

**ZONING BOARD OF APPEALS MEETING  
APRIL 19, 2016**

**PRESENT:** Kathy Kiernan, Chairperson  
Joseph Guido  
Frank Skeritt  
Karl Wick  
Vic Barranca  
Melanie Morino

**ALSO PRESENT:** Myles Putman, Consultant

Chairperson Kiernan called the meeting of the Town of Esopus Zoning Board of Appeals to order at 7:00 p.m. beginning with the Pledge of Allegiance to the Flag.

Chairperson Kiernan informed the Board of the resignation of Richard Wenzel effective 3/15/16 from the Zoning Board of Appeals.

Chairperson Kiernan asked the Board if everyone read the minutes of the March 15, 2016 meeting and if there were any changes. There were no changes.

**VIC MADE A MOTION TO APPROVE THE MARCH 15, 2016 MEETING MINUTES, SECONDED BY KARL. ALL MEMBERS WERE IN FAVOR.**

**VOUCHERS:**

M.L. Putman Consulting (March, 2015).....6.5 hrs.  
April Oneto (February, March).....77 hrs.

**JOE MADE A MOTION TO PAY THE VOUCHERS AS SUBMITTED, SECONDED BY VIC. ALL MEMBERS WERE IN FAVOR.**

Chairperson Kiernan explained that there are three parts to the process. There is the informational portion, public hearing and decisional. Tonight we have two new cases for informational and we have one decisional.

**INFORMATIONAL:**

**04-19-16-01 : 5 AREA VARIANCES - STILL RIVER LLC (Seth Tapper) –  
1689 Broadway (U.S. Route 9W; State Hwy 5508), West Park;  
SBL: 80.001-3-23.1**

**Variations to Section 123-20 and 123-21.C(7)(b)**

**NE Cottage – Side (North) Yard**  
**NE Cottage – Rear (East) Yard**  
**SE Cottage - Side (South) Yard**  
**SE Cottage – Rear (East) Yard**  
**Wall at South Lot Line**

Michael Moriello, Esq., was present to represent the applicant in the matter before the ZBA. Seth Tapper, owner, arrived shortly after the meeting began.

Myles reviewed ML Putman Consulting report dated 4/17/16. A copy of the report was given to applicant and a copy was placed in the file.

Michael Moriello explained to the Board that he is representing Seth Tapper who is doing a boutique hotel that will be situated in the former “Aberdeen on the Hudson” site. He explained that there is a slight expansion of that building along with four cottages that will be built, the installation of a swimming pool and a sound attenuating perimeter wall.

Michael explained that the Planning Board has declared its intent to serve as Lead Agency and circulated the necessary paperwork for a coordinated review and a Type 1 Action under SEQR to the involved agencies. He stated that they expect to be before the Planning Board for a while since they have not reached a determination of significance yet. Michael stated that he thinks Myles laid out where they are in the process in his report. He is here to get the Zoning Board of Appeals’ view on the area variances they are requesting. Michael said that he did a submittal to this Board with an addendum explaining how things fit within the criteria for area variances. He submitted some pictures for the Board to look at. He stated that Scott Dutton is the architect and visual consultant for the project.

Kathy brought Michael’s attention to page 7, D of his addendum. Corrections were made to this section.

Myles informed the Board of a procedural issue. The Zoning Board of Appeals will not be able to act on the area variance requests until the Planning Board has concluded the SEQR process. The Planning Board has yet to declare the Special Use Permit application to be “complete”. The Zoning Board should not schedule a public hearing on the area variances until it has first determined it has a “complete” application. It would be useful to schedule the hearing at a time close to the date the Planning Board schedules for a hearing on the special use permit.

Michael Moriello agreed with Myles on the timing of the Public Hearing. Michael stated that he has a question for the Board and Myles regarding visual effects. He feels that this is probably the most sensitive part of the application. Michael questioned Myles about what he means by a visual assessment. He wants to know if this is something that Scott can show as a simulation or what does the Board want. Myles stated that he thought they had already scoped out a simulation and we were just waiting to see what you had

prepared. He thought Scott already had a simulation but Vanderbilt Mansion should be one but this should be discussed with the Planning Board.

