

TOWN OF MILAN ZONING BOARD OF APPEALS MEETING MINUTES - FINAL  
WEDNESDAY, MARCH 24, 2010

MEMBERS PRESENT:

Jack Grumet, Chairman  
Rocky Mancini  
John Schneider  
Phillip Zemke

MEMBERS ABSENT:

Guy Russell

ALSO PRESENT:

William Gallagher, Supervisor

Chairman Grumet opened the meeting at 7:15 p.m.

**Public Hearings:**

- **Michael DelPercio** - Tom Cassata appeared representing Michael DelPercio for his public hearing to allow two pre-existing barns to remain in their current locations, one having a front yard setback of 16.1 feet and the other having a front yard setback of 79.3 feet where 85 feet are required. The property is located at 301 Round Lake Road, tax grid number 6470-00-156718-00. Chairman Grumet read the legal notice that was posted in the newspaper and sent to neighboring landowners. Chairman Grumet explained that Mr. DelPercio is currently going through the lot line adjustment process with the Planning Board and the Planning Board did make a positive recommendation to the ZBA to grant the variance. There were no members of the public present for this application. Mr. Zemke said this is a straight forward application which is basically housekeeping. Chairman Grumet agreed and said the barns are pre-existing, non-conforming and in a situation like this, the variance is typically granted. Since the house and barns have been there for many years, this application is basically cleaning up inconsistencies with the zoning code that were created prior to zoning.

Chairman Grumet read the proposed Findings and Decision which declared this a Type II action under SEQR, Dutchess County Planning determined this action to be a matter of local concern, there was no other public comment, an undesirable change would not be produced in the neighborhood as the barns have been there for over 200 years, the benefit cannot be achieved by any feasible alternative to the variance, the variance request is not substantial, the variance will not have an adverse impact on the neighborhood as the barns have been there for many years and are considered part of the neighborhood, and the difficulty was not self-created as the barns were there when the applicant purchased the property. The Board agreed that the benefit to the applicant does outweigh the detriment to the neighborhood.

Mr. Zemke motioned that the Zoning Board of Appeals accept the Findings and Decision and grant the area variance for the DelPercio application to allow two pre-existing barns to remain in their current locations, one having a front yard setback of 16.1 feet and the other having a front yard setback of 79.3 feet where 85 feet are required on property

located at 301 Round Lake Road, tax grid number 6470-00-156718. Mr. Mancini seconded. All aye. Motion carried 4-0.

### **Applications:**

1. **James Foti** – Mr. Foti applied for a Building Permit for a 24 x 28 square foot single story two car garage and the permit was denied because the location of the garage was within the front setback. The property is located at 1 Tribune Lane, tax grid number 6571-00-560279. Mr. Foti is requesting a variance to be able to place the garage 66 feet from the front property line where 80 feet are required in the HB zoning district. There are wetlands on the property that limit the placement of the garage. Currently, there is a dwelling and a repair shop on the property and the garage would replace an existing storage shed. Mr. Foti said it will not be a pre-fab garage but will resemble the picture he submitted to the board. The garage will be for residential use. Chairman Grumet said a few years back, Mr. Foti was given site plan approval to build a 30 x 40 building and associated parking and he asked if that will ever be built. Mr. Foti said he will not be building that structure. Chairman Grumet said his biggest concern with the garage is siting it in front of the existing house. Typically, accessory buildings would be located behind the house. Mr. Foti said he is severely restricted behind the house due to the wetland buffer. The house is in the buffer zone; he would not be able to build it in that location today. He did call the DEC to find out if it would be possible to get a permit to build a garage in the buffer zone and was told it would be highly unlikely. There is a little bit of space where the garage could be pushed back a bit but a variance would still be required. Chairman Grumet said the job of the ZBA is to minimize variances as much as possible, to keep things as close to conforming as possible. Even though the wetland buffer does impede this property, he would like to see the garage pushed back as far as possible. This site, which is in the Highway Business zoning district, predates zoning and is unique in that there is a residential use and a commercial use on the same lot. The garage would be for residential use which is in keeping with the mixed use of the whole property. The only issue would be to get it as conforming as possible but to still allow Mr. Foti to have the best use of the garage and his property. Mr. Foti said he thinks there is about 6 feet between the garage and the buffer line. Chairman Grumet said it looks to him to be about 8 or 9 feet. Mr. Zemke said there is no way to achieve the 85 feet that is required; now, he is 66 feet back so either way he will need a variance. Mr. Zemke asked if the Building Inspector looked at the distance between the house and garage. It appears to be about 8 feet and the building code does require some separation distance. Mr. Mancini thinks the garage in its proposed location is the best place since it makes a nice line but Chairman Grumet did not think anyone would notice the symmetry from Route 199. Mr. Zemke did not think 10 additional feet off the street would make a difference in the appearance. Mr. Mancini said if Mr. Foti pushed the garage back 10 feet, it will block the view from the house. Chairman Grumet thinks the Board members should have a site visit to get a better idea of the physical layout of the lot and would like Mr. Foti to be there. Mr. Foti said if he moves the garage back, it will block one of the windows of the house. Mr. Zemke said as part of the application, we need to check with the Building Inspector as to the separation requirement between buildings.

Chairman Grumet said he thinks the application is complete enough to set the public hearing for the April meeting but prior to the April meeting, we need to get the information from the Building Inspector and have a site visit with Mr. Foti to understand the different possibilities for garage placement and the pros and cons of each to discuss at the April meeting. The Board members agreed. Mr. Mancini said something Mr. Foti may want to consider is to connect the proposed garage to the existing garage. By doing that, he would gain more front yard and would not have the 8 feet of “no man’s land” that would be between the house and garage in the current proposed location. Mr. Zemke said that would require fire separation. Mr. Foti would have to check with the Building Inspector to find out the requirements of the building and fire codes. Attaching the garage won’t alter the need for a variance but will change the placement. Chairman Grumet will contact Mr. Foti to set up the site visit.

Mr. Zemke motioned that the Zoning Board of Appeals accepts the Foti area variance application and sets the public hearing date to be held at the ZBA meeting on Wednesday, April 28<sup>th</sup>, 2010. Mr. Schneider seconded. All aye. Motion carried 4-0.

**Administrative/Discussion Items:**

- Approval of Minutes: Mr. Zemke motioned to approve the minutes of February 24, 2010 as presented. Mr. Schneider seconded. All aye except Mr. Mancini who abstained. Motion carried 3-0-1.
- Milan Market: Chairman Grumet said Mr. Rabadi continues to sell used cars on the Milan Market property. He said his perspective is the longer this continues, it is a disservice to the people who play by the rules by paying filing fees and going through the application process. This is unfortunate and Mr. Rabadi has been contacted several times about this

Mr. Schneider motioned to adjourn the meeting at 7:45 p.m. Mr. Zemke seconded. All aye. Motion carried 4-0.

The next ZBA meeting will be held on Wednesday, April 28, 2010 at 7:00 p.m. at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board