

In The Matter Of:
Town of Mamakating
Zoning Board of Appeals

Robert Pullman
5-24-18
May 24, 2018

Jeric Corporation
Court Reporting Services
P.O. Box 385
Narrowsburg, NY 12764
(845) 252-3515

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

----- X

Robert Pullman
Area Variance
Tax Map Section 30; Block 1; Lot 16.9
Neighborhood Residential Zone

----- X

Town Hall
Town of Mamakating
May 24, 2018
7:01 P.M.

ZONING BOARD MEMBERS :

- CATHY DAWKINS, Acting Chairperson
- GEORGIA RAMPE, Board Member
- MATTHEW MORREALE, Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: Robert Pullman, Applicant

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Reported by: Rosemary A. Meyer

1 - RE: ROBERT PULLMAN -

2 ACTING CHAIRPERSON DAWKINS: I'd like to call the
3 meeting to order, the Zoning Board of Appeals for the Town
4 of Mamakating.

5 Matthew, our regular chairman, is absent today. My
6 name is Cathy Dawkins. I'm taking the role for him.

7 I'd like to take a role call.

8 Matt Mordas is obviously absent.

9 Georgia Rampe.

10 BOARD MEMBER RAMPE: Here.

11 ACTING CHAIRPERSON DAWKINS: I'm Cathy Dawkins. I'm
12 here.

13 Kent Findley.

14 (No verbal response.)

15 ACTING CHAIRPERSON DAWKINS: And Matt Morreale.

16 BOARD MEMBER MORREALE: Present.

17 ACTING CHAIRPERSON DAWKINS: Thank you.

18 First on the agenda tonight is a public hearing for
19 Robert Pullman applying for an area variance for the
20 property located at 55 Lake Shore Drive, S/B/L 30.-1-16.9.
21 The property lies in the Neighborhood Residential Zone.

22 Mr. Pullman, if you want to just give us a very brief
23 reintroduction into the situation. I know you have a note
24 you gave to Kyra that you want to update us on the size of
25 the existing structure.

1 - RE: ROBERT PULLMAN -

2 MR. PULLMAN: Right. As we found out last week, the
3 size of the structure is measured from the roof area,
4 including the garage that was excluded in the living space,
5 so the area is way beyond the size of the building we want
6 to construct so I think that's not an issue in contrast
7 with the regulations and rules of the area. So I think
8 that is one point.

9 The other point was the ten foot setback from the back
10 line which, as I said in my letter to you, I contacted the
11 owner of the property as well, and he said he had no
12 problem with that. That property is Mindich. And I'm
13 requesting -- and it's a wooded area going back hundreds of
14 acres so it really has a minimal impact on the
15 neighborhood.

16 And the location of this building, as I showed the
17 Board, is tucked away behind a tennis court backboard.
18 I've lived here all my life. I'm not building something
19 huge in the middle of a populated area. It's hidden way in
20 the back. It's aesthetically pleasing to what I would want
21 to live next to, because it's on my property, as well.

22 ACTING CHAIRPERSON DAWKINS: Okay. Thank you.

23 So in summary, what Mr. Pullman is telling us is that
24 the overall square footage of the existing dwelling is 1900
25 square feet. That's larger than what was originally

1 - RE: R. PULLMAN -

2 specified in the original building permit application
3 because they had not previously included the square footage
4 associated with the attached garage.

5 MR. PULLMAN: Correct.

6 ACTING CHAIRPERSON DAWKINS: And so the proposed
7 structure is 1500 square feet.

8 MR. PULLMAN: That's correct.

9 ACTING CHAIRPERSON DAWKINS: So there should be
10 sufficient square footage in the existing structure.

11 So my perception would be that that leaves us with one
12 variance being requested, and that's the rear yard setback
13 which was ten feet and he only has six feet so he's
14 requiring a variance of four feet. Is that correct?

