, 9 Jonah's Lane, Katonah, New York 10536)[Property Address: 53 Cove Road, South Salem, New York 10590] for a [1] variance of Article III § 220-9D (2) and [2] Article IV § 220-23E of the Zoning Ordinance in the matter of an increase in non-conformity other than use due to the proposed two-story addition and deck that will be closer to the front line (15.2' proposed where 25' is required), both side lot lines (proposed 10.5' & 11.9' where 12' is required) and closer to the street center line (proposed 26' where 50' is required) in a R-1/4A, Residential District.

The property is located on the north side of (#53) Cove Road, designated on the Tax Maps of the Town of Lewisboro as Sheet 33A, Block 11366, Lot 8, in an R-1/4A, One Quarter Acre Residential District.

ZBA MINUTES 5/22/2013

Tara Owen was present with the project architect Michael DeCandia.

Chairman Egginton read the notice of public hearing dated May 9, 2013 into the record. It was noted that the Board members walked the property on Saturday May 18th.

Mr. DeCandia displayed the proposed plan and photographs of the site. He described the proposal as modest and keeping within the character of the community. The second floor is proposed to be lifted allowing for greater headroom. In addition, the depth of the deck is proposed to be increased and advised that they would like to dig out the basement as well. It is their hope that the renovations can be done without demolishing the existing structure; Mr. DeCandia acknowledged that if this became necessary that it would require the applicant to return to the ZBA.

There was some concern expressed by the Board members with the “tower” addition being six feet higher than the existing roof line. Mr. DeCandia explained that he designed the addition as proposed to allow for sufficient headroom in the bathroom and to resolve the connecting roof line. The proposed peak is 27’, where the code allows 35’.

Chairman Egginton believed that the height of the proposed addition is out of scale for the area.

Mr. DeCandia advised that he could lower the pitch reducing the height by 2 ½ feet. He advised that this is a small home and that the applicant could be asking for a larger home as they were under the allowed coverage. He hoped that this application could be resolved this evening.

Ms. Owen advised that she had provided the plans to all of the adjacent property owners. She expressed concern with reducing the tower, which she described as a beautiful element.

Mr. Price suggested that the applicant return with revised plans reducing the roof line as low as possible.

Mr. DeCandia protested, stating his belief that this application met the criteria for the requested variances.

Mr. Casper requested that the applicant provide the exact peak height, not the median height.

Mr. DeCandia was advised by the Chairman that the sentiment of the Board this evening was that the proposed addition is out of scale with the neighborhood and that they could not accept penciled in designs. He asked that the applicant return with revised plans reducing the roof line.

Susan Annar, 71 Cove Road noted that her property shared the southern lot line with the applicant. She described the proposal as incredibly modest. She advised that given the size of the house, that she could not imagine anyone else buying it and maintaining it in that shape. The neighborhood has gentrified and the character is changing. She believed that the neighborhood would welcome something with a little bit of a storybook character. She described the proposal as charming and noted that no one in this vocal community has objected. She expressed her surprise with the Board’s objection.

Michael DeCandia, speaking as a neighboring property owner (14 Cove Road), believed that compared to other properties that had been built, that this proposal is modest. As a neighbor, he supports this application.

Ms. Owens believed that the lake communities have been “sterioded” up; she is trying to do the right thing by keeping the house extremely modest.

ZBA MINUTES **5/22/2013**

Re Hagele, neighboring property owner and architect advised that this is a delightful design and perfectly acceptable. The property needs improvement, and anything that improves the property, improves his property value.

Robert Reynolds advised that he is a homeowner in the neighborhood and did not object to the proposal. He agreed that there is a steroid problem in the area and is why he kept his house small.

THE PUBLIC HEARING IS HELD OPEN.

Cal. #14-13-BZ

Application of Stanley & Gail Adams, 30 Lake Kitchawan Drive, South Salem, New York 10590 for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of an “As-Built” deck that is closer to the front lot line (existing 36.5’ where 40’ is required) and an “As-Built” shed that is closer to the side lot line (existing 5.6’ where 30’ is required) and closer to the front lot line (existing 35’ where 40’ is required) in a R-1A, Residential District.

