



# *Town of Olive Zoning Board of Appeals*

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

Frederick Perry  
Chairman

Members  
Sandy Friedel  
Brian O'Rourke  
Chet Scofield  
Gemma Young

## MINUTES

November 7, 2024

### 1. Opening:

The Town of Olive Zoning Board of Appeals met on Thursday, November 7, 2024 at the American Legion Hall, to hold a regular meeting and Public Hearings for Bengtson Trust and Conner & Granfors, and Heidi and Andrew Emrich. Chairman Perry brought the meeting to order at 6:30 p.m., at which time the Chairman led the Pledge of Allegiance to the flag.

### 2. Record of Attendance:

Fred Perry  
Chet Scofield  
Gemma Young  
Brian O'Rourke

Absent:  
Sandy Friedel

### 3. Approval of Minutes:

On a Scofield/Young motion the Board dispensed the reading of the October 3, 2024 minutes, and accepted them as written.

### 4. Public Hearing:

- 4.1 **Application 24-05** of Bengtson Trust located at 139 Acorn Hill Road, and **Application 24-06** of Conner & Granfors located at 201 Mill Road, Olivebridge, NY 12461

The combined hearing for Bengtson Trust and Conner & Granfors opened at 6:35 p.m. at which time Chairman Perry reviewed the rules for conducting a public hearing. Brian O'Rourke read the legal notice appearing in the October 31, 2024 issue of the Daily Freeman announcing the applicants' appeal, "...for a variance of Article IV, Section 155-16/Article X, Section 155:A1(5) of the zoning ordinance to change the side yard setback from 50' to 19.85', and Section 155-16/Article X, Section 155:A1(6) of the zoning ordinance to change the rear yard setback from 75' to 51.65'(respectively) to allow for existing structures in order to facilitate lot line adjustments. This is needed to correct a drafting error from a previously approved variance and lot line adjustment to these properties."

Present at the meeting to represent the applicants is Khattar Elmassalemah, of Praetorius and Conrad. Mr. Elmassalemah explained that these properties had been before the Zoning Board of Appeals before and were granted side and rear yard variances. He explained that there was an issue after the map had been filed, there had been a drafting error where the location of the house had been mirrored and the distance was reduced to 2' off of the property line. Mr. Elmassalemah said that in order to correct this we have to go through this process again. He pointed out that the new map being presented to the Planning Board requires lot line adjustments that will be exchanging equal amounts of property so each lot remains the same acreage as before so there are no difficulties with existing mortgages on the properties. Khattar Elmassalemah noted that the lots now have two separate owners, unlike the first time the variances were given, this requires two separate applications for each land owner. Mr. Elmassalemah asked the Zoning Board of Appeals to round the distances being applied for, he is asking for a side yard setback from 50' to 19' and a rear yard setback from 75' to 50' so that if the survey varies a little, he will not have to come back for another distance change. Mr. Elmassalemah said that he went before the Planning Board last month and they referred him to the ZBA for the variances.

Janelle Perry, recording secretary, acknowledged that the original application was submitted to the ZBA and approved on June 7, 2023. She reported that the applicant then received approval for the lot line revisions by the Planning Board on August 1, 2023.

Chairman Perry asked the Zoning Board of Appeals members if they had any questions for the applicant, Brian O'Rourke asked Mr. Elmassalemah if all the property owners are aware of the locations of the new proposed lot lines. Khattar Elmassalemah said that they have all walked the property and determined the best place for the exchange of property.

Chairman Perry asked if there are any members of the audience wishing to speak on this application, there were no comments from the public. With no further discussion to be held on the application the public comment portion of the meeting was closed at 6:40 p.m. on a Perry/O'Rourke motion.

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

- A) There will be no changes to the outward appearance and acreage of the properties in question. There were previous variances granted for these setbacks on June 7, 2023 and the lot line adjustments were approved by the Planning Board on August 1, 2023. The current lot line adjustments will be correcting a drafting error so that the house on the Bengtson Trust parcel has a 19' side yard setback instead of the lot line running right along the side of the house. Because of the side yard setback adjustment there was also the need to adjust the previously granted rear yard setback on the Conner & Granfors parcel to 50'. Each parcel will have 0.105-acres conveyed so that the acreage of each parcel will be unchanged.
- B) There were no objections from the adjoining neighbors.
- 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.

