TOWN OF MAMAKATING
ZONING BOARD OF APPEALS MEETING
APRIL 28, 2016

Meeting called to order by Chairman Mordas at 6:00 p.m.

Roll Call: Beverly Martin-Present; Cathy Dawkins-Present; Georgia Rampe-Present; Kent Finley-Will be arriving within the hour; Zoning **Board Attorney:** Steve Mogel, Esq.

Application of Ernest Miller & Siri Borg-Tax Map Section 10; Block 1; Lot 48.1

Present: Ernest Miller & Siri Borg

Chairman Mordas asked the applicants to explain what they would like to do. Ernest Miller & Siri Born stated they would like to build an equipment shed where the equipment shed is now only it will be larger and it will be in front of the "plane" of the house. They would like to put it in this location because it's where the current shed is which is smaller than what you needed a permit for and was there when they purchased the property; it's also the size of the original barn that was there many years ago but they need access to the driveway. If they put it further back, behind the front "plane" of the house they would have to take down a huge amount of trees, 40 or 50 which they don't want to do and if they move it over, the access to the back of the property would be up and around and they really don't want to have to do that.
Ernest Miller asked if there was any other information he could tell the Board.
Chairman Mordas stated this is a preliminary review and most likely a public hearing will be set up after this appearance.
C. Dawkins stated how many acres do you have; response was 16.8 acres. She also asked if you can see it from the road. S. Borg responded "yes."
E. Miller responded they are at the end of a dead end road, they can't see their neighbors and they can't see them.
G. Rampe asked about a photo that was presented which consisted of the existing shed which she couldn't find. S. Borg pointed it out to her and it was very small located behind a big pine tree.
B. Martin asked about some of the pictures.
E. Miller stated there will be no power, no water; its open bays so they can drive a tractor in out of the weather, one portion will have a door to secure equipment.
M. Mordas asked about another shed that was shown on some of the pictures; S. Borg stated that is a wood crib,(a covering for wood) which was there when they purchased the house.
Counselor Mogel mentioned some items that he noticed on the EAF form which was brought to the applicant's attention; this is a Type II action under SEQR. Number 9 on this form was adjusted.
The proposed shed and property is hard to see from the road. A brief discussion on where the plow and mail delivery turns around took place.
Chairman Mordas asked the applicants if they had a problem with anyone (individually) from the Board visiting the property. Mr. Miller responded not at all.
Motion requested by the Chairman to schedule the applicant for a public hearing on May 26th. Motion made by C. Dawkins; second by B. Martin. All in favor.

Application of David Kahn – Tax Map Section 27; Block 1; Lot 42

Present: David Kahn

Chairman Mordas asked the applicant to explain why he was before the Board. Mr. Kahn stated he was here for an area variance to build a two car garage on his property at 409 Shawanga Lodge Road, Bloomingburg. The reason for this is that I believe it is the most feasible viable spot to build it on. If it was to go behind the house, it land would have to be built up and also drainage making this extremely costly and it would interfere with my storm water runoff. He believes the proposed structure would be far enough away from any neighboring property lines or the road and it would not hinder the characteristic of the neighborhood
C. Dawkins stated it looks like you have a little over 3 acres. Mr. Kahn responded "yes".
Mr. Kahn pointed out locations on the pictures that were presented to the Board.
Chairman Mordas asked the applicant if it would be okay if the Board stopped by (individually) to view his property. Mr. Kahn responded "no."
Motion requested by the Chairman to schedule the applicant for a public hearing for May 26th. Motion made by B. Martin; second by C. Dawkins. All in favor.

Paul Cavallo Public Hearing – Tax Map Section 34; Block 13; Lot 7

Present: Paul Cavallo

Chairman Mordas requested a motion to open the public hearing. Motion made by C. Dawkins; second by G. Rampe. All in favor. All certified mailings were turned into the Zoning Board Clerk and proper notification was posted in the Times Herald Record.
Mr. Cavallo stated he wants to take down the existing house and put in a new 24x48 ranch and they are not in need of any side lot variance as it will be put in straight. The existing house is not sitting straight and that is why we needed a side yard variance on the one corner. We will have enough setbacks on both sides by situating the house in this way. They already have the front variance but they are going to make it even better by having 30 ft. in the front; now we are looking for an area variance of 5,000 ft.
Counselor Mogel asked him if that is the only variance he needs. Mr. Cavallo responded he believes so because they already have the front yard variance but now that will be a "mute" point.
Counselor Mogel stated the variance that was granted previously that's no longer required and there is such a dramatic change in the application he would think that even if there was something that was approved the Board should probably start from "scratch" with the variances. What we are talking about is the other one that he would require is lot depth. By reconfiguring the house, the lot depth variance is actually smaller which makes it better. The front yard variance is no longer required.
Counselor Mogel stated from a procedural standpoint he would say that reaffirm if the Board should elect to approve the variances he would recommend that the Board reapprove or disapprove both the lot depth and that the variance for the front yard provided the Board should approve the new lot variance that the applicant agrees to withdraw the request for the front yard variance since the request was satisfied.
No further questions from the Board.
Chairman Mordas asked if there was any questions or comments from the public; there were none.