The property is located on the north side of (#30) Lake Kitchawan Drive, designated on the Tax Maps of the Town of Lewisboro as Sheet 42, Block 10263, Lot 59, in an R-1A, One Acre Residential District.

Stanley and Gail Adams were present with their attorney, Michael Fuller Sirignano, Esq.

Chairman Egginton read the notice of public hearing dated May 9, 2013 into the record.

Mr. Sirignano displayed the survey of the property advising that the applicants, who have resided at this address for 17 years, are now under contract to sell it. He advised that the prefab shed located on the southeastern corner of the property was installed on a gravel bed on the only level area accessible at the top of the driveway shortly after they purchased the property. The applicants did not believe that a permit was required because the shed was delivered already built and no foundation was needed. The shed has been there for 17 years and has not bothered any of the neighboring property owners.

Mr. Sirignano advised that when the Adams’ purchased this house, the previous owners had to legalize the deck that they had constructed because it had been built into the setback. He submitted the resolution Cal. 9-96-BZ into the record. Three sheets of photographs of the deck were submitted into the record. As noted during the site walk, the property slopes steeply uphill leaving virtually no level area for a useable yard. When the old deck fell into disrepair six years ago, a friend tore it down and rebuilt it, replicating the old deck in the front. The old deck ended at the westerly edge of the house with some steps down to grade. This required a climb up a steep slope to access an old patio, which had also fallen into disrepair. The contractor suggested wrapping the deck around the house, over the patio which gave the applicants some level space.

Mr. Egginton advised that from the site walk, the Board understood the situation. The Board understood that the non-conformance was the whole corner of the deck because the house is legally non-conforming with respect to the side and front yard setbacks.

Mr. Sirignano submitted letters of support for both aspects of the application from the neighboring property owners to the west and east; Jack Seeno and Nicole Miale. Mr. Sirignano further noted that there is a great distance between the applicant’s property and the neighboring residences as the Town owns the land surrounding the property to the east, north and west. Mr. Sirignano described the variance required

ZBA MINUTES 5/22/2013

for the deck as being minor. He further described the front yard setback variance for the shed as being minor but understood that the side yard setback variance being requested for the shed was not, however, it is a small, low structure that does not affect any of the neighbors. Mr. Sirignano submitted a proposal to remove the deck extension dated April 19, 2013 from Entasis Woodworks in the amount of \$6,750. He further submitted an e-mail dated April 29, 2013 from Kenneth Sobel, CIPS, ABR a licensed broker with Prudential Douglas Elliman RE giving his professional opinion that the removal of the deck extension would reduce the value of the house by \$20,000. Mr. Sirignano opined that the hardship to this property is unique because of the steep slopes and believed that the variances being sought are reasonable.

Mr. Krellenstein noted that the deck did not increase the non-conformity with respect to front yard setback as the dimensionality existed with a previously granted variance. He found it hard to justify the shed. He expressed concern with as-built applications and believed that a fair compromise would be to keep the deck and to remove the shed.

Mr. Casper was not as concerned with the shed and noted that the homeowners were aware that the previous homeowner had to get a variance for the deck. He agreed though with Mr. Krellenstein's opinion with respect to the deck. He advised that he would vote to grant both variances.

Mr. Price noted that although it was pointed out by counsel that an 8'x8' shed would not require a variance, this particular shed is twice that size.

Chairman Egginton moved to vote on the application in two parts; the first being to approve the variance requested for the as-built deck as presented for the following reasons:

- There is no undesirable change to the neighborhood, the deck is beautifully built, a logical addition to the house and improves the character to the neighborhood.
- There is no alternative to the requested variance, the deck exists.
- The requested variance is not substantial.
- There will be no adverse effect or impact on the physical or environmental condition of the neighborhood, it is a positive impact.
- The difficulty is not self-created, it was an inherited existing condition that was improved.

The motion was seconded by Mr. Krellenstein; To Approve: Mr. Krellenstein, Mr. Price, Mr. Casper and Chairman Egginton; Absent: Mrs. Mandelker; To Deny: None.

Chairman Egginton moved to deny the variances requested for the 120 S.F. shed as presented for the following reasons:

- Although there is no undesirable change to the character of the neighborhood;
- There is an alternative to the requested a variance; a smaller shed or no shed.
- The requested variances are substantial in terms of the size of the structure, and the location with respect to the side yard setback.
- There will be no adverse effect of the character of the neighborhood.
- The difficulty is self-created.

