

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

Minutes of the Meeting held by the Zoning Board of Appeals on Wednesday, July 31, 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  
Carolyn Mandelker (arrived at 7:45 PM)  
Thomas Casper  
Robin Price, Jr.

Absent: Jason Krellenstein

Also Present: Aimee Hodges, ZBA Secretary

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The Meeting was called to order at 7:40 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, August 28<sup>th</sup> with a site walk scheduled for Saturday, August 24, 2013.

**I. Review and adoption of the Minutes of June 26, 2013**

Chairman Egginton moved to approve the minutes of the May 22nd. The motion was seconded by Mr. Price; In favor: Chairman Egginton, Mr. Price and Mr. Casper. Absent: Ms. Mandelker, Mr. Krellenstein

**II. DECISIONS (Tentative)**

**Cal. No. 10-13-BZ Waccascape LLC**

Chairman Egginton noted that the project had been held over for a number of months. The Board has not heard back from the applicant after a site walk that had been held a number of months ago; this matter will be removed from the agenda pending a return of their application.

**III. PUBLIC HEARINGS**

- **CARRIED OVER**

**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. NO. 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.**

**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.**

Chairman Egginton advised that the Board visited the site July 27, 2013 relative to Cal. NO.06-13-BZ and Cal. NO. 17-13-BZ. In attendance was her attorney, Jeffrey Kane, Esq. and Mrs. Gerst. The Board directed the applicant to make adjustments to the applications, specifically for the as-built breezeway and verbally agreed to hold over both applications until the October meeting.

**Cal. NO. 19-13-BZ/SP**

**Application of Scott Harris, 48 Cross Pond Road, Pound Ridge, New York, 10576 for a variance of [1] a Special Permit pursuant to Article V, § 220-40 of the Zoning Ordinance in the matter of an As-Built accessory apartment in an existing accessory structure;[2] Article IV, § 220-23D(11) of the Zoning Ordinance in the matter of an existing accessory structure to exceed 600 square feet (total floor area 1440 square feet proposed) in an R-2A, Two Acre Residential District;**

**The property is located on the north side of Cross Pond Road, designated on the Tax Map as Sheet 41, Block 10264, Lot 9, in an R-2A, Two-Acre Residential District.**

Scott Harris was present.

Chairman Egginton advised that the Board made a site visit two months ago and observed the conditions and spoke with the neighbors. The Board was at the site between 9 AM and 9:20 AM. Although Mr. Harris was not available at that time the Board had access to the interior of the space. Subsequent to the site visit the Board received a report from the Building Inspector dated July 23, 2013; Chairman Egginton read the report into the record.

Mrs. Mandelker entered the meeting at 7:45 P.M.

Chairman Egginton advised that he recalled observing many of the issues contained within the Building Inspector’s report while visiting the site, particularly with respect to the barn.

Mr. Casper advised that there were no plans in place to remedy the issues. If there was a vote this evening, he would be inclined to deny the application. He suggested that the applicant work with the Building Department to remedy issues. He advised that he would be more inclined to approve the application once the issues had been remedied.

Mr. Egginton agreed with Mr. Casper’s suggestion noting that the applicant could withdraw the application or hold it over for a period of two months giving him time to work with the Building Department and meet the requirements.

Mr. Harris indicated that he had not seen the written report, only the handwritten report. He had addressed some of the issues but would continue to work with the Building Inspector.

The application will be placed on the September agenda.

**THE PUBLIC HEARING IS HELD OPEN.**

**CAL. NO. 21-13-BZ**

**Application of Michael Fuller Sirignano, Esq., 892 Route 35, Cross River, NY, 10581, [Owner of Record: Connie Plaehn, 14 Gilbert Street, South Salem, New York 10590] for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter the installation of an air conditioner condenser unit that will be closer to the side lot line (5' where 12' is required) in an R-¼A, One Quarter-Acre Residential District.**

**The property is located on the east side of Gilbert Street, designated on the Tax Map as Sheet 36F, Block 10806, Lot 29, in an R-¼A, One Quarter-Acre Residential District.**

Michael Sirignano, Esq. was present.

Chairman Egginton advised that the Board made a second site visit on Saturday July 27, 2013. The Board listened to the air conditioner condenser unit in the proposed location as well as a typical window unit.

Mr. Price advised that the condenser is a large unit, but is very quiet. He classified the noise as a non-issue. Given that the unit does not extend any further out from the house and cannot be seen by any neighbor he did not have a problem with the request for a variance.

Chairman Egginton agreed with respect to the noise. The Board noted a temporary fence that was constructed adjacent to the unit, which will be extended with some plantings and would further minimize the visual impact. He advised that the unit made virtually no noise.