15 MR. PULLMAN: Correct.

16 And possibly, may I ask, I don't know. It's six feet.
17 Could we make it ...

18 ACTING CHAIRPERSON DAWKINS: If you have any doubt, I
19 strongly suggest that you err on the side of being --

20 MR. PULLMAN: I would request it to be two feet from
21 the line, if that's possible.

22 ACTING CHAIRPERSON DAWKINS: So you want an eight foot
23 variance. Okay.

24 MR. PULLMAN: Excuse me. Not because I want to make
25 the building bigger. It's just a matter of when we dig the

1 - RE: R. PULLMAN -

2 hole, they're telling me if they come across huge boulders
3 and they can't penetrate and they have to just move it over
4 a foot or two one way or the other, I want to possibly have
5 that flexibility being that it's going up against hundreds
6 of acres of space.

7 ACTING CHAIRPERSON DAWKINS: Okay. We can talk about
8 that after the public hearing.

9 Georgia and Matt, do either of you have questions
10 before we start the public hearing?

11 BOARD MEMBER RAMPE: Yes, I do.

12 How will you access the entranceway for your, I guess
13 your boat trailers?

14 MR. PULLMAN: It's through my back yard. It's
15 contiguous with my other piece of property. So I'm not
16 even needing road access. There's already a driveway from
17 my building that's next door to that the driveway with a
18 driveway going all the way up to the back. I'm making no
19 new road cuts and no new entries.

20 BOARD MEMBER RAMPE: Okay. So the doors, the big
21 doors, will be facing the side?

22 MR. PULLMAN: The side; correct.

23 BOARD MEMBER RAMPE: Okay.

24 MR. PULLMAN: You won't even see it from the street.

25 BOARD MEMBER RAMPE: And adjacent to the tennis court

1 - RE: R. PULLMAN -

2 on the right is a four bay garage?

3 MR. PULLMAN: Yes.

4 BOARD MEMBER RAMPE: That's yours?

5 MR. PULLMAN: Yes.

6 BOARD MEMBER RAMPE: But that's on a different
7 property.

8 MR. PULLMAN: That's correct.

9 BOARD MEMBER RAMPE: Okay.

10 So does that four bay garage belong to another house
11 on the other side?

12 MR. PULLMAN: Correct.

13 BOARD MEMBER RAMPE: Okay.

14 ACTING CHAIRPERSON DAWKINS: But this is the property
15 we're talking about.

16 BOARD MEMBER RAMPE: Right.

17 ACTING CHAIRPERSON DAWKINS: And this piece of
18 property which crossed the road is the property that's ...

19 BOARD MEMBER RAMPE: With the four bay and the house.

20 ACTING CHAIRPERSON DAWKINS: And a house.

21 BOARD MEMBER RAMPE: Yes, but there's also a house
22 here.

23 ACTING CHAIRPERSON DAWKINS: Right.

24 BOARD MEMBER RAMPE: Yes. Okay.

25 MR. PULLMAN: So there's two houses and two lots.

1 - RE: R. PULLMAN -

2 BOARD MEMBER RAMPE: Okay. All right. That's it.
3 Thank you.

4 ACTING CHAIRPERSON DAWKINS: Matt?

5 BOARD MEMBER MORREALE: No, I'm fine.

6 ACTING CHAIRPERSON DAWKINS: A motion to open the
7 public hearing?

8 BOARD MEMBER MORREALE: I'll make that motion to open
9 the public hearing.

10 BOARD MEMBER RAMPE: I'll second.

11 ACTING CHAIRPERSON DAWKINS: Do we have public
12 comment, questions, concerns regarding this case?

13 (No verbal response.)

14 ACTING CHAIRPERSON DAWKINS: None.

15 Do I have a motion to close the public hearing?

16 BOARD MEMBER RAMPE: I'll make a motion.

17 BOARD MEMBER MORREALE: I will second that motion.

18 ACTING CHAIRPERSON DAWKINS: So I guess the only
19 question on the table for us with respect to discussion is
20 -- hold on one second.

21 But with respect to the rear yard variance, he
22 originally came in requesting four, a four foot variance,
23 which is 40 percent of requirement and he's now moving that
24 to 80 percent.