Joe questioned that they were before this Board for 5 variances. Michael stated maybe 4 depending on what the Board thought about the parapet wall he thinks they do have a provision in the Zoning Law that he reads to obviate the need for the variances. He is not sure what this Board will feel. Joe questioned the length of the wall. Michael stated that it would go right across the front of the property. Michael stated that the wall would be higher than 6 ½ feet it will be 10 feet. The purpose of the wall is for sound attenuation for the noise from Route 9W. They are also proposing a 6 ½ feet high deer fence which will meet the requirements. Michael stated that for the next meeting he can have Scott and Alan attend.

Site Plan retrieved from the Planning Board files for the Board to look at. Seth Tapper owns a total of three parcels. Seth Tapper arrived at this point. Seth stated that the map that we were looking at (Planning Board Map) was incorrect and should not show the other property. Michael explained that it will be a hotel, small restaurant associated with the hotel, a couple of out buildings, a pool and gardens and an agricultural area. The main building is 140 feet off the highway boundary.

Joe questioned the existing variances on the property. Myles stated that after the school was operating Ms. Ferguson did a subdivision and at that time the subdivision line created an encroachment on the required 100 foot setback for the parking area needed for the school. Joe asked if the previous variances were going to be utilized. Michael stated that nothing is going to changing on the site. Seth stated that it is his understanding that a school has a particular rule about a 100 foot side lot and the school was 97 feet. He does not think this is applicable for the new use. Joe is just trying to get a sense of how many variances are on this property. Joe questioned that since the cottages do not exist at this point why can't they be built so variances are not needed? Seth explained that the reason why the cottages have been situated where they are is because it is the existing tree line. They are trying to hide the cottages in the tree line so they don't create a visual impact. Michael stated that the visual impact of the project is the most sensitive from an environmental standpoint. Michael stated that there is no effect on other property owners since there are no houses there and that Seth owns three of the lots.

The Board discussed a site visit. Joe said that he would like to see the property himself. He further stated that the object is to try to grant as few variances as possible. Karl questioned the 4-5 feet distance from the tree line and the possible issues with having the cottages so close to the trees. He said that Seth might be better putting them further away from the tree line. Seth stated that he is trying to balance the interest of the Planning Board by not having them as visible. He stated that once the Board visits the property they will understand what he is saying. Michael stated that a visit is possible but he would like to make sure that there is no quorum at any one time. Myles stated that based on Robert Freeman's talk at the Planning Federation Convention you can have a quorum for a site visit but you have to observe a strict rule that you do not speak amongst yourself. Michael does not agree with this and is not comfortable. Michael suggested

that you have three members go the first hour and three members go the next hour. Seth will try and work something out and get back to the ZBA clerk to schedule. The Board requested that the applicant have the area marked out so they can understand where everything will be located.

Seth asked if they have any questions about the wall. Karl questioned the variance for both walls. Seth explained that it would just be the wall facing Route 9W. Seth stated that the goal is for a wall on Route 9W that is higher than the requirement and a wall along the road which is 6 ½ feet which is as of right. He is trying to create a second wall in order to block the noise from Route 9W. The wall will be lower than the building and extend out to the lot line. It will be a green wall. Michael stated that there is a section in the Zoning Code that exempts parapet walls from height requirements. He asks that the Board rule in their favor that they do not need a variance for this wall but if they feel that the applicant does need a variance that they grant it. He stated that this is Section 123.21 in the Supplementary Regulations which he laid out in his addendum.

Michael submitted a copy of the Endangered Species study to the Board. Kathy questioned the Board on the scheduling of the public hearing. It was the consensus of the Board that we hold off the scheduling of the public hearing until the Board has had the time to walk the property.