Mrs. Mandelker advised that the Board made an effort to not only listen to the unit a few feet away, but walked up to the adjacent residence to see what could be heard. She advised that they could barely hear the unit. She noted that the applicant had indicated openness at the prior meeting to plant some additional plantings on the neighbor's property to further reduce the noise and the view of the unit. She indicated that she would not oppose this particular unit and noted that it would be a lot quieter than three window units.

Mrs. Law did not see how a wood fence could provide a sound barrier.

Mr. Sirignano advised that the fence is four feet high, would be permanent, down to the ground and extended along that common boundary line.

Mr. Egginton advised that he sat on Mrs. Law's patio for five minutes and listened carefully, noting that he could barely hear the unit. He believed that the improvements made to the applicant's property would increase everyone's property value. The applicant has made every effort to mitigate the impact on the neighboring properties.

Mrs. Law questioned whether it bothered the Board that the applicant had permanently installed the work before he ever got approvals.

Mr. Egginton noted that this application had been before this Board for many months. When the builder, Mr. Côté, represented the applicant there had been many problems with his approach. Subsequently his client has hired legal counsel and had taken a much better approach. Looking at the outcome of the work and the noise this unit generates, it was his opinion that the overall value of the entire neighborhood will appreciate.

Suzanne Hamilton, granddaughter of Nancy Law, reminded the Board that during the site walk she had requested that the Board listen to the unit at the hedge on the property line, noting that the only member who did so was Mr. Krellenstein. The other members went to the patio or up against the house. She noted that during the site walk there were a lot of birds and cicadas making noise and did not believe that the Board had an accurate assessment of what would be heard at 2 A.M. She advised that she and her grandmother were woken at 3:30 A.M. by a noise.

Mrs. Law advised that she was not invited onto the property and was ignored. She indicated that there is a noise now coming from some sort of pump from the property that goes on all night long. She believed that before any other "noise maker" is approved, it should be determined what is making the noise now.

Mrs. Mandelker reminded Mrs. Law that she stood with the Board on the property and that she had held her hand as they walked back onto Mrs. Law's property.

Ms. Hamilton suggested that there were other locations for the unit in the front.

Mr. Egginton did not believe that this would be a practical alternative in light of the design and function of the house.

Mr. Price advised that the Zoning Board did not have control over the noise that is emanates from residential properties as there is no provision for this in the code. This Board is trying to accommodate the concerns. What is really being considered is the fact that the proposed unit is too close to the side line; this unit extends no further into the setback than the rest of the house. The unit cannot be seen from Mrs. Law's house. He agreed that it made some noise, but almost everyone in this area, including Mrs. Law, has an air conditioner.

Mr. Price noted that there had been some question as to whether the fence was on the property line and it was his understanding that a surveyor would be consulted to determine whether the permanent fence would be installed in the right place.

Mr. Sirignano advised that a surveyor would come out and re-stake the line prior to installing the permanent fence. He advised that they would be happy to install some additional plantings as a condition of approval.

Mrs. Mandelker requested that some sort of evergreen be planted, not a deciduous tree or shrub.

Mrs. Law's daughter, Sue Hamilton stated that it was her understanding that the applicant had been contacted with respect to the constant noise every night.

Mr. Sirignano advised that they had checked every night since the site walk and that there is nothing going on inside or outside of the applicant's property.

Chairman Egginton moved to approve the application as presented subject to the condition that the temporary fencing be made permanent to extend ten feet beyond the air conditioning unit on both sides, supplemented by evergreen plantings to further mitigate transmission of any sound to the adjacent neighbor's property. The application was approved for the following reasons:

- There will be no undesirable change to the character of the neighborhood. This house will be advantageous to the neighborhood.
- There is no realistic alternative to the requested variance.

- The variance although substantial with respect to the setback requirements is similar to many of the homes within the lake community that are existing non-conforming or were constructed with a variance.
- There will be no adverse effect or impact on the physical or environmental conditions of the neighborhood due to the fact that the applicant is making every effort to mitigate what little noise is generated by the air conditioner condenser unit.
- The difficulty, although is self-created, will not preclude the granting this variance.

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

**CASE CLOSED.**

- **NEW BUSINESS**

**Cal. NO. 23-13-BZ**

**Application of Ron Grosser, 273 Todd Road, Katonah, New York , 10536 (Owner of Record: Ron Grosser & Mary Sue Butch, 273 Todd Road, 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 proposed porch and deck that will be closer to the side yard line (42.6' proposed where 50' is required), and to extend an existing side deck that will be closer to the side yard line (29' proposed where 50' is required) in a R-4A, Residential District.**

**The property is located on the north side of (#269) Todd Road, designated on the Tax Maps of the Town of Lewisboro as Sheet 13, Block 11152, Lot 97, in an R-4A, Four Acre Residential District.**

Ron Grosser was present.

