

ZONING BOARD OF APPEALS MEETING MINUTES – FINAL
WEDNESDAY, FEBRUARY 28, 2018

MEMBERS PRESENT:

Rocco Mancini, Chairman
Stephanie Fitzpatrick
Ingrid Kulick
Phillip Zemke

MEMBERS ABSENT:

Adam Schneider

ALSO PRESENT:

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

Public Hearings:

- 1. Boyle Area Variance** – Jerry and Roberta Boyle appeared for the public hearing for their area variance application for side and rear setbacks for a shed on their property located at 56 East Lake Lane, tax grid number 6474-00-174032. Chairman Mancini read the legal notice that was posted in the paper and sent to neighboring landowners and opened the public hearing. Mr. Boyle said they are planning to build a custom, field built storage building paying attention to match it to the house. They are planning to use the building to store kayaks, fishing poles, and water equipment that they are currently storing down near the water on homemade racks. The storage building will have electricity. This is a .57 acre lot in a 3 acre zone so we would require a variance pretty much anywhere we put the building. Chairman Mancini and Mr. Zemke did look at the property. There is a steep hill down to the lake with a platform and stairs. Mr. Boyle said those stairs have just been built. There is also an existing stone wall which is owned by the neighbor which is old and is not in very good shape. The property is a rectangle. The side yard has the septic field and the expansion area and then the property drops off. All of the neighbors have developed down to the water as well creating docks and boat launches and small buildings. Mr. Zemke said this is a tiny lot in three acre zoning. The use they are proposing is customary to this area. There was no public comment.

Mr. Zemke motioned to close the public hearing. Ms. Kulick seconded.

Rocco Mancini, Chairman	Aye	Adam Schneider	Absent
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 4-0	

The Board completed the Findings as follows: an undesirable change will not be produced in the character of the neighborhood; the benefit sought by the applicant cannot be achieved by a feasible alternative to the variance due to the steep slope of the property and the location of the well and septic fields; the requested variance is not substantial; the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood; and the alleged difficulty is self-created. The benefit to the applicant does outweigh the detriment to the neighborhood or community. There were no conditions to the variance.

Ms. Fitzpatrick motioned that the Zoning Board of Appeals approve the Findings and Decision for the Boyle area variance to allow the construction of a 14'x18' storage building with an attached 6'x14' porch to be located 5 feet from the side property line where 35 feet are required and 15 feet from the rear property line where 35 feet are required on property located at 56 East Lake Lane, tax grid number 6474-00-174032. Ms. Kulick seconded.

Rocco Mancini, Chairman	Aye	Adam Schneider	Abstain
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 4-0	

Applications:

- Bailes Area Variance** – Mark Graminski, P.E./L.S. appeared as the authorized representative for Ryan Bailes who is seeking an area variance to construct a barn in front of the front building line of the proposed dwelling 15 feet from the side property line where 35 feet are required in the A3A zoning district. Mr. Graminski said this lot was just created by subdivision at the end of last year. There were no detailed improvements on the lot at the time of subdivision. Following creation of the subdivision, Mr. Bailes asked Mr. Graminski to prepare plans for an application to the Department of Health and to identify a location for a barn on the property as he wanted to store materials. The purpose of the barn is twofold – to store materials and to allow Mr. Bailes to remove the storage containers off the property per a letter from the Zoning Enforcement Officer instructing him to do so. The barn will be built before the dwelling so that building materials can be stored in there. The house will be constructed after the barn. The barn will require two variances – one to allow it to be placed in front of the front building line of the dwelling and secondly, to allow it to be 15 feet from the side property line where 35 feet are required. After developing this plan, Mr. Bailes took it to Pete Hubert for cost estimates. Based on that estimate, we will probably rotate the barn 90 degrees and reduce the size to 30' x 40' (from the proposed 30' x 60') but we will still require the same variances. Rotating the barn and reducing the size will reduce the amount of grading required. Mr. Graminski has made application to the Department of Health and has placed the septic system in the only feasible location on the lot due to the steepness. Mr. Bailes is trying to be respectful to the neighbors by placing the house where it won't be visible. There is an existing tree line which will screen the barn from the neighbors. Mr. Zemke asked how tall the barn would be. Mr. Graminski did not know but said it would not exceed the allowed 35 feet. The doors will be facing to the southwest once they rotate the barn to allow for vehicles to back in. Mr. Bailes has been in touch with David Borenstein to do the architecture.

Mr. Zemke motioned that the Zoning Board of Appeals declare the Bailes area variance to be a Type II action under SEQRA requiring no further action. Ms. Fitzpatrick seconded.

Rocco Mancini, Chairman	Aye	Adam Schneider	Abstain
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 4-0	

Mr. Zemke motioned that the Zoning Board of Appeals schedule the Bailes public hearing for the March 28th meeting. Ms. Fitzpatrick seconded.