25 And you say that the property behind you which

1 - RE: R. PULLMAN -

2 requires this variance is wooded property?

3 MR. PULLMAN: Is wooded. We pulled it up on Goggle
4 Map the other day and it goes back for hundreds of acres.

5 ACTING CHAIRPERSON DAWKINS: And who owns that?

6 MR. PULLMAN: Dr. Mindich, the Camp Lakota, AML, who
7 happens to be a friend of mine.

8 ACTING CHAIRPERSON DAWKINS: He owns the lake.

9 MR. PULLMAN: He owns the lake, he owns the camp, he
10 owns ...

11 ACTING CHAIRPERSON DAWKINS: Okay.

12 Steve, we opened the hearing with respect to the rear
13 yard setback ...

14 MR. MOGEL: Well, I mean it's always been the policy
15 of the Board to allow for modifications. It's increasing
16 it. It's doubling the size of the variance.

17 Do you have the public hearing notice by any chance?

18 ACTING CHAIRPERSON DAWKINS: Yes.

19 (Ms. K. Platt produced the public notice.)

20 MR. MOGEL: Well, I'll leave it in the Board's
21 discretion, but let me talk a little bit about the meaning
22 of a public hearing notice.

23 In here it does specify four feet from one property
24 line and two feet from another property line. But the law
25 on notices, public notices, it's pretty flexible. As long

1 - RE: R. PULLMAN -

2 as the public had notice that something was happening, most
3 courts have determined that that's satisfactory.

4 In my opinion, if the Applicant would ask to amend
5 this from four to eight feet, even though that is a
6 substantial increase, it's my opinion that the notice would
7 be adequate and that the Board would still be able to make
8 a determination after the hearing.

9 ACTING CHAIRPERSON DAWKINS: So you originally
10 requested a four foot variance, meaning that your structure
11 was going to be six feet from --

12 MR. PULLMAN: Instead of the ten that it should be --

13 ACTING CHAIRPERSON DAWKINS: Instead of ten.

14 MR. PULLMAN: Yeah.

15 ACTING CHAIRPERSON DAWKINS: Now, you're asking for us
16 to give you eight which leaves you a two foot.

17 MR. PULLMAN: If that's possible. The only reason I'm
18 requesting that is that when I talked to somebody that was
19 going to do some digging of the piers, he said, You know,
20 Bob, if we come across these huge rocks and we dig it here
21 we might have to shift this over a little bit. So I'm just
22 asking the Board if that's possible.

23 BOARD MEMBER RAMPE: Can we put that in the variance,
24 then?

25 MR. MOGEL: What specifically?

1 - RE: R. PULLMAN -

2 BOARD MEMBER RAMPE: That upon excavation ...

3 ACTING CHAIRPERSON DAWKINS: I have a concern. My
4 concern is we have heard cases before this board where
5 structures were located within two feet of property lines
6 and things as simple as gutters and snow loads caused
7 problems with neighbors. So while your neighbor, right
8 now, the property it woods, that's fine. It doesn't
9 present a problem. But if somebody wanted to even have a
10 driveway along there, it creates, potentially, a danger.
11 So while I'm very much in line that we give you a little
12 bit of some buffer here, I'm a little concerned that two
13 feet from the property line, if you were to wind up in that
14 position, would be close enough that it really could
15 provide a hardship for a neighbor in the future if they
16 wanted to put up something.

17 MR. PULLMAN: I know what you're saying. I respect
18 other people's property. If there were homes over there I
19 would understand. It's a piece of property -- I
20 understand, it may happen one day. But this piece of
21 property is kind of landlocked. It was a development of
22 Sam Rasnick about 50 years ago, and there's no access to
23 that land. You know, Bruce owns hundreds of acres back
24 there. And this has no access so this would, if anything,
25 be the way back, back, back of somebody's. If it was up

1 - RE: R. PULLMAN -

2 against somebody's property or building, you know, right
3 next to it, I would say I wouldn't even ask for it, I would
4 just keep it. But there's just miles of woods behind
5 there.

