

**ZONING BOARD OF APPEALS MEETING
JUNE 20, 2017**

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

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.

James Banks joined the Board filling the vacancy made by Melanie Marino.

Chairperson Kiernan asked the Board if everyone read the minutes of the May 16, 2017 meeting and if there were any changes. There were no changes.

VIC MADE A MOTION TO APPROVE THE MAY 16, 2017 MEETING MINTUES, SECONDED BY GLEN. ALL MEMBERS WERE IN FAVOR.

VOUCHERS:

April Oneto (secretarial services).....11 1/2 hours

GLEN MADE A MOTION TO PAY THE VOUCHER AS SUBMITTED, SECONDED BY FRANK. 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.

INFORMATIONAL:

**06-20-17-01 Gillian Pinchin/Bernard Yancovich
5 Saddlebred Lane
Esopus, NY 12561
SBL: 70.04-1-13
Area Variance**

Chairperson Kiernan stated that this action is a Type II Action under SEQR and does not require a determination of environmental impact.

Applicant Gillian Pinchin was present for this meeting. Chairperson Kiernan asked Gillian to tell the Board for the record what they are requesting.

Gillian stated that her husband was not able to be present this evening so she is representing them both. She stated that they live in Westchester and have a house that straddles the Esopus/New Paltz line. On the Esopus part, they have a small house on the property and would like to take one of the barns on the property and transform it into a house for them. They would like to use the existing house on the property for her mother. They are here because technically two houses are not allowed on the property and that is why they.

The survey maps were distributed and the map was reviewed. The survey showed that there is a house on the property on the New Paltz side. Joe asked if the property was all one deeded property. Gillians stated that this was correct. Joe stated so technically there are already two houses on the property along with the barn. Gillian stated that they are not talking about the house in New Paltz which was actually Benjamin Deyo's old house built in 1720/40. It is abandoned and not livable. She stated that the individuals who bought the property before them torn out all of the insides and were going to build something but unfortunately they left it not livable on the inside. It is still a structure. It has a roof. They will make sure that the roof stays up because it is a historical property but it is has no plumbing or wiring.

Applicant was asked if she had pictures of the old stone house. She showed the Board a picture of the old house that she had on her phone. She stated that this is not the house that they are talking about in this application. Chairperson Kiernan stated that this house could be renovated. She said that it could be but they are not planning on it at this time.

The barn is 4,350 sq. feet. Gillian stated that this is correct and there will be a number of different floors. The house that they are currently living is 870 sq. ft. Chairperson Kiernan asked her if she had any idea how large the stone house was. Gillian thought that on the ground floor it would be about 800 sq. ft. It is not very large. It has one great room and a little room beside it and it has a second floor under the eaves.

Joe asked applicant if she could bring some kind of plans for both houses. Gillian stated that they do not have architects plans for the apartment but she will see what she can do. Joe stated that they are going to rebuild the barn and they will live in that and the house will be an auxiliary building for her mother. Joe asked how many acres in total the property is. She stated that the total acreage is 17. Glen stated that the application states 8.9 acres. Gillian explained that the part that is in Esopus is 8.9 acres and the part that is in New Paltz is about the same.

Karl stated for the Board's benefit that a little bit of research may be in order regarding property straddling Town lines. Joe stated that we will have to send a letter to New Paltz in case they have an input. All surrounding property owners will be sent a letter regarding the public hearing and the Town of New Paltz will be sent a courtesy letter. Joe stated that if the property is exactly in half then the Town of New Paltz has just as

much right regarding this application as the Town of Esopus. Joe questioned if the tax bills for New Paltz and Esopus had the total acreage in each town. Karl looked at the maps and they have riparian rights. This means that the owner has the right to do things under water in the Wallkill. Karl will research this.

Kathy informed applicant that next month would be the Public Hearing and we will notify all the surrounding neighbors. Joe asked Gilllian for a phone number to notify her. Kathy asked if there would be a problem if Board members went to see the property. She said there was no problem and they could go anytime. Joe reminded applicant that he wants to see sketches of the floor plans.

JOE MADE A MOTION TO SEND A COURTESY REFERRAL FOR CASE #06-20-17-01 GILLIAN PINCHIN/BERNARD YANCOVICH AREA VARIANCE TO THE TOWN OF NEW PALTZ, SECONDED BY VIC. ALL MEMBERS WERE IN FAVOR.

