



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

September 7, 2023

1. Opening:

The Town of Olive Zoning Board of Appeals met on Thursday, September 7, 2023 to hold a regular meeting and Public Hearings for Jesse Roth, and David Barbera. 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 July 6, 2023 minutes, and accepted them as written.

4. Public Hearing:

- 4.1 Application 23-08 of Jesse Roth, for property located at 128 Haver Road, Olivebridge, NY 12461
The hearing for Jesse Roth 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 September 1, 2023 issue of the Daily Freeman announcing the applicants' appeal, "...for an area variance of Article IV, Section 155-16/Article X, Section 155:A1(5) of the zoning ordinance to change the side yard setback from 25' to 20', and Section 155.A1(6) of the zoning ordinance to change the rear yard setback from 50' to 3' to allow for the replacement of an existing structure in the same non-conforming location."

Present at the meeting is Jesse Roth. Chairman Vilkelis asked the applicant to briefly explain his situation. Mr. Roth explained that he purchased the property and it had a shed in the back of the property which is a good size and useful for storage, but is not enclosed from the weather and some of his stored items are getting moldy and it has mice and animals in it. He explained that he has a young

daughter and his wife is afraid about her safety, and the building is ugly. They would like to replace it with a steel structure. He has found a good kit and can replace the building with the same dimensions. Chairman Vilkelis asked if the new building would be placed on the same footprint. Mr. Roth said he will be marking the back corner and putting the new structure on the same site, but it will be slightly smaller so he doesn't have to custom design the size. It will be 40' x 32'. Brian O'Rourke asked what type of foundation it will be placed on. Jesse Roth said he plans on pouring a concrete slab. He remarked that he is using Brian Burns to do his excavation and he was told that it shouldn't take much to take the old structure down and prep the site for the slab. Jesse Roth was advised that he will need to get a demolition permit from the Building Office when he is ready to do that.

Chairman Vilkelis and Fred Perry remarked that they did go out to the property to look at the situation. Chairman Vilkelis said that the old structure looks like it has served its purpose and he understands the applicant's reason for wanting to replace it. Fred Perry remarked that there is woods behind the current structure and the building is not seen from other properties. They feel the new structure would fit in with the other buildings being built on the property.

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 Anmarie Steenburgh. She remarked that if the location is going to remain the same then she doesn't have any complaints with the request.

With no further discussion to be held on the application the public hearing was closed at 7:39 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. An adjoining neighbor was present at the meeting and voiced that she had no concerns.
- B) The existing structure to be removed and replaced on the same footprint is a pre-existing, nonconforming building. The new building will be an improvement to the property and will fit in with the other structures on the property.
- 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 Vilkelis//Scofield motion it was agreed that the Board vote on the appeal to grant an area variance of Article IV, Section 155-16/Article X, Section 155:A1(5) of the zoning ordinance to change the side yard setback from 25' to 20', and Section 155.A1(6) of the zoning ordinance to change the rear yard setback from 50' to 3' to allow for the replacement of an existing structure in the same non-conforming location. It is stipulated that action will be taken within one (1) year, by September 7, 2024, at which time the variance will become null and void. It is further stipulated

that the building will be used for residential storage only, installation of electric is allowed. It 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 Scofield voted in favor.
- Fred Perry voted in favor.
- Bill Vilkelis voted in favor

6. Public Hearing:

Application 23-09 of David Barbera for property located at 88 Remontado Road, Boiceville, NY 12412 The hearing for David Barbera 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 September 1, 2023 issue of the Daily Freeman announcing the applicants' appeal, "... for an area variance of Article IV, Section 155-16/Article X, Section 155:A1(6) of the zoning ordinance to change the rear yard setback from 75' to 50' to add an addition to an existing house."

Present at the meeting is David Barbera. Chairman Vilkelis asked the applicant to explain his request. Mr. Barbera brought a larger scaled diagram of his proposed addition and explained that he would like to age in place and he currently does not have a bedroom and bathroom on the first floor of his home. He said that he had always thought that the location of the proposed addition was on the side of his property because of where his front door is located, but he has been told that it goes off of the road frontage which makes it his rear yard. This requires his need for a variance. David Barbera explained that he has invited his neighbors, Dorothy and Gene Destefanos, over and talked with them about his project. He has even offered to buy a small piece of land from them in order to make the setback legal. The Destefanos' didn't want to do that and told him that they have no problem with his planned addition and the infringement to 50'. Mr. Barbera pointed out that the Destefanos' own a 145-acre parcel, as well as a 5-acre parcel and you can't see their house from his.

Chairman Vilkelis said that he has visited the site and the property is very steep and the placement of the addition is in the best location to aesthetically be added to the current home. He noted that it is not visible to the neighbors. David Barbera pointed out that the location of his septic system also limits the placement of the addition.

The recording secretary, Janelle Perry, reported that letters were sent out to 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. There was no response.

With no further discussion to be held on the application the public hearing was closed at 8:00 p.m. on a Vilkelis/Perry 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. The applicant has discussed his project with the closest neighbor and they have no objection.

- B) There is a genuine hardship as there is no other location on the property to aesthetically construct the addition to the current home. The topography of the property and location of the septic system restrict the placement of the new addition.
- 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 an area variance of Article IV, Section 155-16/Article X, Section 155:A1(6) of the zoning ordinance to change the rear yard setback from 75' to 50' to add an addition to an existing house. It is stipulated that action will be taken within one (1) year, by September 7, 2024, at which time the variance will become null and void. The addition 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. Regular Meeting:

Chairman Vilkelis announced to the board that this will be his last meeting on the Zoning Board of Appeals, he will be moving to Germany in October. He said that he has already notified Supervisor Sofranko with his resignation. He said it is tough saying good-bye to everyone. The members of the board wished him well and told him he will be missed.

9. Adjournment:

With no further business to discuss, the meeting was adjourned at 8:15 p.m. on a Perry/Vilkelis motion.

10. Next Meeting:

The next meeting of the Board will be held at 7:30 p.m. on Thursday, October 5, 2023 should there be business to discuss.