



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

November 2, 2023

1. Opening:

The Town of Olive Zoning Board of Appeals met on Thursday, November 2, 2023 to hold a regular meeting and Public Hearings for Elizabeth Hansen and Brian Hehir and Maria Moratis. 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:

On a Scofield/Perry motion the Board dispensed the reading of the October 12, 2023 minutes, and accepted them as written.

4. Public Hearing:

- 4.1 Application 23-10 of Elizabeth Hansen, for property located at 586 Upper Samsonville Road, Olivebridge, NY 12461. The hearing for Elizabeth Hansen 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 26, 2023 issue of the Daily Freeman announcing the applicants' appeal, "...for an 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 36', to allow for the construction of a garage and addition."

Present at the meeting is Elizabeth Hansen. She was asked to briefly explain her project. Mrs. Hansen explained that she is selling her big house because she can't keep it up anymore and she put in a mobile home which replaced an old one she had. She said that the mobile home is between a feeder stream, a pond, a creek, and the road; and the only place she can put a garage is in front of the trailer. The trailer is 59' from the road and 50' from the pond and in order to build the garage she needs to have a variance to

meet the setback. Mrs. Hansen said that she needs the garage to store her car and snowblower. She was asked if the mobile home is already on site, she responded that it is and she has been in it since August. 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. The audience was asked if there is anyone present who wanted to comment on the variance request, there was no response.

Gemma Young asked Mrs. Hansen if there was an existing driveway already on the property. Elizabeth Hansen said that there is a driveway. Gemma Young asked if the garage is going to be a single story, the same height as the mobile home. Mrs. Hansen said that it is a small garage that will be in front of the mobile home with a walkway between the buildings.

Gemma Young asked Mrs. Hansen if she knows where her septic is located as the sketch notes a reputed location for the septic. Elizabeth Hansen said that her septic is in the area noted on the sketch, it was put in in 1974.

Fred Perry said that he did drive up to the property and the location that Mrs. Hansen is proposing is the only logical place to put the garage. Mrs. Hansen remarked that it is the only place to put it. Mrs. Hansen said that she is 86 years old and needs to be able to snow blow her driveway, and 50' is a long way to snow blow. She said it is like a slow walker.

With no further discussion to be held on the application the public hearing was closed at 7:42 p.m. on a Perry/O'Rourke 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) There is a genuine hardship, the applicant has no other location on the property to place the garage because of the location of her septic, pond, and water courses. There is already an existing driveway that will lead to the garage.
- 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(4) of the zoning ordinance to change the front yard setback from 50' to 36', to allow for the construction of a garage and addition. It is stipulated that action will be taken within one (1) year, by November 2, 2024, at which time the variance will become null and void. It is further stipulated that the garage 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:

- Gemma Young voted in favor of granting the variance.
- Fred Perry voted in favor.
- Brian O'Rourke voted in favor.
- Chet Scofield voted in favor.

- 5.1 Application 23-11 of Brian Hebir and Maria Moratis, for property located at 489 Beaverkill Road, Olivebridge, NY 12461. The hearing for Brian Hebir and Maria Moratis opened at 7:50 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 26, 2023 issue of the Daily Freeman announcing the applicants' appeal, "...for 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 4.5', and Section 155:A1(4) of the zoning ordinance to change the front yard setback from 50' + 25' to 62' from the center of the road, to allow for the replacement of an existing non-conforming garage and office."

Present at the meeting are Brian Hebir, Maria Moratis, and their architect, Richard Miller. The applicants were asked to briefly explain their project. Brian Hebir pointed out on the sketch the present location of their garage and a shed structure that is on the back of the garage. He said that the buildings are functional but over the years the garage has sustained a lot of water damage and is rotting out at the bottom. Brian Hebir explained that he uses it as his office and works out of it every day, going in and out to the house to use the bathroom. He pointed out that currently it is only 3' off of the side yard and is 49' from the center of the road. Brian Hebir said that they have been working with Richard Miller to propose taking the building down and erecting a new structure that would be more functional. They plan on placing it a little bit further back from the road so they can have a bit more of a driveway. Mr. Hebir said that they have a young son who is into music and they would like to make some space in the back of the building for him to use. Brian Heber said that they wouldn't be able to move the location of the building to meet the setbacks without moving it into the center of their backyard in the garden. Mr. Miller remarked that it will still be a garage and they would like to have it placed where the garage would be most functional.

The applicants were asked if the building would be the same size. Mr. Hebir said it will be a little shorter but they will be making it a two-story structure. Mr. Miller pointed out that the current garage is aligned with the front of the house but they will be moving the new structure back 13' giving them more driveway area.

Brian O'Rourke asked if it will be a one or two car garage. Mr. Miller said it will remain a one-car garage. Gemma Young noted that the current garage only has electric but they application shows that they plan on adding plumbing. Gemma Young asked where the septic is located. Richard Miller pointed out that the septic is in the front of the property on the other side of the house. He mentioned that they did find that there were existing plumbing lines leading to the garage. They have done some excavation for drainage around the building. Fred Perry asked if they plan on hooking up the septic to the existing septic field for the house. Brian Hebir said that this is their intention.

Brian Hebir was asked what they plan on using the upstairs of the garage for. He said that he would be making that his office space. Richard Miller pointed out that the walls upstairs are only about 3.5' so it isn't a full second story, the office will be in the center. Mr. Hebir was asked if his office was to operate a business, he said that he works remotely for a finance firm about three to four days a week.

Gemma Young asked if the neighbors have any concerns. Janelle Perry pointed out that all of the neighbors provided letters of support as part of the application packet. She also reported that letters were

sent out to all of the adjoining property owners. It is noted that the ZBA has received no additional written comments regarding the variance request. There was no one in the audience to comment on the application.

Brian Hebir said that when they rebuild the structure, they plan on raising it up a bit because of the water issues. Gemma Young noted that the new building will be moved further away from the side yard, 4.5' at the front of the building and angled further away in the rear of the building. Mr. Hebir said that it will give them more room to put full drainage along the side of the building.

Brian O'Rourke asked the applicants how old the building was, they believe it was built in the 1980's and a renovation done in the mid-90's.

John Ingram was present at the meeting and asked the applicants how they planned on heating the building. Richard Miller said it was going to be a split unit and they are thinking about putting solar on the roof. John Ingram asked when they planned on starting the project, Mr. Miller said that they do have a builder on board to start it right away. Mr. Ingram reminded them they will need a demolition permit.

With no further discussion to be held on the application the public hearing was closed at 8:02 p.m. on a Perry/Young motion.

6. 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 existing structure to be removed and replaced is a pre-existing, nonconforming building. The new building will be less nonconforming. The current structure is rotting, the applicants will be rebuilding it in a way to avoid future water damage.
- 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 4.5', and Section 155:A1(4) of the zoning ordinance to change the front yard setback from 50' + 25' to 62' from the center of the road, to allow for the replacement of an existing non-conforming garage and office. It is stipulated that action will be taken within one (1) year, by November 2, 2024, at which time the variance will become null and void. It is further stipulated that the garage will be used for residential storage and as a home office, installation of electric and plumbing is allowed. It is to be built conforming to town code.

A roll call vote was taken which resulted as follows:

- Gemma Young voted in favor of granting the variance.
- Fred Perry voted in favor.

- Brian O'Rourke voted in favor.
- Chet Scofield voted in favor.

7. Adjournment:

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

8. Next Meeting:

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