



Town of Olive Zoning Board of Appeals

P.O. BOX 513, Shokan, New York 12481

William Vilkelis
Chairman

Members
Sandy Friedel
Frederick Perry
Chet Scofield
Brian O'Rourke

MINUTES

July 6, 2023

1. Opening:

The Town of Olive Zoning Board of Appeals met on Thursday, July 6, 2023 to hold a regular meeting and Public Hearings for Anthony Marciano, Joshua Meldrum, and Jeff Lane. Chairman Vilkelis brought the meeting to order at 7:30 p.m., at which time the Chairman led the Pledge of Allegiance to the flag.

2. Record of Attendance:

William Vilkelis
Fred Perry
Brian O'Rourke
Chet Scofield

Absent
Sandy Friedel

3. Approval of Minutes:

On a Vilkelis/Scofield motion the Board dispensed the reading of the June 1, 2023 minutes, and accepted them as written.

4. Public Hearing:

- 4.1 Application 23-05 of Anthony Marciano, for property located at 6 Kolb Road, Boiceville, NY 12412
The hearing for Anthony Marciano opened at 7:35 p.m. at which time Chairman Vilkelis reviewed the rules for conducting a public hearing. The secretary read the legal notice appearing in the June 29, 2023 issue of the Daily Freeman announcing the applicants' appeal, "...for a variance Article IV, Section 155-16/Article X, Section 155:A1(4) of the zoning ordinance to change the front yard setback from 50' to 28' to allow for an existing shed."

Present at the meeting is Anthony Marciano. Chairman Vilkelis asked the applicant why the shed was built and then come to the ZBA for a variance after the fact. Mr. Marciano explained that he placed it in that location because the DEP had him place his drain field and septic system nearby and he felt

this was the best spot. He explained that when he had it delivered, he had it placed in that location, not knowing that he needed to be further off of the road. He felt the ditch was a good buffer between the road and the shed. Mr. Marciano said that his concern at the time was to keep the shed off of his septic field and to protect where the electric went into the building.

Mr. Marciano was asked how he knew he was in violation, did someone complain about the shed. He explained that when he went to the Building Department for the Building Permits for his house and the shed, he was told by Dom Covello that it was too close to the road. Brian O'Rourke asked how long the shed has been on the property. Mr. Marciano said it has been a little over a year, and he has also added the small structure to the side of the shed where he stores his lawn mowers.

Fred Perry asked Anthony Marciano how much land he has, the response was that he owns 1.9-acres, it is noted that the property is located in the R/R-3A zone. Mr. Marciano remarked that the sub-standard parcel is grandfathered in because there was an existing driveway. Chairman Vilkelis asked John Ingram, the Town of Olive Code Enforcement Officer, if a variance was needed to build the house. Mr. Ingram said that a variance wasn't needed if there is a pre-existing, nonconforming lot and you can meet the setbacks. Fred Perry asked Mr. Marciano how long he has owned the property, he said it was about a year and a half ago. Anthony Marciano said that it was a vacant lot except a driveway, he had Joe Boek design the septic system that he put in.

Fred Perry asked Mr. Marciano if he got a prefabricated shed. Anthony Marciano explained that he bought the shed from Brad's Barns and Chad Davis did the excavation for the pad because he was already doing work on the property. Mr. Perry remarked that he did go to the property to see the shed and noted that the house and shed look very nice.

The recording secretary, Janelle Perry, reported that letters were sent out to all of the adjoining property owners. It is noted that the ZBA has received no written comments regarding the variance request. Chairman Vilkelis asked if there was anyone in the audience who wanted to speak on the application. Present at the meeting is Colin Houston a neighbor living at 21 Traver Hollow Road. He said that he is a surveyor and did the survey for the applicant. He said that the Traver Hollow stream runs downhill from where the septic is and when the DEP got involved with the septic system and reserve area there were requirements when the system was engineered and it didn't leave them much choice for placement of the shed on the property. Mr. Houston pointed out that the Marciano's don't have a garage and there aren't any other neighboring structures that would be a concern or fire hazard. He pointed out that it is far enough away from the road for snow removal. Mr. Houston said that he can see the house and the shed from his deck and they match and look nice, he has no complaints with the shed in that location. He feels it sits far enough off of the road and it doesn't create any issues.

Also present at the meeting is adjoining property owner, Jimmy Rodriguez, he stated that he has no objections. He said it all looks beautiful.

Anthony Marciano was asked when the addition was put onto the shed. He said it was added about a month after it was put up. He said that they couldn't afford a bigger shed but they needed a space to store their zero-turn and push lawn mowers. He said he didn't want to store the mowers in the shed because that is where they store their kids clothing

With no further discussion to be held on the application the public hearing was closed at 7:46 p.m. on a Vilkelis/Perry motion.

