

ZONING BOARD OF APPEALS MEETING MINUTES – FINAL
WEDNESDAY, APRIL 24, 2019

MEMBERS PRESENT:

Rocco Mancini, Chairman
Stephanie Fitzpatrick
John Schneider
Phillip Zemke

MEMBERS ABSENT:

Ingrid Kulick

ALSO PRESENT:

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

Public Hearings:

- 1. Harper Area Variance** – Jason Harper was present for the public hearing for his area variance application to place a 12'x20' shed 10 feet from the rear setback line where 35 feet are required on property located at 296 Woody Row Road, tax grid number 6572-00-412277 in the A3A zoning district. Chairman Mancini read the legal notice that was posted in the paper and sent to neighboring landowners. The Harpers met with their neighbors on the site to describe the project. They have two sheds they want to put in and they are limited as to where they can be placed due to the existing woods and outcroppings and keeping the sheds accessible to the house while preserving the existing drainage to keep water away from the house. There is a shed in the low spot now which will be removed and the spot will be kept open for a drainage point. Just beyond that, they leveled an area for the two sheds. They will be next to each other on a gravel pad with a four foot gap in between which pushes the end shed about 10 to 14 feet away from the rear property line. The sheds will have electricity so a conduit has been put 24 inches down. The sheds are prefabs from Bay Horse and are the standard 7 or 8 feet in height. Erik Kiviat and Elaine Colandrea, who were present for the hearing and who live on the south side of the adjacent lot, sold the Harpers the property. Mr. Zemke said he drove by the property today and noticed some work being done. Mr. Harper said we are having a propane tank put in on Friday to hook into an existing generator and they will add a kitchen propane stove and fireplace. The propane tank was there but they needed a bigger tank. The gravel was put down for the sheds and there are painters painting the interior of the house. Mr. Harper said we are also going to be adding an additional item four layer to the driveway. Mr. Kiviat said he has a concern about potential noise, the concern partly generated by the previous owners. They don't expect to have a noise issue with the Harpers but worry about future owners of the property. They don't object to this variance but want to ask the Zoning Board whether there is something in town ordinances or regulations or practice that would help to protect us from potential noise in the future. Ms. Colandrea said by allowing this variance and a structure to be there, if the Harpers sell, could someone make a more permanent structure there where noisy things could go on because we have allowed this variance. Mr. Kiviat said he is going to plant some dense vegetation on the property line for privacy and to block noise and is hoping the Harpers will do the same. Mr. Zemke explained that this variance is being granted to a specific size building for a specific use, storage. If someone else bought the house and

wanted to change the size or use of the structure, they would need to apply for a variance for that use and structure. Another neighbor asked why he was notified and the clerk explained that all neighbors within 200 feet of the property line must be notified of the hearing by law. Chairman Mancini said he visited the site and said he thinks the new location for the sheds is much better than where the current shed to be removed is – it is a low, wet area. Mr. Zemke said there is a high ledge at the front of the property so the sheds won't be visible except to the adjacent lot.

Ms. Fitzpatrick motioned to close the public hearing. Mr. Schneider seconded.

Rocco Mancini, Chairman	Aye	John Schneider	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Absent		

Motion carried 4-0.

Chairman Mancini and the Board completed the Findings and Decision which stated that an undesirable change would 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 because the proposed location for the shed is as good as it can be for storage and to keep the shed accessible to the house; the requested variance is not substantial; the variance would not have an adverse impact on the physical or environmental conditions in the neighborhood because it is a free standing shed on a pad so is not permanently set – if the shed falls apart or is no longer needed, it is easy to move away; and the alleged difficulty is self-created. The Board determined that the benefit to the applicant does outweigh the detriment to the neighborhood and there were no conditions imposed on this variance.

Mr. Zemke motioned that the Zoning Board of Appeals approve the Findings and Decision as stated above. Mr. Schneider seconded.

Rocco Mancini, Chairman	Aye	John Schneider	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Absent		

Motion carried 4-0.

Applications:

1. **Kenny Area Variance** – John Kenny was present for his area variance application to construct a single family dwelling on his property in a location where the minimum lot width at the building line measures 149 feet and the Town of Milan zoning code, Table B, Schedule of Area and Bulk Regulations, requires a minimum lot width at the building line of 300 feet in the A3A zoning district. The property is located at 149 Battenfeld Road, tax grid number 6472-00-261181 in the A3A zoning district. Mr. Kenny said he is turning the house and putting up a smaller garage than what was proposed when the variance was granted previously for the garage. There is nothing on the property now. Two neighbors, the Bermans and Diane Moroff, have written letters of support because the house will be less visible where he is proposing to place it than where it was originally placed on the lot. There are two wooden posts with a cattle fence marking the

location of the driveway. Mr. Zemke said he would like to see a copy of the larger map showing the proposed location of the house and garage. The lot is Board of Health approved and does not have to be re-approved. Mr. Kenny said by moving the house, the driveway becomes smaller. He meets all the required setbacks except for lot width. Mr. Kenny said they are putting in a swale and a drainage structure in front of the garage.

Mr. Zemke motioned to declare the Kenny area variance application a Type II action under SEQRA requiring no further action. Mr. Schneider seconded.

Rocco Mancini, Chairman	Aye	John Schneider	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Absent		

Motion carried 4-0.

Ms. Fitzpatrick motioned to set the date for the public hearing for the Kenny area variance for the May 29, 2019 meeting. Mr. Zemke seconded.

Rocco Mancini, Chairman	Aye	John Schneider	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Absent		

Motion carried 4-0.

When asked, Mr. Kenny said the ZBA members are welcome to visit the property. The Berman property is 153 and the Kenny property is 149. Mr. Kenny needs to add to the drawing the location and dimensions of the proposed house and garage.

Discussion Items/Correspondence:

Administrative Items:

- **Approval of Minutes:** A motion was made by Mr. Zemke and seconded by Ms. Fitzpatrick that the Zoning Board of Appeals accepts the minutes of the March 27, 2019 meeting as presented.

Rocco Mancini, Chairman	Aye	John Schneider	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Absent		

Motion carried 4-0.

A motion was made by Mr. Schneider and seconded by Ms. Fitzpatrick to adjourn the meeting at 7:20 p.m.

Rocco Mancini, Chairman	Aye	John Schneider	Aye
Stephanie Fitzpatrick	Aye	Phillip Zemke	Aye
Ingrid Kulick	Absent		

Motion carried 4-0.

The next regular meeting will be held on Wednesday, May 29, 2019 at 7:00 p.m. at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board