

**ZONING BOARD OF APPEALS MEETING
APRIL 18, 2017**

PRESENT: Kathy Kiernan, Chairperson
Joseph Guido
Frank Skeritt
Karl Wick
Vic Barranca
Melanie Marino
Glen Kubista

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 asked the Board if everyone read the minutes of the July 19, 2016 meeting and if there were any changes. There were no changes.

KARL MADE A MOTION TO APPROVE THE JULY 19, 2016 MEETING MINUTES, SECONDED BY VIC. ALL MEMBERS WERE IN FAVOR.

Chairperson Kiernan asked the Board if everyone read the minutes of the March 21, 2017 meeting and if there were any changes. There were no changes.

VIC MADE A MOTION TO APPROVE THE MARCH 21, 2017 MEETING MINUTES, SECONDED BY FRANK. THE VOTE WAS AS FOLLOWS:

Karl.....abstained (absent from meeting)
Frank.....yes
Vic.....yes
Melanie.....yes
Glen.....yes
Joe.....yes
Kathy.....yes

VOUCHERS:

April Oneto (secretarial services).....12 hours

JOE MADE A MOTION TO PAY THE VOUCHER 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. Kathy noted that all the applications before this Board tonight are classified as Type II Actions for SEQR and therefore Do not require a determination of environmental impact.

INFORMATIONAL:

**04-18-17-01 MARK REPASKY
11 Pendergast Point Rd.
Rifton, NY 12471
SBL: 63.17-2-9
Area Variance**

Applicant Mark Repasky was present for this meeting. Chairperson Kiernan asked Mark to tell the Board for the record what he is requesting.

Mark stated that he built a wooden deck over an entrance way that previously existed. It was a crumbling cement entrance way to the side of the house. The one he replaced it with is approximately 6 inches over the previous entrance way. This leads to the backyard. There are five-six steps going down. Above that is a ladder that leads to a balcony that is 4 feet which does not abut too much off of the house. This balcony is to gain access to the beautiful view of the western sunset over the Catskills. He knows that the lower deck needs some enhancements to make it up to code which he will do. He is hoping to keep this since he needs an entrance way on the side. Mark stated that this has been in existence for approximately 8 years.

The balcony that goes up would be great to keep. He does not think that it is an eyesore. He thinks that it blends in with the rustic nature of the small peninsular. It is a quiet spot to meditate. He stated that the Building Inspector was over earlier today and there is work that needs to be done to make it to code and he thinks he can accomplish this. If this does not work out, he is willing to take the upper structure down.

Mark mentioned that he is having the property surveyed since there is some contention right now as to the boundary lines. He has hired Brooks & Brooks and they will have something soon.

Scarlet Rigby, surrounding property owner, stated that she lives next door and she measured her side yard setback and it is 18 feet. She does not think that any of the properties in this area have 20 feet. Mark stated that they live in very close proximity to each other and he does not think that any of the residences in this area have 20 feet. Scarlet stated that 4 houses in this area were built in the 1930s and the Basile house was built in the 1970s. The first four houses were built as summer cottages and later converted to full time residences.

Glen asked if the deck exceeds the size of the back porch. Mark stated that it exceeds it by about 5-6 inches just to put a post on the side of the concrete. Glen asked if he needed the exit back there as far as safety in case of fire or is it more just for him. Mark stated that there is a side entrance but he needs an entrance way to the ground. Glen asked if he used this for emergencies or is it just for his use. Mark stated that it would be for both since he would head for the closest exit. Mark stated that he is the second house from the end. Kathy asked if originally the stairs came down the other way. Mark stated that they did but he flipped them so you go out into the back yard and can enjoy the beautiful view. He stated that it is a beautiful view and that he has 180 degree water view.

Joe asked if he knows what needs to be done to bring it to code. Mark stated that he needs to put railings no less than 4 inches apart so toddlers cannot fall through it on the edge and handrails with a hand bar on the entrance way. Joe asked if this project was completed. Mark stated that it was and that the main posts are on concrete. He stated that he has three older brothers who are contractors and engineers and they built it. Kathy questioned an area on the map. Mark stated that that area is supposed to be a little bench and he can take that off if he needs to.