PUBLIC HEARING (CONTINUATION)

**04-18-17-01 Mark Repasky
11 Pendergast Pt. Rd.
Rifton, NY 12471
SBL: 63.17-2-9
Area Variance**

VIC MADE A MOTION TO CONTINUE THE PUBLIC HEARING FOR CASE #04-18-17-01 MARK REPASKY, AREA VARIANCE, SECONDED BY KARL. ALL MEMBERS WERE IN FAVOR.

Jim Lonergan, Esq., 25 Lucas Avenue, Kingston was present to represent Mark since he was unable to attend this meeting.

Kathy asked if there was any resolution on the survey. Mr. Lonegan stated that the survey was done but he only has a tiny copy. Kathy questioned the measurements for the deck. Mr. Lonergan submitted measurements from the deck to the property line. She asked if there were any change in the dimensions after the survey was done because the dimensions he had were the same dimensions when the application was submitted. He stated what he is showing the Board is as much as he knows and there are no new dimensions.

Mr. Lonergan stated that we are talking about a variance on the 20 foot setback. Let's look at the size of the lot. He stated that these lots were created when the houses were built in 1935. The zoning did not come into effect until 1981. This lot is 45 feet in width so if you honored both of your setbacks you would have a 4 foot house. His point is that you cannot put a house on these lots without encroaching upon the setbacks. The porch that was there when Mr. Repasky purchased the house from his neighbor was encroaching on the side yard at the time of purchase. The porch that was built above it

extends perhaps 5 inches further than the old cement. The cement porch was cited as a safety hazard when the building inspector was out there so it is an improvement. The steps were improved on this landing and don't go down to the bilco doors or the oil tank. It is safer by virtue of the way that it is designed. We are talking about 5 to 7 inches on the side yard that has always been encroaching.

Joe informed Mr. Lonergan that the reason the Board is being specific about the sideline is because when we grant a variance we have to grant how long and how short the variance is and this is why we need measurements. Mr. Lonergan stated that he is sure he can get the map and he sure that the measurements are on there. Joe stated that we know that they are undersized lots and we know that there was a previous one there. We were also informed that there was an old porch there that was even larger. Mr. Lonergan stated that the larger porch was the one that was there when Mark bought the property and it was not up to code because the interstices are too wide. He stated that he thought that the information he had was more complete than what the Board had. Joe stated that he visited the property today and he asked them to get the measurements.

Tom Repasky (Mark's brother) stepped forward and stated that from the side of the house to the stake it is 11 feet 2 inches and from the end of the porch to the surveyor's stake it is 6 feet 8 inches. Tom mentioned that there were two surveyors out there and there is a discrepancy. Joe asked what survey he took the measurement off of. Tom stated that it was the Brooks & Brooks measurement. The surveyor for Mr. Basile was Brinnier & Larios. We do not have a copy of the Brinnier & Larios survey. Kathy asked Mr. Pordy if they have a survey map. Mr. Pordy stated that they do not and theoretically they are not opposed to the area variances or the infringement from the steps. Mr. Pordy stated that there are two issues. The application is not accurate. If you are applying for an area variance, they have to depict on a site plan what the infringements are. This has not been provided to the Board. They are not opposing the concept of an area variance. The Zoning Board should have the benefit of an accurate map so they can make a decision because once this decision is made it runs with the land forever. The other issue is that they are not opposed to the area variance for use of the house as a residence but they are opposed for it being used for transients.

Mr. Lonergan stated that the only issue before this Board is the area variance as far as he knows. There is no other topic for discussion. We are talking about where the deck is in relations to the boundary. Mr. Pordy said that you have to take everything into consideration and one of them is about the detriment to the other properties in the intent of the use of the property. Mr. Lonergan stated that the porch has nothing to do with this. He further stated that he does not think that this issue is under consideration with this area variance.

Kathy stated this is still the Public Hearing so we will listen to anyone who wishes to speak. She further stated that we will require another Notice of Disapproval from the Building Department for the lower deck because it is not on the original notice. We were not aware of this. The Building Inspector would have to issue another notice and it

would have to be advertised again as a Public Hearing because it was not in the original application. Mr. Pordy and Mr. Longergan looked at the maps to identify the other deck.