Rocco Mancini, Chairman	Aye	Adam Schneider	Abstain
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 4-0	

- 2. Nejame Pools for Wike Area Variance -** Steve O’Brien appeared as the authorized representative for Mark Wike who is seeking an area variance to place a pool in front of the front building line of the dwelling on property located at 160 Milan Hill Road, tax grid number 6472-00-875130. The pool meets the required setbacks in the A3A zoning district. Mr. O’Brien said the property is 262 acres and the pool is proposed to be placed where structures formed a courtyard which includes silos. Several of the structures will be demolished but they are keeping one structure for a pool house. There will be raised garden beds in the pool area. The grade is downhill towards the road, from the house to the road is over 800 feet and from the pool to the road is about 500 feet so the pool will not be visible from the road. The material that is excavated for the pool will provide a landing area which will be a play area for the kids and after that, the property slopes down. Erosion will be the same as it is now. The pool can’t be placed behind the house because there is a 10 foot incline and within 30 to 40 feet, there is a pond. The grade is retaining the pond water so if they were to excavate behind the house they would interrupt the water table. Given the nature and layout of the property and structures, the pool is much more appealing in the front. The homeowners are full time residents. When asked, Mr. O’Brien said NeJame is strictly building the pool. There will be a patio around it but it has not yet been decided who will build that. The homeowner’s contractor is doing the tear down of the rotted buildings and the rehab of the existing building. They are trying to maintain what is already there. All fencing will be farm style – white, three rail 4x4 and 6x6 posts so it still looks like a farm. It was noted that the environmental assessment form has not been submitted.

Mr. Zemke motioned that the Zoning Board of Appeals schedule the Nejame Pools (Wike) public hearing for the March 28th meeting pending receipt of the short EAF. Ms. Kulick seconded.

Rocco Mancini, Chairman	Aye	Adam Schneider	Absent
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 4-0	

- 3. Robert Bard Request for Interpretation -** Johanna Bard was present as the authorized representative for Robert Bard who is seeking an interpretation to Section 200-23D(1) for a conversion on property located at 530 Field Road, tax grid number 6571-00-136075. Ms. Bard said the property has 28.05 acres. We are requesting an interpretation for conversion of a barn that is on the property. Section 200-23D(1) of the zoning code requires a valid Certificate of Occupancy for a minimum of three years or that the structure has been occupied by the owner for a period of at least three years. This structure has a valid building permit but a Certificate of Occupancy was never issued. Mr. Bard has lived on the property since September of 1968. The barn has been used for storage. Chairman Mancini

said the fact that the barn has been used for storage should be considered occupied. Ms. Kulick said in 200-23D(4), occupy means live in. What does occupy mean? Ms. Bard said she believes the purpose they are proposing is in keeping with the stated purpose here – to allow conversion as an increase in stock of affordable rental units – which would allow her to live here in her elder years. There is electricity to the barn. It would be a conversion for accessory dwelling unit or units that would require a new well and septic. Ms. Kulick read the definition of occupancy from Section 200-5 of the zoning code which states “The residing of an individual or individuals overnight in a dwelling unit or the installation, storage or use of equipment, merchandise or machinery in any public, commercial or industrial building. Ms. Bard said the barn is storing commercial equipment now. Mr. Zemke said the building has a building permit so it is an allowed accessory structure and it has been continually occupied for the use that was permitted. Chairman Mancini said he would like to take a look at the site. Ms. Kulick did not think it was necessary to see the site for her purposes as this is an issue of interpretation, not a site issue.

Mr. Zemke motioned that the Zoning Board of Appeals declare the Bard request for interpretation for a conversion to be a Type II action under SEQRA requiring no further action. Ms. Fitzpatrick seconded.

Rocco Mancini, Chairman	Aye	Adam Schneider	Absent
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 4-0	

Ms. Fitzpatrick motioned that the Zoning Board of Appeals schedule the Bard request for interpretation for a public hearing for the March 28th meeting. Ms. Kulick seconded.

Rocco Mancini, Chairman	Aye	Adam Schneider	Abstain
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 4-0	

Discussion Items/Correspondence:

- If anyone chooses to attend the Durst presentation on Saturday, March 27, 2018 at 10:00 a.m. at the Pine Plains library, they will be awarded two hours of time towards their four hour education requirement for 2018.
- Taconic Retreat Center – The ZBA has received a lead agency circulation from the Planning Board regarding the ongoing review of the master plan for the Taconic Retreat Center. This application will be before the Zoning Board of Appeals in the near future for lot coverage.

Mr. Zemke motioned that the Zoning Board of Appeals consent to the Town of Milan Planning Board acting as lead agency in the Taconic Retreat Center application for approval of their site master plan. Seconded by Ms. Kulick.

Rocco Mancini, Chairman	Aye	Adam Schneider	Abstain
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Aye	Motion carried 4-0	

Administrative Items:

- **Approval of Minutes:** Mr. Zemke motioned that the Zoning Board of Appeals accept the minutes of the January 24, 2018 meeting as written. Ms. Kulick seconded.
Rocco Mancini, Chairman Aye Adam Schneider Abstain
Stephanie Fitzpatrick Aye Phillip Zemke Aye
- Ingrid Kulick Aye Motion carried 4-0

Ms. Fitzpatrick motioned to adjourn the meeting at 8:05 p.m. Mr. Zemke seconded.
Rocco Mancini, Chairman Aye Adam Schneider Abstain
Stephanie Fitzpatrick Aye Phillip Zemke Aye
Ingrid Kulick Aye
Motion carried 5-0.

The next regular meeting will be held on Wednesday, March 28, 2018 at 7:00 p.m. at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board