Chairman Egginton read the notice of public hearing dated July 18, 2013 into the record.

Chairman Egginton advised that the Board visited the site on Saturday July 27<sup>th</sup>.

Mr. Price noted that the applicant was seeking to extend an existing deck around the corner of the house. He noted that there are no residences on the adjacent land.

Chairman Egginton noted that the area is wooded and that there would not be an impact on the neighbors.

Chairman Egginton moved to approve the application as presented for the following reasons:

- There will be no undesirable change in the character to the neighborhood or detriment to the nearby properties as a result.
- There is no alternative to the requested variance, there is an existing deck.
- The variance request is not substantial.
- There would be no adverse effect or impact on the physical or environmental conditions of the neighborhood.
- The difficulty is not self-created; the existing rotting deck would be replaced and extended.

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

**CASE CLOSED.**

**Cal. NO. 24-13-BZ**

**Application of Andrew D. Lenney, 4 Billingsley Trail, Goldens Bridge, New York , 10526 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 house addition, generator, air conditioner unit and 500 gallon propane tank closer to the rear line (30' at closest where 50' is required) in a R-2A, Residential District.**

**The property is located on the west side of (#4) Billingsley Trail, designated on the Tax Maps of the Town of Lewisboro as Sheet 12, Block 11362, Lot 15, in an R-2A, Two-Acre Residential District.**

Andrew Lenney was present.

Mr. Casper read the notice of public hearing dated July 18, 2013 into the record.

Mr. Casper read the following five letters in support of the application into the record:

- David Jaques, 3 Billingsley Trail, Goldens Bridge received July 31, 2013
- Stephen Lett, 6 Billingsley Trail, Goldens Bridge received July 31, 2013
- Joseph Infanti, 5 Billingsley Trail, P. O. Box 83, Goldens Bridge received July 31, 2013
- Anna Lefgrin, 2 Billingsley Trail, Goldens Bridge received July 31, 2013
- Michael Surdej, 14 Waccabuc Road, Box 406, Goldens Bridge received July 31, 2013

There were no comments on this application.

Chairman Egginton moved to approve the application as presented for the following reasons:

- There is no undesirable change in the character to the neighborhood or detriment to nearby properties; it will be an attractive improvement.
- Practically speaking there does not seem to be an alternative to the requested variance
- The requested variance does not appear to be substantial under the circumstances given the distances involved and the neighbor's support of the application.
- There is no adverse effect or impact on the physical or environmental conditions of the neighborhood; the proposal is a great improvement.
- The difficulty is self-created because the applicant wishes to add on, but the proposal is positive.

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

**CASE CLOSED.**

**CAL. NO. 25-13-BZ**

**Application of Anthony D'Amico, P. O. Box 271, Cross River, New York 10518 [Property Address: 48 Schoolhouse Road, Waccabuc, New York 10597] for a variance of Article IV § 220-23D(8)(d) of the Zoning Ordinance in the matter of the storage of manure required to be stored 150' from the street, property line, watercourse or wetland area (48' proposed from the side yard and 60' proposed from the rear property line) in a R-4A, Four-Acre Residential District.**

**The property is located on the south side of (#48) Schoolhouse Road and the east side of NYS Route 121 (North Salem Road), designated on the Tax Map as Sheet 20, Block 10801, Lot 37, in an R-4A, Four-Acre Residential District.**

Anthony and Camille D'Amico were present.

Mrs. Mandelker read the notice of public hearing dated July 18, 2013 into the record.

Mr. Egginton advised that the Board visited the property on Saturday July 27, 2013 and discussed the mitigation efforts that are being made by the Watershed Agricultural Council. Based on the existing conditions, it was Mr. Egginton's opinion that this is a good application and one that would improve the environmental aspect of the operation.

Mr. D'Amico advised that the horses and the storage of manure are grandfathered as it pre-dated the existing zoning regulations. He advised that he could leave the site as is because there is no zoning enforcement that would require him to change. As part of an on-going five year effort with the Watershed Agricultural Council, they have been looking for ways to improve upon the impact of the farm on the environment. One of the proposals is to relocate the dumpster further away from the environmental areas and place it on a cement pad. They are also proposing to install an irrigation system, which is similar to a septic system, to divert storm water around it. This system is designed by the engineers at the Watershed Council and will mitigate something that has been doing on for a long time. The work will be contracted out by the Watershed Council. He stressed that the engineers working on this project are specialists in environmental improvements.

In response to a question of Mrs. Mandelker, Mr. D'Amico advised that there are approximately three horses on the property at any given time. The horses are rescued, live on the property as a temporary measure and are cycled in and out.

There were no comments.