**INFORMATIONAL:**

**04-19-16-02 AREA VARIANCE FOR DWELLING ON UNDERSIZED LOT–  
O’BRIEN – 163 HOYT ST., PORT EWEN – SBL: 56.060-2-33**

Mary O’Brien was present to represent her brother on this application. Mary stated that the plans that were submitted to the Board are not correct. The house is actually 27’ 6” so there will be a 3” difference on either side. The plans will be corrected and given to the Board. She stated that the house that he is intending to build is 27’ 6” by 48’. It is a modular. She said that it will be connected to the water and sewer. The house meets the requirements on the front setback and the rear setback. She stated that Sean will put the required parking spaces in front of the house. Applicant received a copy of MLP Consulting Review dated 4/15/16 and a copy was placed in the file.

Myles informed her that they would need to contact the Town Highway Department for access approval. Myles stated that if it is a vacant lot they will need to contact the Highway Superintendent.

Mary stated that the lot to the left of this property has the house all of the way on the other side of the property and the lot to the right of him is a vacant lot which is a big hole in the ground. It drops straight down so she does not see anybody developing that lot in the future.

Applicant is asking for a 4 foot variance on either side. Joe stated that he spoke to Sean and he said that he was not changing the character of the neighborhood. He said that he

would bring in supporting pictures. Mary was not aware of this. Sean will bring the pictures for the next meeting. Joe said that Sean said that the modular he is planning on building was the shortest size he could get. He should bring in proof of that for the next meeting.

Chairperson Kiernan informed her that the Public Hearing will be on 5/17/16 at 7:00 p.m. Joe informed applicant that the notices will be sent out to adjoining neighbors and if they have any questions or concerns they will ask them at that time.

**DECISIONAL:**

**1-19-16-01 ZONING VARIANCE – JUDY SHAPIRO/OLD STOCKADE  
DEVELOPMENT – 546 BROADWAY, ULSTER PARK;  
SBL #63.02-3-10**

Property owner, Judy Shapiro was present along with Charles Wesley, Steffan Sanzi and Jim Lamb.

The applicant is requesting 4 variances for this project. Kathy asked if anyone on the Board had an idea of how the motion should be worded. Karl stated that there are three notices of disapproval. Kathy informed him that there is a fourth one for total coverage. Discussion took place regarding whether they would do the variances as one or deal with them separately.

Joe stated that he thinks it is too many variances for a small piece of property. If it was a little smaller, he would consider it but it is too much for that small lot. Charles Wesley asked that of the four separate variances what variances does the Board have a major issue with? Joe said his would be total coverage. Charles said they are looking at payback for the project. He said that lot size cannot change since it is an undersized lot and there is nothing that can be done there. Vic said that there will be a problem with drainage. Frank said that they are talking about underground drainage where one area has been filled in by at least 18 inches which you can see at the rear property line since it goes up about 18 inches. In the corner, there is another rise in the property and someone has built that in. At the end of this property towards the north, you will see broken cinder blocks and other material. Kathy said this was asked last month and the answer was “no” it was never filled in. Mr. Sanzi stated that people are dumping there and that is why they put a chain there. Kathy said there is a definite drop off on the back part of the lot. Mr. Sanzi said that area is not going to be touched and that it is not their property.

Karl stated that there is no way to remedy the depth. Mr. Sanzi stated that there are roads on both sides of the property and whatever business went in there would have the same issue. Karl agrees with Joe. He thinks it is coverage because you have a lot of lot coverage. Charlie stated that lot coverage seems to be the biggest concern. Karl stated that he does not have a problem with the variance in the front yard. Joe said that it is unfortunate because the type of business this is there are two buildings. If the business had one building, we would not have the problem.

Applicants asked about variances for Iron Mountain and Texas. Iron Mountain was a height issue and when they put the pumping in and proved that they could provide adequate fire extinguishing they got the variance. Texas was lot size but not coverage.