6 ACTING CHAIRPERSON DAWKINS: I would be more inclined
7 to suggest a variance of six feet which gives you four
8 feet --

9 MR. PULLMAN: That's -- I'm good with that. That's
10 fine.

11 ACTING CHAIRPERSON DAWKINS: -- some of those
12 properties.

13 MR. PULLMAN: That's fine, because we were only
14 looking for a possible wiggle room just in case there was a
15 problem. So four would be acceptable.

16 ACTING CHAIRPERSON DAWKINS: Do you have any thoughts
17 with that, Matt?

18 BOARD MEMBER MORREALE: I completely agree with what
19 you're saying. I think in the future, if you're that close
20 to the property it could present a problem.

21 Also, where are we're measuring from? Are we
22 measuring from the overhang of the roof or are we measuring
23 from the corner of the house?

24 ACTING CHAIRPERSON DAWKINS: Well, he was probably
25 initially measuring from the --

1 - RE: R. PULLMAN -

2 BOARD MEMBER RAMPE: The structure itself.

3 ACTING CHAIRPERSON DAWKINS: -- the structure itself.

4 BOARD MEMBER MORREALE: Structure itself. So there's
5 a chance the roof of the structure could actually become --

6 ACTING CHAIRPERSON DAWKINS: So what I'm suggesting is
7 a six foot back yard setback area.

8 MR. PULLMAN: So that I can be within four feet of the
9 line.

10 BOARD MEMBER MORREALE: Correct.

11 ACTING CHAIRPERSON DAWKINS: Four feet of the line.

12 MR. PULLMAN: That would be great. Thank you very
13 much.

14 MR. MOGEL: I just want to notify the Board, given
15 that we're very short-handed this evening, and that the
16 Applicant should keep this in mind, as well. You need an
17 affirmative vote of the majority, full membership of the
18 Board of Appeals, counting vacancies, absences and
19 abstentions, in order to grant the variance. So you would
20 need a unanimous vote.

21 ACTING CHAIRPERSON DAWKINS: Does it make sense given
22 that situation to hold the vote? Conceivably, if you don't
23 have a unanimous vote we could wait until we have a fuller
24 board and hold the vote later.

25 MR. MOGEL: Well, I was actually looking something up.

1 - RE: R. PULLMAN -

2 Okay. So if you fail to get a majority, it's a
3 default deny, but the Board can amend it within 62 days.

4 ACTING CHAIRPERSON DAWKINS: So we could come back.

5 MR. MOGEL: You could come back. You wouldn't have to
6 follow the hearing process or anything like that. You
7 would be able to amend a failed vote and vote on the
8 amendment within the 62 day period after you close the
9 public hearing.

10 So I can't speak further for the Board right now and I
11 can't speak for you. I don't know how the Board is going
12 to vote. If they vote unanimously in favor of the
13 variance, you're fine and you're done. If one or more of
14 the members does not grant the variance then the
15 circumstances you have is you would be going back before
16 the Board again, the full board, within a 62 day period and
17 you could ask for a revote. It wouldn't have to be --

18 MR. PULLMAN: Are we talking about the people in the
19 room tonight?

20 ACTING CHAIRPERSON DAWKINS: What we're saying is you
21 need a majority of the full board and tonight we only have
22 three people here. Three --

23 MR. PULLMAN: And the full board is?

24 ACTING CHAIRPERSON DAWKINS: Five.

25 MR. MOGEL: Five.

1 - RE: R. PULLMAN -

2 ACTING CHAIRPERSON DAWKINS: So you need three votes.
3 If you get them tonight, you're home free.

4 MR. MOGEL: Right.

5 ACTING CHAIRPERSON DAWKINS: If you don't get them
6 tonight and you only get two tonight, you don't have enough
7 even though it's a majority. So you could come back the
8 following month when we have a full board, do a revote and
9 hope that you get three out of five.