Karl stated that the application says that he is seeking a variance for side entry way repair but he does not need a variance for repair. The Notice of Disapproval says that you need to obtain a building permit. He is not sure why he is before this Board. Mark stated that that is what the paperwork told him to do. He thinks that the lower deck is a repair and the upper deck requires a variance.

Sal Morello, Building Inspector, stated that he received a complaint. Presently there is a boundary line dispute that needs to be settled and he needs to know the precise distance from the house to the property line. The ladder that is used to get to the upper deck is not up to code. Joe asked if the disputed boundary line is on the side in question. Mark stated that it is. Joe pointed out that he will have to settle that before he will know how much of a variance he will require. Mark stated that he should have the survey by the next meeting to resolve this issue but the survey is still not going to give him 20 feet. Karl explained that we need to know how extensive the variance would need to be. Karl stated that he will need a too scale engineering quality drawing. Joe requested that he have the surveyor flag it so that if a member of the Board stops to look at it they will know where the boundary lines are.

Frank expressed his concern about the ladder to the balcony and that it is not to code. Mark stated that there is no access to the balcony without the ladder unless you go through a window.

**04-18-17-02 GARY & ELSE QUIST
62 Poppletown Road
Esopus, NY 12429
SBL: 71.02-2-09
Area Variance**

Applicants Gary & Else Quist was present for this meeting. Chairperson Kiernan asked the applicants to tell the Board for the record what they are requesting.

Gary stated that they are looking to build a single family residence on a piece of property where there is an existing single family residence. They would like to classify the existing residence which is a one bedroom, one bath cottage which is approximately 923 sq. ft and would like to designate it as an accessory apartment. It turns out that is more than the code allows for an accessory apartment so they are asking for a variance to the square footage of the code which is 800 sq. ft. He stated that if you measure the exterior dimensions of the cottage it comes out to 942 sq. ft. with 923 sq. ft of space on the inside.

There is a red structure on the property which is a garden shed. There is a single car detached garage.

Gary stated that the existing house does not have a floor plan that would be conducive to an addition. It is also pretty close to the side lot line. He stated that they would not be able to do much with this house other than maintain it as it is. Gary stated that the street is on the narrowest section of the parcel and the parcel is somewhat pie shaped.

Joe stated that they have 17 acres and why not just subdivide the property. Gary stated that they don't want to subdivide and incur the additional cost. They thought that they would be well into the building phase at this point. He further stated that other than additional costs the subdivision process does nothing other than subdivide a lot. They thought this would be the most logical thing to do. They have the frontage on the lot and they have two curb cuts. He is not sure why a subdivision would be required.

Kathy asked what they intend to do with the cottage. He said that they plan on leaving it as a guest cottage. They both have elderly parents. Since they entered into the contract on the property his wife's mother has been widowed and his mother has been diagnosed with dementia. His father is still able to care for her but he is not sure for how long.

Joe stated that he does not see this as an accessory apartment. He stated that he is willing to work with the applicants because he has so many acres. He would want restrictions as far as further subdivision. The cottage is pre-exisitng. Gary stated that they plan on living here forever so if there are restrictions on the property he is fine with that.

Karl stated that they state in their narrative that there already exist several properties with multiple structures and accessory apartments and some are in excess of Section 123.11 G (3) limits. Karl stated that if he could bring proof of that it would be helpful. Karl stated that there are two limits to accessory apartments. One is 800 sq. ft. (absolute number) and the other is 25% of the main dwelling sq. footage. If you look at 923 sq. ft. verses 800, that is about a 15% overage. If you look at 923 sq. ft verses a quarter of the proposed new dwelling, you are looking at a 68% overage. We need to think about those two factors. Are we going to go by the 800 or the 25% rule?

Joe questioned whether accessory apartments need to be attached. Karl stated that there is some precedence where they do not have to be attached. He stated that the intent of the 25% rule was that it had to be part of the structure so he feels that the 800 sq. ft. for him is going to apply more strongly.