5. Discussion:

After reviewing the appeal, the Board has come to the following Findings of Fact:

- A) There were no objections from the adjoining neighbors.
- B) The lot is a pre-existing, nonconforming lot in the R/R-3A zone and the location of the house, well, and septic area left the property owner with no other feasible site to place the shed. The concern was to keep the shed away from the septic field. The ditch between the shed and the road also provides a buffer from any hazards from the road and allows for snow removal from the road.
- C) There are no adverse effects on the physical or environmental conditions of the neighborhood by allowing the variance request.
- D) No public interest would be served by denying the applicant's request.
- E) There is no detriment to the health, safety and welfare of the community by granting this variance.

On a Perry/Scotfield motion it was agreed that the Board vote on the appeal to grant a variance of Article IV, Section 155-16/Article X, Section 155:A1(4) of the zoning ordinance to change the front yard setback from 50' to 28' to allow for an existing shed. It is stipulated that the shed will be used for residential storage only, installation of electric is allowed.

A roll call vote was taken which resulted as follows:

- Brian O'Rourke voted in favor of granting the variance.
- Chet Scotfield voted in favor.
- Fred Perry voted in favor.
- Bill Vilkelis voted in favor

6. Public Hearing:

6.1 Application 23-06 of Joshua Meldrum for property located at 3 Shokan Park Road, Shokan, NY 12481. The hearing for Joshua Meldrum opened at 7:50 p.m. at which time Chairman Vilkelis reviewed the rules for conducting a public hearing. The secretary read the legal notice appearing in the June 29, 2023 issue of the Daily Freeman announcing the applicants' appeal, "... for a variance of Article IV, Section 155-16/Article X, Section 155:A1(6) of the zoning ordinance to change the rear yard setback from 50' to 13' to allow for the installation of a shed."

Present at the meeting is Joshua Meldrum. Chairman Vilkelis asked the applicant to explain his request. Mr. Meldrum said that he would like to put a storage shed on his property and the site that he has chosen is the only reasonably flat spot in his yard. He explained that his property is tiered, the house sits on the highest tier with the septic area directly behind it. He said that this is the only flat space to place the shed that isn't driveway, the rest of the property slopes down to Route 28 and Shokan Park Road. Mr. Meldrum said that they will need to bump it a little to make the pad for the shed. Chairman Vilkelis said that he has gone to the property and did see that there isn't much space on the property that is flat.

The recording secretary, Janelle Perry, reported that letters were sent out to the two adjoining property owners. She wanted clarification that the envelope addressed to the adjoining property that had recently changed hands was addressed to the current owner. Mr. Meldrum said that he did find the name of the current owner. Mrs. Perry remarked that she believes that neighbor has also approached the Building Office to put up a shed. It is noted that the ZBA has received no written comments

regarding the variance request. Chairman Vilkelis asked if there was anyone in the audience who wanted to speak on the application. There was no response.

It is noted that the property is in the B/H ½ -acre zone that requires 50' set back in the front and rear yard. Mr. Meldrum pointed out that his house doesn't meet the setback, it's only 34' but it is pre-existing nonconforming. He said that there is a huge hedge and he doesn't even see his neighbor's house. Mr. Meldrum pointed out that all of the houses around him are on small parcels.

With no further discussion to be held on the application the public hearing was closed at 7:57 p.m. on a Perry/Vilkelis motion.

7. Discussion:

After reviewing the appeal, the Board has come to the following Findings of Fact:

- A) There were no objections from the adjoining neighbors.
- B) There is a genuine hardship as there is no other location on the property to place the shed, it is the only reasonably flat spot on the property. The parcel is an existing non-conforming lot. The addition of the shed on the property is in keeping with the neighborhood.
- C) There are no adverse effects on the physical or environmental conditions of the neighborhood by allowing the variance request.
- D) No public interest would be served by denying the applicant's request.
- E) There is no detriment to the health, safety and welfare of the community by granting this variance.

On a Perry/Scotfield motion it was agreed that the Board vote on the appeal to grant a variance of Article IV, Section 155-16/Article X, Section 155:A1(6) of the zoning ordinance to change the rear yard setback from 50' to 13' to allow for the installation of a shed. It is stipulated that action will be taken within one (1) year, by July 6, 2024, at which time the variance will become null and void. It is further stipulated that the shed will be used for residential storage only, installation of electric is allowed. The shed is to be built conforming to town code.

A roll call vote was taken which resulted as follows:

- Brian O'Rourke voted in favor of granting the variance.
- Chet Scotfield voted in favor.
- Fred Perry voted in favor.
- Bill Vilkelis voted in favor

8. Public Hearing:

- 8.1 Application 23-07 of Jeff Lane for property located at 12 Park Drive, Olivebridge, NY 12461 The hearing for Jeff Lane opened at 8:05 p.m. at which time Chairman Vilkelis reviewed the rules for conducting a public hearing. The secretary read the legal notice appearing in the June 29, 2023 issue of the Daily Freeman announcing the applicants' appeal, "...requesting an Interpretation of Article IV, Section 155-17(E)(3) and Section 155-17(F)(2-e.) of the zoning ordinance to determine if a mobile RV repair shop is an allowed use in the BV-1/2 district."