On a Perry/O'Rourke motion it was agreed that the Board vote on the appeal to grant an area variance for a variance of Article IV, Section 155-16/Article X, Section 155:A1(5) of the zoning ordinance to change the side yard setback from 50' to 19', and Section 155-16/Article X, Section 155:A1(6) of the zoning ordinance to change the rear yard setback from 75' to 50'(respectively) to allow for existing structures in

order to facilitate lot line adjustments. This is needed to correct a drafting error from a previously approved variance and lot line adjustment to these properties.

A roll call vote was taken which resulted as follows:

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

**4.2 Application 24-07** of Andrew & Heidi Emrich located at 67 Watson Hollow Road, West Shokan, NY 12494

The hearing for Andrew and Heidi Emrich opened at 6:50 p.m. at which time Chairman Perry reviewed the rules for conducting a public hearing. Brian O'Rourke read the legal notice appearing in the October 31, 2024 issue of the Daily Freeman announcing the applicants' appeal, "...for a 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 12.7', to allow for the placement of a shed."

Present at the meeting is Heidi Emrich, Chairman Perry asked her to explain the reason for their variance request. Mrs. Emrich explained that they have a big open yard and lawn and they need additional storage for their equipment. She explained that they priced out building a bigger garage but the cost was not really in their budget but you can purchase a modular barn from Brad's Barns that would fit the bill for what they need and it will be at an affordable cost for them. Mrs. Emrich said that the shed needs to be located near the driveway so that they can get the trailer in and out of it and have easy access to the lawn equipment. She explained that their driveway runs along the edge of the property, about 12' off of the line. Mrs. Emrich said that the proposed location for the shed would be the most unobstructive, non-visible location. She said that if they were to put the shed on the other side of the driveway, within the required setback distance it would be right in the middle of their yard and very visible. Heidi Emrich noted that the proposed location of the shed it would be tucked behind an existing fence and tree. She explained that there is very little visual impact to the neighbor and they did discuss this with the neighbor and they have no objection. Janelle Perry acknowledged that the ZBA did receive a letter from the Anderson's who are the abutting property owners and from the Lynch's on the other side and neither one had any objections to the placement of the shed in this proposed location.

Heidi Emrich explained that she did create a rendering of what the visual impact would be and you can see that it is really tucked away and hidden by the exiting stockade fence. Mrs. Emrich said that this site requires the need of a side yard setback from 25' to 12.7'.

Chairman Perry asked if there are any members of the audience wishing to speak on this application, there were no comments from the public. With no further discussion to be held on the application the public comment portion of the meeting was closed at 6:53 p.m. on a Perry/Scofield motion.

Chairman Perry asked the members of the board if they had any questions. Gemma Young asked Heidi Emrich if there are any other storage sheds on the property. Mrs. Emrich said that they do have a small tool shed in the back of the property where they keep rakes and hoses and kid's toys. Mrs. Emrich said that they currently can't park in their garage because they have the lawn mower, and snow blower stored there.

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 that would be unobstructive, and non-visible and accessible from the driveway. 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.

On a Perry/Young motion it was agreed that the Board vote on the appeal to grant an area variance for a 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 12.7', to allow for the placement of a shed. It is stipulated that action will be taken within one (1) year, by November 7, 2025, 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:

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

5. Regular Meeting:

Janelle Perry reported that the ZBA has not heard back from last month's applicant, Suzsne Stucki. Ms. Stucki had pulled her application from discussion at the October meeting, the board will await additional communication from Ms. Stucki. Janelle Perry reported that she has talked with Supervisor Sofranko and he has approved the ZBA to reach out for legal consult on the Interpretation request. She will pass any guidance that is received on to the members once it is received.

Chairman Perry told the members that he has been contacted by the Town reminding the members that they need to work on their training hours. Janelle Perry remarked that she will send out the information for the NY Planning Federation as the members of the board are members of the Federation and training sessions can be found through them. Heidi Emrich, as a member of the Planning Board, explained how the training sessions work.

Janelle Perry also reminded the members that the Town will be holding their annual Workplace Violence and Sexual Harassment training at the Meeting Hall on November 19<sup>th</sup>, starting at 12:00.

6. Adjournment:

With no further business to discuss, the meeting was adjourned at 7:05 p.m. on a Perry/O'Rourke motion.

7. Next Meeting:

The next meeting of the Board will be held at 7:00 p.m. on Thursday, December 5, 2024 if there is business to discuss.