10 MR. MOGEL: Now, what's significant about that is if
11 the law didn't permit you to come back for a revote we'd
12 have to go through the process of a rehearing which would
13 involve all new notices and the whole setting of the public
14 hearing and all the rest of it. So in that sense, I'm
15 giving you the information so that you're aware of what the
16 circumstances would be if you fail to get a unanimous vote
17 and you guide yourself accordingly.

18 MR. PULLMAN: So you're saying roll the dice, either
19 by --

20 MR. MOGEL: I can't give you any advice. My job is to
21 give them advice. But let me put it this way. Had the law
22 required a hearing, it would be a substantial burden on
23 you. It would be an expense and a lot more time.

24 MR. PULLMAN: Right.

25 MR. MOGEL: But given that the law would allow you

1 - RE: R. PULLMAN -

2 consideration, really, we'd be talking about coming meeting
3 next month, a full board, a five member board next month.

4 MR. PULLMAN: So we were asking for four feet which
5 was on the thing. And now we're talking about -- and
6 you're comfortable with giving me six. The two, possibly.
7 And you're saying that's what the vote would be on.

8 MR. MOGEL: That's what the vote would be on.

9 MR. PULLMAN: Okay. I request that vote.

10 ACTING CHAIRPERSON DAWKINS: Do I have a motion to --

11 MS. K. PLATT: If I may, two setbacks he's looking
12 for, from one side and another side. So the final, if you
13 look at the denial form again --

14 MR. MOGEL: It's two foot.

15 You want the two to be four and the four to be six.

16 MS. K. PLATT: I don't know if you guys looked at that
17 or if you're just focusing on the one setback.

18 ACTING CHAIRPERSON DAWKINS: We're focusing on -- and
19 I guess you're right. We were focusing on the rear yard
20 setback which is the four foot; and two foot from property
21 line on the other side.

22 MR. PULLMAN: Which is my property.

23 ACTING CHAIRPERSON DAWKINS: Which is your property.
24 But we still have to consider it.

25 MR. PULLMAN: Okay.

1 - RE: R. PULLMAN -

2 ACTING CHAIRPERSON DAWKINS: So one is the front and
3 one is the back.

4 Do you want a little bit of buffer on the two foot?

5 MR. PULLMAN: You know, the property drops off there.
6 There's a railroad tie retaining wall. So I really
7 couldn't even push it any further that way.

8 ACTING CHAIRPERSON DAWKINS: So you're okay with that?

9 MR. PULLMAN: Yes.

10 ACTING CHAIRPERSON DAWKINS: So two foot from the
11 property line is an eight foot setback on that one. An
12 eight foot variance.

13 MR. PULLMAN: And there could never be a house built
14 there because there's an existing tennis court and it's a
15 subsize lot for new construction so that could never be
16 built as a home.

17 ACTING CHAIRPERSON DAWKINS: On the rear. And eight
18 foot variance on the front.

19 MR. PULLMAN: Back; right?

20 ACTING CHAIRPERSON DAWKINS: This is your front yard.
21 So for our purposes, this is the road. This is the rear
22 yard?

23 MR. PULLMAN: Right, right.

24 ACTING CHAIRPERSON DAWKINS: And this is the garage.

25 MR. PULLMAN: Oh, that's right.

1 - RE: R. PULLMAN -

2 ACTING CHAIRPERSON DAWKINS: This is the back yard.

3 MR. PULLMAN: Yes, yes.

4 ACTING CHAIRPERSON DAWKINS: Do we do the questions
5 before we --

6 MR. MOGEL: Yes.

7 ACTING CHAIRPERSON DAWKINS: -- take it to a vote?

8 MR. MOGEL: Yes.

9 ACTING CHAIRPERSON DAWKINS: Okay. So should we do
10 that now?

11 MR. MOGEL: Yes.

12 ACTING CHAIRPERSON DAWKINS: So the Zoning Board shall
13 take into consideration the benefit to the applicant if the
14 variance is warranted as weighed against the detriment to
15 the health, safety and welfare of the neighborhood or
16 community by such grant.

17 In making such determination the Board shall also
18 consider the following five questions.

19 One, and Matt, I'll start with you. Will an
20 undesirable change be produced in the character of the
21 neighborhood or will a detriment to the nearby properties
22 be created by granting of the area variance?