Present at the meeting is Jeff Lane. Janelle Perry explained that Mr. Lane has been before the Planning Board with his Site Plan to operate his mobile RV repair shop. The Planning Board felt that Mr. Lane needed to come before the Zoning Board of Appeals for an interpretation to see if his use would be an allowed use in his district.

Chairman Vilkelis noted that the property is located in Business Village, not Business Highway. Janelle Perry said that the Planning Board was questioning if it would fall under the personal service business allowed in Business Village. Under Business Highway motor vehicle sales, repair and service is an allowed use. Mr. Lane explained that his business really isn't the repair of motor vehicles, he works on campers and trailers. He remarked that most of his work is done right in the camp grounds, on occasion he does need to have the camper on his property if the repair requires jacks to stabilize the camper. Generally, the camper would be there for a day or two in that case. Jeff Lane remarked that he orders the parts ahead of time and would only bring in the camper when he has the parts that are required to make the repair. Mr. Lane said that his wife is very concerned about how the yard looks, she wants it neat and clean.

Mr. Lane said that he didn't even know that he was doing anything wrong until he went to the NYS DMV and they informed him of the requirement to get town approval. That has led him to this point.

The Janelle Perry reported that letters were sent out to all of the adjoining property owners. It is noted that the ZBA has received no written comments regarding the variance request, she does see a few neighbors in the audience. Chairman Vilkelis asked if there was anyone in the audience who wanted to speak on the application. Present at the meeting is Peter Nissen, he remarked that he is probably the senior person living on Park Drive. He said that he moved into his house in 1973, over 50 years ago. Mr. Nissen said that the road was very nice but about 15 years ago the house that the Lane's are in now was just a dump and in shambles. He stated that since Jeff and Kaitlyn Lane moved in in 2016 it has been cleaned up and is a garden spot.

Peter Nissen said that he has talked with Jeff Lane about his business and he explained that the way Mr. Lane runs his property and business is impeccable. Mr. Nissen said that at first, he told Jeff Lane that he didn't want a bunch of RVs lined up next door and maybe he should find a location on Route 28, but to his word he has followed his rule book that he will fix the RV and then it needs to be taken away. Mr. Nissen wants to keep this business description away from the Business Highway allowed use of a motor vehicle repair shop, this is not it. He pointed out that Mr. Lane is very specific his business is not a garage to repair motor vehicles, it is an RV repair facility. Chairman Vilkelis pointed out that it is excluding motors. Mr. Nissen said that he doesn't want to see the use as a motor vehicle repair shop permanently designated, but if something can be written to allow this specific business, he is fine with it. Peter Nissen said that he is here to advocate for Jeff Lane to operate his mobile RV repair shop from his home.

Jeff Lane explained that he has talked with his neighbors and they don't have complaints. He said that his business has grown, everyone has a camper, he is kept very busy going to the camp grounds. Chairman Vilkelis asked Mr. Lane when the garage was built, his response was 2018. Mr. Lane said that when he first thought about starting this business he had conversations with his other neighbor, Ray Shultis who has since moved away, and he was very supportive.

Peter Nissen reiterated that he is in support but doesn't want any Business Highway designation and asked that something be written in to allow him to operate in the Business Village zone.

Also present is another neighbor, Don Beesmer, who is also in support 110%. Mr. Beesmer said that it is a neat and clean business and we need more like him in Olivebridge.

Allison Irwin is in the audience and wonders what would happen if this business is allowed and he moves, can someone else come in and operate a motor vehicle repair shop. Chairman Vilkelis said that is something that the Zoning Board will consider.

With no further discussion to be held on the application the public hearing was closed at 8:20 p.m. on a Perry/Scofield motion.

9. Discussion:

After reviewing the appeal, the Board has come to the following Findings of Fact:

- A) There were no objections from the adjoining neighbors, they came in support of the business.
- B) It was determined that the RV repair shop is considered a personal service business offering a benefit to the community. There are no motor repairs being done.
- C) There are no adverse effects on the physical or environmental conditions of the neighborhood by allowing the business to operate.
- D) The Zoning Board of Appeals requires that the Planning Board do a Site Plan/Special Use Permit review and restrictions should be placed on the business, limiting the operation to the description provided by Jeff Lane in his narrative, motor engine repair is not allowed as part of the business, and hours of operation are from 8:00 am – 6:00 pm. It is suggested that the Special Use Permit be non-transferrable.

On a Perry/Vilkelis motion it was agreed that the Board vote on the Interpretation of Article IV, Section 155-17(E)(3) of the zoning ordinance to allow a mobile RV repair shop as a personal service business use in the BV-1/2 district

A roll call vote was taken which resulted as follows:

- Chet Scofield voted in favor of the interpretation that the mobile RV repair shop can be considered a personal service business as allowed in the BV-1/2 district.
- Fred Perry voted in favor.
- Brian O'Rourke voted in favor.
- Bill Vilkelis voted in favor

10. Adjournment:

With no further business to discuss, the meeting was adjourned at 8:35 p.m. on a Perry/Vilkelis motion.

11. Next Meeting:

The next meeting of the Board will be held at 7:30 p.m. on Thursday, August 3, 2023 should there be business to discuss.