

**TOWN OF MAMAKATING
ZONING BOARD OF APPEALS MEETING
SEPTEMBER 22, 2016**

Roll Call: Matthew Mordas-Chairman; Beverly Martin-Present; Cathy Dawkins-Present; Georgia Rampe-Present; Kent Findley-Present; **Zoning Board Attorney:** Steven Mogel.

Meeting called to order at 7:00 p.m.

Application of Patrick Arlotta – Tax Map Section 68; Block 1; Lot 37

Present: Mr. Arlotta

Chairman Mordas stated that Beverly Martin will recuse herself from this application. He also stated that the public hearing was closed at last month's meeting however there was a 10 day write-in comment period. Mr. Arlotta and Mrs. Mann both sent in additional information.

Chairman Mordas read aloud the letter from Mr. Arlotta and the letter from Mrs. Mann thanking both parties for the additional information.

The Chairman asked the Board members if they had any questions or comments. K. Findley stated he had none at this time.

C. Dawkins asked if the taxes have been assessed on the garage since 2003 along with some questions about the property record card. She also asked if this was a two family dwelling. Mr. Arlotta responded that the taxes have been assessed and yes it is a two family dwelling.

Chairman Mordas stated we are looking at a garage attached to a two family dwelling.

Counselor Mogel stated the building permit was denied for two reasons: 199-61-"the attached barn/garage was constructed without building permits" and only ½ foot from the side property line. The zone they are in which is Winterton Residential Agricultural, Schedule I Bulk Table requirement is 40 ft. from each side property line. The applicant's application is for an area variance, it does not address the issue of a building (garage/barn) without a building without a permit. So what is he going to do about that; the Board can exercise its discretion and possibly address that however, by the garage being attached to the primary structure, it is not considered an accessory structure.

Some Board members stated that the violation was issued for an area variance and that is what they should be considering; they do not have to consider any other variances. It was determined that at the time of the construction of the house, a two family dwelling was a permitted use in the WRA zone. Mr. Arlotta stated the lots have been combined and they are now .97 of an acre and that the entire piece of property is on a curve. He explained why his name is not on the property record card, that it was removed several years ago due to illness.

Mr. Arlotta stated the house has been there since 1978; and the barn was torn down approximately 1984 and rebuilt in 2003.

K. Findley stated that he feels the Board should address all the issues that are required as the Board has amended applications in the past to address them all.

C. Dawkins stated legally the two family house is grandfathered in since it has been there since 1978. Lengthy discussion as to how they should proceed. Counselor Mogel suggested they take a vote as to who wants to restrict the application to the requested variance of the 3ft. side yard where a 47 ft. variance would be required and the Board would determine this or whether the Board wants to consider all the variances-bot side yards, rear and lot size is what the entire vote would entail.

Chairman Mordas asked for a motion to stay on point with what the Building Inspector states in respect to the variance that was requested that was listed on the denial form which mentioned the garage/barn

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structure; Motion made by G. Rampe; second by M. Mordas. C. Dawkins - Aye; G. Rampe-Aye; M. Mordas- Aye; K. Findley- Nay. 4 –In favor; 1-Denial; Motion carries.

Motion requested to consider a 47 ft. side yard variance; Motion made by C. Dawkins; second by M.Mordas. G. Rampe-aye; K. Findley – nay.

There will be two variances requested from the Bulk Table Requirements.

First one will be side yard variance needed for 47 ft. from the Bulk Table. The following criteria were read by the Chairman.

- 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. C. Dawkins-yes; G. Rampe-yes; M. Mordas-yes; K. Findley-yes.
- 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. C. Dawkins-yes; G. Rampe-yes; M. Mordas-yes; K. Findley-yes.
- 3.) Whether the requested area variance is substantial. C. Dawkins-yes; G. Rampe-yes; M. Mordas-yes; K. Findley-yes.
- 4.) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. C. Dawkins-yes; G. Rampe-yes; M. Mordas-yes; K. Findley-yes.
- 5.) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but not necessarily preclude the granting of such variance. C. Dawkins-yes; G. Rampe-yes; M. Mordas-yes; K. Findley-yes.

Chairman Mordas asked for a vote to grant the 47 ft. variance: K. Findley-no; C. Dawkins-no; G. Rampe-no; M. Mordas-no. Everyone voted no – the variance fails.

Second variance is for 13 ft. on the rear yard from the Bulk Table. The following criteria was 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; C. Dawkins-yes; G. Rampe-yes; M. Mordas-yes.
- 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; G. Rampe-yes; M. Mordas-yes.
- 3) Whether the requested area variance is substantial. K. Findley-no; C. Dawkins-yes; G. Rampe-yes; 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-yes; G. Rampe-yes; M. Mordas-yes.
- 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; M.Mordas-yes.

Chairman Mordas asked for a vote to grant the 13 ft. rear yard variance which requires 50 ft. in the Bulk Table – K. Finley-yes; C. Dawkins-no; G. Rampe-no; M. Mordas-no. Four nays; One-aye – Variance request – fails.

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The Chairman advised Mr. Arlotta to return to the Building Department to take care of his violation. The Board will also advise the Building Dept. that yard width and combined side yard requirements were not addressed by the Board as not enough information was presented specifically exact measurements on the submitted map.

Motion made by C. Dawkins to close the meeting; second by K. Findley. All in favor.

Respectfully submitted,

Linda Franck,
Zoning Board Secretary