Charlie asked if they were willing to reduce the size of the buildings to conform with code as far as lot size what would their chances be. He stated that they submitted their application and during the time the application was going through the process Jim went to a seminar and part of the seminar had to do with the size of the units most popular for self storage. They found out that the 10x20 units did not fall into the category of the popular size. The 10x10 and the 10x15 were the popular sizes. They looked at this possibility and the popularity of the storage size would be better so the possibility of them being able to fill the buildings would be better. By doing this it would eliminate 10 feet for each building which would eliminate two variances. They would conform to current lot coverage and they would conform to all the setback requirements. They submitted a copy of a new plan. They moved the driveway to the north end of the property eliminating a concern of Texas. Jim stated that they discovered that by changing the plan they can offer three different size units instead of two. This will be a slightly longer payback period but they are willing to sacrifice if this is more acceptable. The only thing that is left would be lot size and there is nothing they can do about this.

Joe questioned the parking. There are a couple of spaces for people coming in. There is no office and there will be no RV parking. Coverage now is 19.5% by reducing the building sizes. Safety concerns were discussed and the applicant stated that they pushed in the entrance by 35 feet so that you can pull a car in. It is closer to the turn but the site distance is good. The tree line will stay. They are not planning on removing the trees unless there is one that needs to be removed to create the driveway.

Karl stated that this is a light industrial zone and it used to be general commercial. He stated that worse visual things could go in there.

Myles questioned if the applicant spoke to Ulster County DPW concerning the curb cut and they applicants stated that where they are putting the driveway is in the same location where it presently is. They will check but they think it is an existing curb cut. Myles requested that the applicant submit revised plans to the Planning Board. New plan is dated March 30, 2016 and owner, Judy Shapiro signed the copy that will be kept in the ZBA files.

Joe stated that the only thing they are looking at now is undersized lot. Applicant was asked if they wanted to withdraw the other variances or would they like the Board to vote on the other variances. Applicant submitted in writing a letter withdrawing all variances except for the lot size.

Myles stated that on a corner lot it is up to the land owner's discretion to pick a rear and side yard. Following some discussion it is the owner's wish to measure the depth from

the street line at Cross Street at the southern most point north to the property line distances of 200 feet (123-21 C.(1)(A)).

**KARL MADE A MOTION TO GRANT SHAPIRO/OLD STOCKADE DEVELOPMENT, CASE #1-19-16-01, AREA VARIANCE FOR 123.20 BULK AND AREA TO ALLOW TWO STORAGE UNITS AS SPECIFIED ON MAP REVISION "C – DATED MARCH 30, 2016" ON THIS PARCEL COMPRISING OF .917 ACRES WITH THE STIPULATION THAT THERE WILL BE NO MOTOR VEHICLE (AUTOMOBILES, RECREATIONAL VEHICLES OR BOATS) STORAGE ON THIS SITE. APPLICANT WILL NEED TO GO BACK BEFORE THE PLANNING BOARD FOR SPECIAL USE PERMIT. MOTION SECONDED BY VIC.**

Karl stated that he was not in favor of the initial variances requested. They were far too excessive. He thinks the applicant expressed a willingness to do what is best for the Town while preserving their own use of the property. He does not think that it is excessive and it is a light industrial area. **Vote –In favor**

Frank – **In favor**

Melanie – **In favor**

Vic – **In favor** of the revised plan. He does not see the coverage issue that was present before.

Joe – **In favor** - The applicant has made many compromises and it is a commercial lot.

Kathy – **In favor** - She hopes that they make it look good.

**MISCELLANEOUS:**

The Board was filled in on the Article 78 Lawsuit against the Town regarding RSS.

Vic asked Kathy about Training Seminars in the Town Hall. Kathy said that she did not have a change to talk to Diane about this yet.

Melanie will not be at the May, 2016 ZBA Meeting.

**VIC MADE A MOTION TO ADJOURN, SECONDED BY FRANK. ALL MEMBERS WERE IN FAVOR. MEETING CLOSED AT 8:30 PM.**

**NEXT ZBA MEETING:                    MAY 17, 2016**

**SUBMISSION DEADLINE:            MAY 3, 2016**

Respectfully submitted by:

April Oneto  
Zoning Board of Appeals Clerk

