

TOWN OF MILAN ZONING BOARD OF APPEALS MEETING MINUTES - FINAL  
WEDNESDAY, SEPTEMBER 30, 2009

MEMBERS PRESENT:

Jack Grumet, Chairman  
Rocky Mancini  
Guy Russell  
John Schneider

MEMBERS ABSENT:

Philip Zemke

ALSO PRESENT:

Chairman Grumet opened the meeting at 7:10 p.m.

**Public Hearing:**

1. **Virginia and Guy Russell** - Guy Russell recused himself from the meeting table to present his variance application to allow an existing dwelling, fence, and sheds to remain in their current location as follows: The dwelling has a front setback of approximately 38 feet where 85 feet are required and a rear setback of approximately 30 feet where 50 feet are required. The fence is located on the boundary line where a front setback of 85 feet is required and a side setback of 50 feet is required. The front shed has a front setback of approximately 38 feet where 85 feet are required and a rear setback of approximately 47 feet where 50 are required. The back shed has a front setback of approximately 50 feet where 85 feet are required and a rear setback of approximately 35 feet where 50 feet are required. Chairman Grumet read the legal notice which was posted in the paper and sent to neighboring landowners. Mr. Russell showed the Board a map of his property showing the house, sheds, and fence. He said the dwelling was built in 1999, the sheds have been on the property for nine years, and the six foot stockade fence is existing. The fence does not impinge on the driveway. The sheds are used for storage. Chairman Grumet said this seems to be a straightforward variance. This Board has had similar situations in the past where an applicant wanted to bring existing sheds and fences into conformance and the ZBA has found it to be in the Town's and applicant's best interest to grant those variances. Recent examples would be the application of James Brosnan, The Small House, where he had an existing fence similar to Mr. Russell's situation which he wanted to bring his site into conformance and the ZBA Findings allowed it. Also, going back a couple of years, Fred Wern had a pre-existing, non-conforming shed and fencing and the ZBA granted the variances. Chairman Grumet said following past experiences of the Board and the straight forward nature of this variance, he read the proposed Findings & Decision (attached) which determined this action to be a Type II under SEQRA and determined that this would not produce an undesirable change in the character of the neighborhood, the benefit sought by the applicant cannot be achieved by a feasible alternative to the variance, the requested variance is not substantial, the variance would not have an adverse impact on the physical or environmental conditions in the neighborhood, and the alleged difficulties were self-created because the applicant wanted a privacy fence and needed storage space but were not self-created because he is constrained by the size of his lot. The ZBA determined that the benefit to the applicant

does outweigh the detriment to the neighborhood and community and there were no conditions attached to the variance.

Mr. Mancini motioned that the Zoning Board of Appeals approve the attached Findings and Decision for the area variance application of Virginia Russell to allow an existing dwelling, fence, and sheds to remain in their current locations as follows: The dwelling has a front setback of approximately 38 feet where 85 feet are required and a rear setback of approximately 30 feet where 50 feet are required. The fence is located on the boundary line where a front setback of 85 feet is required and a side setback of 50 feet is required. The front shed has a front setback of approximately 38 feet where 85 feet are required and a rear setback of approximately 47 feet where 50 are required. The back shed has a front setback of approximately 50 feet where 85 feet are required and a rear setback of approximately 35 feet where 50 feet are required. Mr. Schneider seconded. All aye. Motion carried 3-0.

Mr. Russell returned to the meeting table.

### **Applications:**

1. **Richard Owens** appeared regarding his variance application to put a shed addition onto a pre-existing, non-conforming barn on property located at 770 Spring Lake Road, tax grid number 6474-00-591120. The barn is currently one foot away from the property line and the existing shed, which is old and in disrepair, is attached to the barn and is actually over the property line encroaching onto the neighbor's property. Mr. Owens is planning on tearing down the existing shed and when he replaces it with the new one, he will pull it back so it will be 5.8 feet from the property line. The shed will be used for storage. Mr. Owens said if he pulls it far enough back to be in compliance with the setback, it won't be attached to the existing barn and will change the character of the neighborhood. It is important for the shed's use to be attached to the barn. Also, the driveway slopes off steeply and he would have to bring in a lot of fill to bring the shed forward and he would have to move the existing driveway. The existing barn is structurally sound, built with timber frame construction in 1850 and will not require renovation, but he said he may re-side it at some point. Mr. Owens said he has discussed this with the neighbor on one side and they are supportive. The shed will be similar in architecture to the barn and will keep the agricultural feel to the property. Mr. Owens said the Board members are welcome to visit the property and added that the shed will be centered more on the existing barn and off the neighbor's property.

Chairman Grumet said he thinks this is a straight-forward variance request and the Board members agreed.

Mr. Russell motioned to set the date of the public hearing for the October 28<sup>th</sup> ZBA meeting. Mr. Mancini seconded. All aye. Motion carried 4-0. .

2. **Bay Horse, Inc.** - Jerry Thorpe was present for this variance application and explained that he has just purchased this business from the Hamiltons. He has actually been

running it for about four years and has made quite a bit of progress cleaning up the site. The office building has been relocated. However, when Mr. Thorpe measured the display areas, he realized he needed to request additional variances for the display area along Academy Hill Road and the display of seasonal items along Route 199, seasonal items being gazebos, chicken coops, etc. They would remain in the display area from April until November and then he would move them back. Mr. Thorpe is requesting 60 feet from the center of Route 199 for the seasonal items and 35 feet from the center of Academy Hill Road for the shed display area. Mr. Thorpe said he has moved the larger sheds further towards the inside of the property, putting the smaller items around Academy Hill Road.

Chairman Grumet said this appears to be a straight-forward variance request. The Planning Board has provided a positive recommendation for both variances and the applicant is attempting to bring everything into compliance while at the same time allowing for a good business location. The Board members agreed with that.

Mr. Russell motioned to set the date of the public hearing for the October 28<sup>th</sup> ZBA meeting. Mr. Mancini seconded. All aye. Motion carried 4-0.

Mr. Russell motioned to adjourn the meeting at 8:45 p.m. Mr. Schneider seconded. All aye. Motion carried 4-0.

The next Zoning Board of Appeals meeting is scheduled to be held on October 28, 2009 at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board