Mr. Pordy stated that it looks like he has three decks infringing and they requested that they be described in reasonable detail the distance of the infringement. Mr. Pordy asked for the submittal of a revised application showing all three decks and the distance of the infringements. Mr. Pordy stated that the surveys are off by a few inches and they do not want to squabble about the inches. Kathy stated that we do need an accurate measurement and Mr. Lonergan agreed.

Joe stated that we do not know what the building Inspector feels about the deck. That is not part of this application. The only thing that is before this Board is the entry platform. Mr. Longergan asked if it would be up to the applicant to get in touch with the Building Inspector. He was told that Mark should contact the Building Inspector. Tom Repasky stated that the third deck is a free standing structure and it has no support to the ground and can be moved. Joe stated that this is the Building Inspector's call and if he feels it is a violation then he will refer them back to this Board.

Mr. Lonergan stated that they will provide this Board with a map showing the dimensions on it. He asked if we had to go through the Public Hearing again. Mr. Pordy stated that he thinks that it should be kept open because the Board does not have an accurate application. Mr. Lonergan stated that they can get the Building Inspector out and they have the distances shown. They can get the surveyor out there if they have to. Kathy stated that there is a discrepancy because one says 6.2 and Mr. Repasky said 6.8 and this is where we need the accuracy.

Tom read a statement that he was requested to read by his brother Mark Repasky. Mark is sorry that he could not be here this evening. His workload has increased and he is insecure about being replaced in his freelance position. Tom is thoroughly knowledgeable about the structure of the house and will be able to answer any questions the Board may have. Tom is the only family member who has spent more time in the house than Mark has. Mark has presented documents from the home inspection dated 5/13/06 completed by Ahead Inspection, Inc. The papers state that the porch, stoop and deck need repair. The pictures show that there were pre-existing posts located next to the cement porch when Mark bought the home from Frank Basile (the only complainant). This is just another example of neighborhood bullying. As more and more documentations roll out, the situation reveals itself to be quite ridiculous and costly. Mark sincerely respects your time and effort that you have put into reviewing this application. He hopes for a reasonable decision considering that Mark's lot is one of many pre-existing non-conforming lots in the R12 Zone. Mark repaired his porch and it was a necessary repair. The change is not substantial and it is not a detriment to anybody.

Mr. Pordy stated that when he was here last month his client was not able to attend since he was away. There were a lot of personal attacks against Mr. Basile which he found offensive. He felt that Tom just added to that. He stated that this not about the Hatfields

and McCoys. This is not about personalities. This is about complying with the Town Zoning Code, nothing more and nothing less. Mr. Basile is not objecting to granting the area variance if it is accurately depicted so we have some accurate measurements to move forward on. This area variance will go with the land forever along after they are gone. He said with that being said Mr. Basile does want to make some comments.

Mr. Basile stated that he has his own character statements. He has constant construction going on near his property with no permits and not even a conversation for years. He stated that the first rule of AirBnB is that you should tell your neighbors. He stated that 25 guests have come in and invaded the road. He stated that he has his own testimony and he has been here for 26 years. He stated that last meeting was very inflammatory and there was some conspiracy with the snow plowing. He stated that it was an unprecedented storm situation. He stated that it is all in the paperwork he is handing to the Board and he hopes copies are made for the Board and that they read it.

Mr. Alan Small – He has concerns with the AirBnB. He stated that he has been in fire service for 43 years and he has actually responded to this area for a number of years. There are fire safety concerns. If the road is congested with cars it is very difficult taking people out. This is under the fire codes and we pay for insurance for this.

Mr. Basile stated that there have been many occasions where the road is blocked. It is a private road which he owns and pays taxes on. He said the name itself has been advertised. There is a prescriptive easement on the road which has been in place for 40 years. They share in the plowing and it is very fair. He stated that there were literally about 87 strangers that came there. He stated that the back deck is 20 feet from his bedroom. He stated that now there is a deck that people assemble on that is not even supposed to be there because they never had a permit. He has been woken up, he has been road blocked and his garbage has been used. He stated that all of these things were stated when he went to the Town Board Meeting in January.