Mrs. Mandelker moved to approve the application as presented for the following reasons:

- There is no undesirable change in the character to the neighborhood or detriment to nearby properties.
- There are no alternatives to the requested variance.
- The variance request is not substantial.
- Based on the statements of the applicant, the Board does not believe that there will be an adverse effect or impact on the physical or environmental conditions of the neighborhood.
- The applicant is trying to improve the existing site conditions whether self created or not.

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

**CASE CLOSED.**

### **CAL. NO. 26-13-BZ**

**Application of Lonnie Lum, 15 Holly Hill Lane, Katonah, New York 10536 [Owners of Record: Lonnie Lum Curran & Thomas Curran] for a variance of Article IV § 220-23D(8)(d) of the Zoning Ordinance in the matter of the storage of manure required to be stored 150' from the street, property line, watercourse or wetland area (40.5' existing from the side yard) and for a variance of Article IV § 220-23E in the matter of an "As-Built" pre-fabricated shed (existing 49.2' where 50' is required) from the side yard property line in a R-4A, Four-Acre Residential District.**

**The property is located on the north side of (#15) Holly Hill Lane designated on the Tax Map as Sheet 14, Block 10556, Lot 7, in an R-4A, Four-Acre Residential District.**

Lonnie Lum was present with Dean Herbert.

Mr. Price read the notice of public hearing dated July 18, 2013 into the record.

Chairman Egginton advised that the ZBA visited the site on Saturday July 27<sup>th</sup> and met with Dean Herbert. The Board had a number of questions with respect to a number of existing violations that had been issued by the Building Department and what progress had been made. He questioned what progress had been made addressing the violations noting that the Board could not approve a variance request that is subject to an open violation.

Mr. Price reviewed the four complaints (#0160-11, 0084-13, 0085-13, 0086-13) into the record.

Mr. Price noted that they had discussed removing the shed on the property line during the site visit and remedy as many of the violations before coming back before the Board.

Ms. Lum advised that she no longer has chickens and that there are only two horses currently on the property. Her other horses are kept on another property; sometimes they bring them home for a little bit. One of the sheds has been almost removed and the shed that was forked lifted in is still there. The storage trailer houses their generator.

Mr. Casper advised that applicants would need to satisfy the Building Inspector and encouraged Ms. Lum to contact Mr. Bauer and request an inspection. Once the violations have been addressed to the satisfaction of the Building Department, this Board could then consider the requests for the variances.

Mr. Egginton advised that he saw the property and believed that the requested variances were reasonable. The applicant must contact the Building Inspector with respect to the violations and request a re-inspection.

Mr. Casper agreed that the requested did not seem unreasonable.

George Ferrigno, 11 Holly Hill Lane an adjacent neighbor stated that he is the neighbor that raised the issues as it came to a point where there were too many violations that could no longer be ignored because they impacted his property as well as the rest of the neighborhood. He is willing to discuss the issues, but there are certain things that are not negotiable. He stated that the metal container is not storage for a generator, but rather for multiple generators and gas cans.

Mr. Egginton again encouraged the applicants to contact the Building Inspector and advised that this matter would be held over until the September agenda giving them two months to address the open violations.

**THE PUBLIC HEARING IS HELD OPEN.**

**CAL. NO. 27-13-BZ**

**Application of Patricia Bobletz, 41 Lakeview Road, South Salem, New York 10590 for a [1] a 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 second floor addition**

**(raising roof) on an existing residence that is closer to the side lot line (proposed 11' where 12' is required) in an R-1/4A, One-Quarter Acre District.**

**The property is located on the north side of Lakeview Road, designated on the Tax Map as Sheet 33-A, Block 11368, Lot 11, in an R-1/4A, One-Quarter Acre Residential District.**

Patricia Bobletz was present with her contractor.

Chairman Egginton read the notice of public hearing dated July 18, 2013 into the record.

Chairman Egginton advised that the Board visited the site on Saturday July 27<sup>th</sup>.

Mr. Casper advised that the project appeared to be a simple and nice project.

Chairman Egginton advised that there was no increase in non-conformity.

Chairman Egginton moved to approve the application as presented for the following reasons:

- There is no undesirable change in the character to the neighborhood or detriment to nearby properties; there will an increase to the character of the neighborhood as a result.
- There is no alternative to the requested variance due to the size of the property.
- The one foot variance request is minor; the property is legally non-conforming.
- There is no adverse effect or impact on the physical or environmental conditions of the neighborhood.
- The difficulty is not self-created due to the fact that that application seeks to raise the roof to the house in its current location.

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

Mr. Casper moved to adjourn the meeting at 8:45 P.M. The motion was seconded by Mrs. Mandelker; In Favor: Mr. Price, Chairman Egginton, Mrs. Mandelker, and Mr. Casper. Absent: Mr. Krellenstein.

Respectfully submitted,

Aimee M. Hodges  
Secretary, Zoning Board of Appeals