The motion was seconded by Mr. Krellenstein; To Approve: Mr. Casper; To Deny: Mr. Krellenstein, Mr. Price, and Chairman Egginton; Absent: Mrs. Mandelker.

Cal. #15-13-BZ

Application of Peter Hadlock, 20 Lakeview Road, South Salem, New York 10590 [owner of record: David Ratcliffe, 15 Benedict Road, South Salem, New York] for a variance of Article IV § 220-23E of
ZBA MINUTES **5/22/2013**

the Zoning Ordinance in the matter the of installation of a generator closer to the side lot line (5' where 40' is required) in an R-2A, Residential District.

The property is located on the north side of (#15) Benedict Road, and designated on the Tax Maps of the Town of Lewisboro as Sheet 33, Block 11155, Lot 10 in an R-2A, Two Acre Residential District.

Chairman Egginton read the notice of public hearing dated May 9, 2013 into the record.

The Chairman advised that on this date, a letter was received from Hadlock Construction withdrawing their application for Cal. #15-13-BZ.

Cal. #16-13-BZ

Application of RE Hagele, 80 Cove Road, South Salem, New York 10590 [owner of record: Stephen J. & Betty A. Ackilli, 65 Cove Road, South Salem] for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of the demolition, reconstruction and expansion of an existing dwelling that is closer to the front lot line (24' where 25' is required), closer to the side lot line (9.2' where 12' is required) and closer to the rear lot line (6.5' where 25' is required) in an R-1/4A Residential District.

The property is located on the south side of (#65) Cove Road, and designated on the Tax Maps of the Town of Lewisboro as Sheet 33A, Block 11366, Lots 4 & 5 in an R-1/4A, One Quarter Acre Residential District.

Stephen and Betty Ackilli were present as was the project architect Re Hagele, RA.

Chairman Egginton read into the record the notice of public hearing dated May 9, 2013. He noted that the Zoning Board members attended a site visit on May 18th.

Mr. Hagele confirmed that with the exception of the rear setback (which should have read 16.5', not 6.5') the hearing notice was correct. He reminded the Board that a variance was granted in 2011 and has since expired for a similar design. In the interim, it had been determined that the foundations were not in good repair and needed to be removed and rebuilt. As such, he pulled the wall back a foot to line up with the garage. In addition, the proposed ridge is 17 inches higher than what had been previously approved; the highest point of the ridge will be 30'. He advised that the average height to average grade is 20 feet. He advised that the non-conformity in the front is being increased by ten inches. The existing one-story house is proposed to be one and one-half story.

Mr. Krellenstein noted that the plans indicate that the house is proposed to be two stories.

Mr. Hagele reviewed the changes to the floor plan.

Jeannett Maiorino, 59 Cove Road advised that her lot is directly to the rear of this lot. She expressed concern with the measurements shown on the plans as the square footage did not add up. She believed that this application is looking to intensify an already non-conforming one bedroom residence. She added that the peninsula where they live is already congested. If the Ackilli's are allowed to go up, she feared that she would be totally boxed in. When the application was being reviewed for the first variance that was approved, Mrs. Ackilli approached her and acknowledged that the renovations would affect her the most and gave an explanation of what was being requested. Ms. Maiorino advised that she did not review the plans but took the word of her neighbor.

ZBA MINUTES 5/22/2013

Mr. Hagele submitted a photograph taken from the ridge of his garage, which shows the Ackilli residence and Ms. Maiorino's residence. He reviewed the proposed ridge lines.

Ms. Maiorino reviewed six photographs of the view from her residence overlooking the Ackilli residence. Ms. Maiorino reviewed the measurements she questioned with the Board. She noted that the square footage of the garage was not included in the calculations; including this number would exceed the permitted building coverage.

Ms. Maiorino advised that her neighbor, Marylou Smith, 57 Cove Road was unable to attend the meeting this evening and provided authorization allowing Ms. Maiorino to speak on her behalf. In addition, Ms. Smith also objected to the application and has sent an e-mail to the Town.