Mr. Lonergan reminded the Board that there is a single issue before the Board and all of this tangential. He stated that there is another forum for this discussion. There are other avenues and it is not before this Board. This is about an area variance. Joe stated that the third deck is not before this Board. Mr. Basile stated that as far as the surveys are concerned they are 9 inches apart. Joe asked if he was protesting the survey. Mr. Basile stated that he spoke to Chris Zell, Brinnier & Larios, and Chris suggested that they split the difference and he is willing to do that. He stated that if he really has to he will grant Mr. Repasky the entire Brooks & Brooks survey.

Mr. Porody stated that the surveys are a little bit of a complication but he does not think that this should hold up the area variance. He thinks this can be sorted out. They are only off by a few inches. Mr. Porody stated that he disagrees with Mr. Lonergan's statement because we are not here to decide the case or the merits of whether or not the AirBnB is appropriate here he agrees with that. However, the intent of the use having been used for transient purposes definitely has an impact on the Board's determination to grant an area variance because the decks and the varying places of assembly where groups of transient

guest who stay in that home stay and hangout and party. It definitely has a bearing and it is a totally legitimate issue to address before the Board. Joe informed those present that the discussion taking place is referring to the third deck and this Board is only referring to the door deck.

Mr. Lonergan stated that we are talking about how the decks are used. We are talking about placement. Kathy interjected stating to all parties that what is before this Board is the area variance for the distance of the deck from the property line and this is where we need an exact measurement.

Mr. Basile stated that he has a right to put a fence. Even if he abided by the Brooks & Brooks survey he stated he could put a 6 foot fence and if he went 2 feet below that he could put an 8 foot fence which would completely ruin that properties view. H stated that would be a very spiteful thing to do and he does not want to do that. He stated that he is trying to be considerate. He stated that he has a right to do that and it would completely change the character of that house.

Kathy stated that she appreciates the comments but this is not before the Board at this time.

VIC MADE A MOTION TO CONTINUE THE PUBLIC HEARING FOR REPASKY, 04-18-17-01, AREA VARIANCE, SECONDED BY GLEN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 7-0. PUBLIC HEARING WILL CONTINUE ON JULY 18, 2017.

PUBLIC HEARING

**05-16-17-01 Harry & Gina VanVliet
(Gilpatrick-VanVliet Funeral Home)
339 Broadway, Ulster Park NY 12487
SBL: 56.76-2-33
Area Variance**

Applicant Harry VanVliet was present for this meeting.

Harry stated that he is looking to put a gazebo in the front on the property of the funeral home. He does not want it too big. He is looking at a vinyl octagon design 10-12 feet.

John Bowers, neighbor across the road, stated that he would look directly at it and he has nothing against it. He stated that what Harry has done so far is beautiful. He is not against it. He would like to have the bus shelter taken away.

Kathy stated that nobody from the public objects.

KARL MADE A MOTION TO CLOSE THE PUBLIC HEARING FOR VAN-VLIET, 05-16-17-01, SECONDED BY GLEN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-0.

VIC MADE A MOTION TO VOTE ON THIS APPLICATION TONIGHT, SECONDED BY GLEN. ALL MEMBERS WERE IN FAVOR. MOTION PASSED WITH A VOTE OF 6-1-0.

VIC MADE A MOTION TO APPROVE THE AREA VARIANCE FOR VAN-VLIET, 05-16-17-01 AS PER SECTION 123.21C(5.A) FOR A 12 FOOT GAZEBO IN THE FRONT YARD AS SHOWN ON PLANS PROVIDED TO THE BOARD, SECONDED BY FRANK.

James - Abstained

Glen – In favor

Joe – In favor – It does not detract from the neighborhood and will look nice when you drive up Route 9W.

Kathy – In favor – No one from the public objected to it and it does not detract from the neighborhood and she thinks it will look nice.

Vic – In favor - For all the reasons mentioned.

Frank – In favor – There is nowhere else to put this on the property.

Karl – He does not think that it is a detriment to the neighborhood and that it is the only solution to this problem. It is not a self-imposed hardship because the Planning Board required the parking lot in the back.

MOTION PASSED WITH A VOTE OF 6-0-1.

VIC MADE A MOTION TO ADJOURN SECONDED BY GLEN. ALL MEMBERS WERE IN FAVOR. MEETING ADJOURNED AT 8:00 PM.

NEXT ZBA MEETING: JULY 18, 2017

SUBMISSION DEADLINE: JULY 5, 2017

Respectfully submitted by:

April Oneto
Zoning Board Secretary

