



Town of Olive Zoning Board of Appeals

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

Chet Scofield
Vice-Chairman

Members
Sandy Friedel
Frederick Perry
Brian O'Rourke
Gemma Young

MINUTES

October 12, 2023

1. Opening:

The Town of Olive Zoning Board of Appeals met on Thursday, October 12, 2023 to hold a regular meeting and Public Hearings for Jesse Roth. Vice-Chairman Scofield brought the meeting to order at 7:30 p.m., at which time the Vice-Chairman led the Pledge of Allegiance to the flag.

2. Record of Attendance:

Chet Scofield
Fred Perry
Brian O'Rourke
Gemma Young

Absent
Sandy Friedel

3. Approval of Minutes:

Before considering the minutes the members of the Zoning Board of Appeals welcomed their newest member, Gemma Young. Ms. Young briefly introduced herself and remarked that she is looking forward to working with everyone on the board. On a Perry/O'Rourke motion the Board dispensed the reading of the September 7, 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 Vice-Chairman Scofield reviewed the rules for conducting a public hearing. The secretary read the legal notice appearing in the October 5, 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. He was asked to briefly explain his project for the members of the audience who weren't at the last meeting he appeared at, and for the new ZBA member.

Mr. Roth said that there is a shed on the back part of the property that is currently non-conforming. The structure allows for a lot of storage and is very useful but it is on its last leg. He explained that there is a moisture issue and things are getting moldy and as his daughter is getting older, he and his wife are concerned about the safety with rotten boards and it is filled with mice and spiders. Jesse Roth said that he didn't want to give up the utility of all of the storage and he found a steel structure with the same dimensions that he would like to replace it with. He has found a good kit and can replace the building with the same dimensions.

Brian O'Rourke asked Mr. Roth if he knows how old the existing structure is. Jesse Roth wasn't sure about the age of the building but he recalls that he did see a building permit for it and it was over 20 years ago.

Fred Perry remarked that he did go out to the property to look at the situation, and the building is a board and batten construction. He did see that there are rotten boards and it is a safety hazard. Fred Perry remarked that the application notes that the proposed new building is slightly smaller than the current building. Mr. Roth said that the kit that he found is 3' narrower. Gemma Young asked if there is electric in the shed or is the intent to add electric. Jesse Roth said that the previous owners had a number of electric extension cords running all over the place and he has removed them because they were probably a fire hazard. His plan is to run power to the shed for lights and probably an exhaust fan for humidity.

The recording secretary, Janelle Perry, reported that letters were sent out to all of the adjoining property owners and it appears that some are in attendance. She also reported that the board has received a letter from the neighbor who abuts the rear line of the property, Anmarie Steenburgh. Ms. Steenburgh wrote, "...As previously stated at the last meeting, I have no problem with Jesse replacing his existing structure within the bounds of the original structures foot print.'

The audience was asked if they had any comments. Susan Perrin and her husband Bryan are present and said that they own the property at 136 Haver Road which is adjoining the side of the property where the current structure is located. Ms. Perrin said that their real concern is with the demolition of the building and hauling material in and out and feels that the driveway is a bit compromised and she worries about the water from the creek. Jesse Roth said that he can attest to the state of the property when he bought it, there was a lot of trash and metal debris. He said that the previous owners were antiquers so there was a lot of cool stuff but also a lot of garbage. He has been cleaning that all up and plans on having dumpsters to put all of the demolition debris in as it occurs. Ms. Perrin wonders where he will have room on the property for the dumpster. Jesse Roth said it will depend upon where the company will feel comfortable putting it, he said that there is currently a driveway up to the building but the dumpster company may not want to put it up the hill. His contractor might have to move the material a bit further. Mr. Roth said that with regard to the condition of his driveway, he does agree and has done some work to repair it. He isn't sure about paving it but he has put in new drainage along the high side of the driveway to keep all of the stone from washing away.