In response to Ms. Maiorino's concern with a family member living in a winterized screen house without a Certificate of Occupancy, Mr. Ackilli advised that he is proposing to tear this structure down as a part of this application.

Mr. Egginton questioned whether Mr. Hagele could construct a view utilizing a 3D program to help understand the impact of the massing of the second floor from the neighbor's point of view. Given the concern with the many inconsistencies with the numbers, it was requested that Mr. Hagele clarify the plans. Any concerns with code enforcement issues should be addressed to the Building Inspector.

Susan Annar, 71 Cove Road advised that the Ackilli residence is directly in the path of her view of the lake and mountain. She encouraged the Board to help them improve their property and did not agree that this was a "super sized" and "sterioded" house.

Carol Weale, 56 Cove Road advised that her concerns were relative to the health of the lake and wondered whether drilling would have an impact. She questioned whether this Board had the same concern with the height of this dwelling as was expressed for an application discussed earlier in the evening and asked that the height be kept in proportion with the other homes.

Mr. Casper advised that the concerns regarding the impact of the health of the lake are a scientific question and could be answered by a civil engineer or a hydrologist.

THE PUBLIC HEARING IS HELD OPEN.

CAL. NO. 06-13-BZ

Application of Judith Gerst, 22 Deerfield Lane, Katonah, New York 10536 for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of the "As Built" breezeway that is closer to the rear lot line (existing 5' where 30' is required) in an R-1/2, One Half Acre Residential District.

The property is located on the south side of Deerfield Lane, designated on the Tax Map as Sheet 9C, Block 10793, Lots 68-75, in an R-1/2, One Half Acre Residential District.

Cal. #17-13-BZ

Application of Judith Gerst, 22 Deerfield Lane, Katonah, New York 10536 for a [1] variance of Article III § 220-9D(2) and [2] Article IV § 220-23E of the Zoning Ordinance in the matter of an increase in non-conformity other than use due to the "As-Built" conversion of an existing carport to garage that is closer to the rear lot line (existing 5' where 30' is required) in an R-1/2A, One Half Acre Residential District.

ZBA MINUTES 5/22/2013

The property is located on the south side of (#22) Deerfield Lane, and designated on the Tax Maps of the Town of Lewisboro as Sheet 9C, Block 10793, Lots 68-75, One Half Acre Residential District.

Judith Gerst was present with her attorney, Jeffrey Kane, Esq.

Chairman Egginton read the public hearing notice prepared for Cal. #17-13-BZ and dated May 9, 2013 into the record. Chairman Egginton read an e-mail dated May 22, 2013 in support of the applications from Laurie Evans and Jeffrey Mear into the record.

Mr. Kane displayed a survey of the property and highlighted an area of overlap. The fence was constructed by the former owner of the Rinaldo property presumably utilizing the topography. It is not Ms. Gerst's intention to acquire that property and would be willing to file a declaration stating that she makes no claim to that property. The area is improved with some plantings. The corner posts of what had been the carport had been utilized for the garage; the footprint had not been expanded. Both of the neighboring property owners are on record stating that they like the improvements. He does not deny that the difficulty is self-created, but the garage does not expand upon the distance. The nature of the topography is such that there is little to no effect on either of the neighboring property owners or community at large. In fact, it is their belief that the enclosing of the carport is more in character with the community. He does not believe that there is a detrimental change to the neighborhood; they believe that the sight lines do not affect anyone and do not believe that there is any adverse effect on the community with respect to the self-created aspect. It is his belief that when formal plans are submitted to the Building Department that they would have the authority to levy a fine prior to the issuance of a building permit.

Given the fact that the applicant is seeking variances for two as-built activities, that an earlier variance was required for the carport and that there was landscaping done on a neighboring property, the Board elected to walk the site again prior to voting. The applicant will locate the property line.

THE PUBLIC HEARING IS HELD OPEN.

Mr. Krellenstein moved to adjourn the meeting at 9:22 P.M. The motion was seconded by Chairman Egginton; In favor: Mr. Krellenstein, Mr. Price, Mr. Casper and Chairman Egginton; Absent: Mrs. Mandelker.

Respectfully submitted,

Aimee M. Hodges
Secretary, Zoning Board of Appeals