Motion made by G. Rampe to close the public hearing; second by D. Dawkins. All in favor. The public hearing is now closed.
Chairman Mordas stated Mr. Cavallo will need a 50 ft. variance under the Schedule I Bulk Requirements under the NR Zone for lot depth. The following criteria were read when the Board is making a determination for an Area Variance:

1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment created to nearby property. C. Dawkins-yes, it's a detriment; G.Rampe-no; B.Martin-yes; M. Mordas-no.
2) The benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than area variance. C. Dawkins-no; G. Rampe-no; B. Martin-no; M. Mordas-no.
3) The requested area variance is substantial. C. Dawkins-yes; B. Martin-yes; G. Rampe-yes; M.Mordas-yes.
4) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. C. Dawkins-no; b. Martin-no; G. Rampe-no; M. Mordas-no.
5) The alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of such variance. C. Dawkins-yes; G. Rampe-yes; B. Martin-yes; M. Mordas-yes.

Chairman Mordas asked the Board how they voted on this variance for Lot Depth – G. Rampe voted yes to the variance; B. Martin voted yes; C. Dawkins voted no; Matthew Mordas voted yes. **The Lot Depth Variance passes 3 to 1.**

The next variance to consider is the Area Variance. Mr. Cavallo presented a 5,000 sq. ft. property-he needs a 3,000 sq. ft. variance since the zoning requirement is 8,000 sq. ft.

The criteria requirement for an area variance is reviewed:

1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment created to nearby property. B. Martin-yes; G. Rampe-no; C. Dawkins-yes; M. Mordas-no.
2) The benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than area variance. B. Martin-no; G. Rampe-no; C. Dawkins-no; M. Mordas-no.
3) The requested are variance is substantial. B. Martin-yes; G. Rampe-yes; C. Dawkins-yes; M. Mordas-yes.
4) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. B. Martin-yes; G. Rampe-no; C. Dawkins-yes; M. Mordas-no.
5) The alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of such variance. B. Martin-yes; G. Rampe-yes; C. Dawkins-no; M. Mordas-yes.

Chairman Mordas asked if there were any further questions; there were none. This variance along with the previous one is conditioned on that Mr. Cavalllo abides by the spirit of the plans that he presented before the Board and remains within the dimensions and location of the house and also rescinding or has consented to withdraw the variance that was no longer needed for the front yard since the relocation of the house makes it a "mute" variance. There being said C. Dawkins votes –no; G. Rampe votes yes; B. Martin – yes; M. Mordas votes yes. Motion carries **– Variance for Lot Area granted.**

Chairman Mordas stated to Mr. Cavallo that he has received his two variances.

Markus Leibundgut & Paul Jeanneret Public Hearing –Tax Map Section 67; Block 1; Lot 23.4

Present: Adam Thyberg & Lee Kind of Neave Pools (representing the applicants)

Chairman Mordas asked for a motion to open the public hearing; motion made by G. Rampe to open the public hearing; second by C. Dawkins.
Adam Thyberg stated they are requesting relief from two items; one allowing them to position the pool in the side yard and the other allowing them to put the pool adjacent to the house. They presented last month the distance from all property lines and the minimal effect it will have on the environment as keeping the pool closer to the house will in fact minimize the amount of disturbance we have in the slopes there are to the entire property. The Board requested last month that we provide more engineering and specially styled detailed related to the pool; a rendering of the project was presented for the Board and public to view. Also by placing the pool in this location will mitigate excess retaining walls and excessive clearing. Pictures of other pools they have constructed were presented.
South Road is over a half mile away; there are no visible neighbors and the closest side yard is over 100 ft. away.
Chairman Mordas asked if there was any public comment; there was none. Motion made by B. Martin to close the public hearing; second by C. Dawkins. All in favor.
K. Findley asked about fencing. A. Thyberg stated the plot plan shows fencing with gates.
Counselor Mogel stated that this is a Type II action.
Chairman Mordas read the following criteria required for an area variance for 199-13–location side yard.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. K. Findley-no; C. Dawkins-no; B. Martin-no; G. Rampe-no; M. Mordas-no.
2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance. K. Findley-no; C. Dawkins-yes, G. Rampe-yes; B. Martin-no; M. Mordas-no;
3. Whether the requested area variance is substantial. K. Findley-no; C. Dawkins-no; B. Martin-no; G. Rampe-no; M. Mordas-yes.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. K. Findley-no; C. Dawkins-no; B. Martin-no; G. Rampe-no; M. Mordas-no.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of such variance. K. Findley-yes; C. Dawkins-yes; G. Rampe-yes; B. Martin-yes; M. Mordas-yes.

Motion to grant the area variance for the side yard- Motion made G. Rampe; second by K. Findley. All in favor. Variance granted.

Second variance requested is for 199-13F – Following criteria will be read:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area variance. K. Findley-no; B. Martin-no; C. Dawkins-no; G. Rampe-no; M. Mordas-no.
2. Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance. K. Findley-no; C. Dawkins-yes; G. Rampe-yes; B. Martin-no; M. Mordas-yes.
3. Whether the requested area variance is substantial. K. Findley-yes; C. Dawkins-no; B. Martin-no; G. Rampe-no; M. Mordas-yes.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. K. Findley-no; C. Dawkins-no; G. Rampe-no; B. Martin-no; M. Mordas-no.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of such variance. K. Findley-yes; C. Dawkins-yes; G. Rampe-yes; B. Martin-yes; M. Mordas-yes.

Motion made to approve the variance to allow the pool closer than 10 ft. to the primary structure (199-13-F. Motion made by G. Rampe; second by B. Martin to approve the variance. All in favor. Area variance approved.

Remainder of the agenda will be covered by a Court Stenographer.

Respectfully submitted,

Linda Franck,
Zoning Board Secretary