Applicant was informed that they will be scheduled for a public hearing next month. Mr. Quest asked if this could be a two month process. Kathy stated that the Board cannot give him an answer tonight because it really depends on the public hearing but in some cases if there is not a lot of comment they will vote on it. Joe stated that if issues are brought up from the public they we will have to investigate those issues.

PUBLIC HEARING:

**03-21-17-10 RANDY WENZEL
181 Bowne Street
Port Ewen, NY 12466
SBL: 56.59-5-26
Area Variances**

Applicants were present.

JOE MADE A MOTION TO OPEN THE PUBLIC HEARING FOR WENZEL, CASE #03-21-17-10, SECONDED BY VIC. ALL MEMBERS WERE IN FAVOR.

Joe asked if there was anyone from the public who wished to speak on this application.

There was no one from the public present regarding this application.

Joe asked the applicant to state again for the record what they are requesting.

Randy stated that they installed a new fence to replace the existing fence and they went with an 8 ft. fence on the back portion of the property and it was supposed to be 6 feet. They did not obtain a permit because they were replacing an existing fence. They went with the 8 ft. fence in this area because of neighbors in the back who were coming over the 6 ft. fence and they have a pool in that area. They were afraid somebody would get hurt.

Joe questioned if the fence is right on the line. Randy stated that it is approximately 6 inches to 1 foot on his side. Karl asked how the slope of the land is in that area. Randy states that it is within 6 inches but they will be leveling it. It is relatively level. Karl stated that the applicant has mentioned that there are no instances of anyone climbing over since they put up the 8 ft. fence. Randy stated that this is correct. Randy stated that the fence is also for security purposes.

Karl asked if it would be possible for them to move the fence 5 feet further into their yard. Randy stated that it would not be possible.

KARL MADE A MOTION TO CLOSE THE PUBLIC HEARING, SECONDED BY VIC. ALL MEMBERS WERE IN FAVOR.

DECISIONAL:

**03-21-17-10 RANDY WENZEL
181 Bowne Street
PorteEwen, NY 12466
SBL: 56.59-5-26
Area Variance**

VIC MADE A MOTION TO WAIVE THE THIRD MEETING AND PROCEED WITH THE DEISIONAL MEETING TONIGHT FOR WENZEL, CASE #03-21-17-10, SECONDED BY GLEN. ALL MEMBERS WERE IN FAVOR.

KARL MADE A MOTION TO GRANT A VARIANCE FROM ARTICLE 5, SECTION 123-21 (7) (B) OF THE ZONING CODE TO ALLOW THE WENZEL'S TO RETAIN PROPERTY FENCE AS SUBMITTED ON THE DRAWING DATED 1/11/17, SECONDED BY FRANK. ALL MEMBERS AGREED. VOTE WAS AS FOLLOWS:

Glen.....in favor

Joe.....in favor

He votes in favor but if any of the neighbors had complained about the good side not facing them he would have had to take that into consideration. Further there are three garages that border it so it is not that the 8 foot fence is such an obstruction because it would be shielded by the buildings that border it.

Kathy.....in favor

No one from the public objected and she does not think that it is unsightly. She would prefer the good neighbor policy with the good side of the fence facing the neighbors but this is not a law in this Town.

Melanie.....in favor

Vic.....in favor

For all of the above mentioned reasons. He went by and he feels that they did a nice job on the fence.

Frank.....in favor

For all t he reasons mentioned and it is a nice fence in the local area.

Karl.....in favor

It is less than a 25% increase and he does not think this will change the character of the neighborhood.

VARIANCE APPROVED WITH A VOTE OF 7-0.

JOE MADE A MOTION TO ADJOURN, SECONDED BY KARL. ALL MEMBERS WERE IN FAVOR. MEETING ADJOUREND AT 7:50 PM.

NEXT ZBA MEETING:

SUBMISSION DEADLINE:

Respectfully submitted by:

April Oneto
Zoning Board of Appeals Clerk