Mr. Perrin remarked that he did go over close to the property to look at the situation and he wonders if there is any concern about the big trees that are around there. Jesse Roth said that he is using a competent contractor and he doesn't feel that any trees need to be removed. He stated that the building is going on the same foot print so there shouldn't be an issue. Mr. Roth also said that one of the benefits of the kit is that it should go up in a day or two. Mr. Perrin said that their concern is less about what a neighbor is doing on their property but more to do with the slope and water flow. He said that the town has already come in and put in a drain. He said that there continues to be problems with the private road above them and all of the gravel washes down into the brook.

Janelle Perry suggested that if there is a problem with the drainage on the road, they should reach out to the Town of Olive Superintendent of Highways, Brian Burns. The Perrins said that above them is a private road and the owners paved it and didn't put in any drainage. Jesse Roth remarked that Brian Burns is actually who he has contracted to do the work on the property. Mr. Roth said that Mr. Burns has said that the town will be replacing all of the culverts up Haver Road.

Bryan Perrin asked Mr. Roth if he intends to put up any fencing to keep the animals out. Mr. Roth said he hasn't really thought about it, he noted that he did put up a privacy fence along the road and the creek edge, mostly to protect his young daughter because there is a serious drop down to the creek. He is hoping that it will also keep his dogs on the property because Anmarie had mentioned that the previous owner's dogs were always running around on her property.

Also present at the meeting are the neighbors across the street, Heather Hitchens and Felix Cisneros, they live at 129 Haver Road. Mr. Cisneros is wondering how much longer the construction will be going on as it has been constant for the past two years. He wonders why the replacement of an existing structure requires a hearing like this but the major construction doesn't. Ms. Hitchens said that they have lived there for about ten years and it has been a major impact on their life. Janelle Perry explained that the normal construction permits are handled through the Building Department and as long as there are no zoning code violations the need for this type of hearing is not necessary. Mr. Cisneros would like clarification if this will remain as one single-family home on the property. Jesse Roth pointed to his wife and daughter explaining that they are who live on the property. Janelle Perry assured the audience that when the Zoning Board of Appeals votes and grants a variance for an accessory shed or garage, they put in a stipulation that it is to be used for residential storage use only.

Susan Perrin said that she appreciates that the hearing was reheard again since they didn't receive the first notice. She said that they don't have a problem with the replacement of the building, she only felt that the process needed to be done correctly. Felix Cisneros asked Mr. Roth to be conscious of the neighbors and when the work is being done.

With no further discussion to be held on the application the public hearing was closed at 7:58 p.m. on a Perry/O'Rourke motion.

5. Discussion:

Fred Perry explained that the variance was approved at the last meeting and understands that the neighbors weren't properly informed which required this evening's hearing. He wanted to assure the neighbors that the ZBA always considers the concerns of the neighbors. Mr. Perry explained that he tries to visit the sites of all applicants. He said that he has known the property and pointed out that Mr. Roth has improved the property considerably. He also pointed out that all of this does take time and everyone needs to be patient. Fred Perry said that with regard to running water off of the mountain there isn't anything that the applicant can really do. The water just naturally flows downhill. He remarked that the Town of Olive has a great highway crew that works very hard. Fred Perry said that as far as noise, the town doesn't have an ordinance for noise. He gave the neighbors a bit of advice to keep the dialogue going because at some point you will need each other.

Fred Perry reminded the neighbors that there is already a building on the site and that Mr. Roth is just looking to upgrade with a new structure that will be safer and will look better. He stressed that it will take time and just be patient, it is hard to find contractors. Ms. Hitchens understands this because they have also had work done on their property. There was additional conversation about the building that has taken place above them on Haver Road.

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

- A) There were no objections from the adjoining neighbors regarding the replacement of the structure on the current footprint. The adjoining neighbor on the rear yard sent a letter stating 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 Perry//O'Rourke 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 October 12, 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.
- Fred Perry voted in favor.
- Gemma Young voted in favor.
- Chet Scofield voted in favor.

6. Adjournment:

With no further business to discuss, the meeting was adjourned at 8:08 p.m. on a Perry/Scofield motion.

7. Next Meeting:

The next meeting of the Board will be held at 7:30 p.m. on Thursday, November 2 2023 should there be business to discuss.