

TOWN OF MILAN ZONING BOARD OF APPEALS MEETING MINUTES - FINAL
WEDNESDAY, OCTOBER 28, 2009

MEMBERS PRESENT:

Jack Grumet, Chairman
Rocky Mancini
Guy Russell
John Schneider

MEMBERS ABSENT:

Phillip Zemke

Chairman Grumet opened the meeting at 7:00 p.m.

Public Hearings:

1. **Richard Owens** – Mr. Owens appeared for the public hearing for an area variance to allow a shed addition to a pre-existing, non-conforming barn, the barn having a side yard setback of 1 foot and the shed having a side yard setback of 5.8 feet on property located at 770 Spring Lake Road, tax grid number 6474-00-591120, in the A3A zoning district. Chairman Grumet read the legal notice that was posted in the paper and sent to neighboring landowners. Mr. Owens said the barn is currently one foot over 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 said he is tearing down the existing shed and replacing it with a new, post and beam shed which he will pull back so it will be 5.8 feet from the property line. He said if he locates the shed back far enough to be in compliance with the setback, it won't be attached to the existing barn so will change the character of the neighborhood. Also, he would have to move the existing driveway which would entail bringing in a lot of fill. The existing barn is structurally sound. The shed will be similar in architecture to the barn and will be used for storage, not residential housing. Dutchess County Planning determined this to be a "matter of local concern".

Hearing no public comment, Mr. Russell motioned to close the public hearing; Mr. Mancini seconded. All aye. Motion carried 4-0. Chairman Grumet said he thinks this is a straight forward variance. Clearly, from the pictures Mr. Owens is improving the look of the neighborhood and making the lot less non-conforming by moving the existing shed onto his own property. This is a plus for the community and allows him to make better use of his property.

Chairman Grumet read the proposed Findings & Decision which state that the addition will blend into the neighborhood, there is no feasible alternative to the variance, and it will be an improvement to the conditions in the neighborhood and that the benefit to the applicant outweighs the detriment to the neighborhood. There were no conditions to the variance.

Mr. Russell motioned to accept the Findings and Conditions for the Owens area variance; Mr. Mancini seconded. All aye. Motion carried 4-0.

2. **Bay Horse Inc.** - Jerry Thorpe appeared for the public hearing for the area variances for Bay Horse, Inc. located at 2 Academy Hill Road, tax grid number 6471-00-902480, to allow the display area along Academy Hill Road to be 35 feet from the center of the road and to allow the display area along Route 199 to be 60 feet from the center of the road for the display of seasonal items from April 1st until November 1st. The property is located in the Highway Business zoning district. Chairman Grumet read the legal notice that was posted in the paper and sent to neighboring landowners. Mr. Thorpe said John Decker, L.S., has updated the survey map to show existing conditions incorporating parking, the actual location of the office building, pin locations, signage, variances granted, and setback locations. He said the proposed setbacks will help him have a more viable business since he will be able to display more merchandise. He said since he has taken over the business, various people have commented on how nice and neat everything is and the Board agreed that the site looks great. Chairman Grumet said the County, in response to the zoning referral, had two concerns: (1) the applicant needs to clarify the extent of the requested variances; and (2) reducing the setbacks will place display items very close to both a major state highway and a county road thereby impacting the sight distance. Chairman Grumet referred to the Planning Board's positive referral to the ZBA where they suggested a condition to the variance be that the items placed towards Route 199 be open, non-shed items, not solid items and that it be an area for seasonal display items from April 1st until November 1st which Mr. Thorpe agreed to. Mr. Thorpe said there is 70 feet of open space for sight distance; this definitely does not impinge on sight distance. Chairman Grumet said he feels this condition addresses County's concerns. As far as on Academy Hill Road, part of the Planning Board's referral was a recommendation to do some type of border or fencing along Academy Hill Road. Mr. Thorpe said we need access in for forklifts and trucks; he thought about this but was not sure how to plant something in bedrock. We have set the display far in and have kept the area nice and clean and mowed. Chairman Grumet suggested he place about eight planters and plants along that area but Mr. Thorpe said there is no water on the site. Chairman Grumet then suggested a plastic faux board fence, installing the fence in five gallon buckets with concrete which would make it movable. He would only have to do the section before the brush; it is all brush towards the rear of the property. Chairman Grumet felt that would improve the look of the property and address County's concerns so Mr. Thorpe agreed. They would make it a condition that he be given a year to accomplish that so it would not be a condition of the Certificate of Occupancy.

Public comment: George Carrothers, a neighboring business owner on Route 199, said he would ask the board not to require the fence. Mr. Thorpe has done a great job cleaning up that site. We are trying to clean up that strip with money out of our own pockets. We are trying to provide employment to people. To put an unattractive plastic fence up is an unnecessary burden on the businessman. He thinks the County is wrong as far as sight distance coming off of Academy Hill Road. You have to pull up and stop at the end of Academy; if the display area is 30 feet back, there is full visual east and west on 199. Town government should be here to help small business in Milan and try to keep overhead down; this Board can disagree with County Planning. Chairman Grumet said he thinks they did not do a site visit. Mr. Carrothers said his suggestion is that the Board

minimize requirements. Mr. Thorpe is a responsible person and has improved the place. It's hard to make money right now. Chairman Grumet asked Mr. Thorpe if he wanted the fence and he replied he absolutely does not want the fence but was willing to give and take to move this along. Mr. Thorpe said from an aesthetic point of view, it will look hideous, be one more thing to weed whack and will take away from the openness of the site. Everything along Academy Hill is pushed back. Mr. Carrothers said eventually the visual should be mowed lawns along 199. People don't want to do fencing since we need building permits. In this economy, the government needs to minimize requirements and help small businesses survive. The board members agreed that the fence should not be a requirement.

Hearing no further public comment, Mr. Russell made a motion to close the public hearing; Mr. Schneider seconded. All aye. Motion carried 4-0.

Chairman Grumet read the proposed Findings and Decision which stated this variance will not create an undesirable change in the neighborhood, the benefit sought cannot be achieved by a feasible alternative, it is substantial, the variance will not have an adverse impact on the conditions in the neighborhood and the difficult is self-created. The site is located in the HB district and the increased setback area for displays will increase business prospects. The display items along 199 will not be solid structures and will be seasonal, April 1st through November 1st. The lot is severely constrained by wetlands so there is a limited amount of display area so the applicant needs to maximize that space. The ZBA determined that the benefit to the applicant outweighs the detriment to the neighborhood. The variance has one condition: The front display area will be seasonal in nature, April 1st to November 1st, and will be for open items only that do not hinder sight lines, no solid structures.

Mr. Mancini motioned to accept the Findings and Decision for the Bay Horse Inc. area variances; Mr. Schneider seconded. All aye. Motion carried 4-0. These findings will be sent to Dutchess County Planning and Development.

Approval of Minutes:

- Mr. Schneider motioned to accept the minutes of the September 30, 2009 meeting as presented; Mr. Russell seconded. All aye. Motion carried 4-0.

Mr. Russell motioned to adjourn the meeting at 8:00 p.m. Mr. Mancini seconded. All aye. Motion carried 4-0.

The next meeting will be held on Wednesday, November 18, 2009 at 7:00 p.m. at the Town Hall.
PLEASE NOTE THAT THIS IS THE THIRD WEDNESDAY OF THE MONTH, NOT THE REGULAR FOURTH WEDNESDAY, DUE TO THE THANKSGIVING HOLIDAY.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board