23 BOARD MEMBER MORREALE: No.

24 ACTING CHAIRPERSON DAWKINS: Georgia.

25 BOARD MEMBER RAMPE: No.

1 - RE: R. PULLMAN -

2 ACTING CHAIRPERSON DAWKINS: Cathy, no.

3 Two: Can the benefit sought by the Applicant be
4 achieved by some method feasible for the Applicant to
5 pursue other than the area variance?

6 Matt.

7 BOARD MEMBER MORREALE: No.

8 ACTING CHAIRPERSON DAWKINS: Georgia.

9 BOARD MEMBER RAMPE: Yes.

10 ACTING CHAIRPERSON DAWKINS: And I'm going to say yes.

11 Is the requested area variance substantial?

12 BOARD MEMBER MORREALE: Yes.

13 ACTING CHAIRPERSON DAWKINS: Georgia.

14 BOARD MEMBER RAMPE: Yes.

15 ACTING CHAIRPERSON DAWKINS: And I'm going to say yes.

16 Will the proposed variance have an adverse effect or
17 impact on physical or environmental conditions in the
18 neighborhood or district?

19 Matt.

20 BOARD MEMBER MORREALE: No.

21 ACTING CHAIRPERSON DAWKINS: Georgia.

22 BOARD MEMBER RAMPE: No.

23 ACTING CHAIRPERSON DAWKINS: Cathy, no.

24 Was the alleged difficulty self-created, which
25 consideration shall be relevant to the decision but shall

1 - RE: R. PULLMAN -

2 not necessarily preclude the granting of the area variance?

3 Matt.

4 BOARD MEMBER MORREALE: Yes.

5 ACTING CHAIRPERSON DAWKINS: Georgia.

6 BOARD MEMBER RAMPE: Yes.

7 ACTING CHAIRPERSON DAWKINS: And I'm going to say yes.

8 Okay. So now we need a motion to take this to a vote?

9 MR. MOGEL: You could do it that way if you want. Or
10 you can just make the motion with both. Someone can

11 propose the resolution, you second it and then vote on it.

12 ACTING CHAIRPERSON DAWKINS: Okay. So we're proposing
13 that this board issue a variance for the property and
14 giving relief from the requirement of Code 199-13(c) in the
15 amount of six feet on the rear yard and eight feet on the
16 front yard setback.

17 MR. MOGEL: Does the Board feel comfortable voting on
18 both variances at the same time? My understanding, when
19 you were going through the criteria you were going through
20 the criteria only on the six foot setback.

21 ACTING CHAIRPERSON DAWKINS: Did you think we were
22 doing it for both or for just the one?

23 BOARD MEMBER RAMPE: I'm comfortable with both.

24 MR. MOGEL: You're comfortable with both?

25 BOARD MEMBER MORREALE: I'm comfortable with both.

1 - RE: R. PULLMAN -

2 MR. MOGEL: Your answers wouldn't change --

3 BOARD MEMBER MORREALE: No.

4 MR. MOGEL: -- depending on the --

5 BOARD MEMBER MORREALE: That's what I was considering.

6 MR. MOGEL: Okay. Same thing?

7 BOARD MEMBER RAMPE: Yes.

8 MR. MOGEL: Okay.

9 ACTING CHAIRPERSON DAWKINS: Okay. So we'll vote on
10 them combined if you're comfortable.

11 So Matt, how do you vote?

12 BOARD MEMBER MORREALE: I vote to grant the variance.

13 ACTING CHAIRPERSON DAWKINS: Okay.

14 BOARD MEMBER MORREALE: Both variances.

15 ACTING CHAIRPERSON DAWKINS: Georgia.

16 BOARD MEMBER RAMPE: Yes.

17 ACTING CHAIRPERSON DAWKINS: And I agree also.

18 MR. PULLMAN: Thank you very much.

19 (Time noted: 7:23 p.m.)

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings in the matter of Robert Pullman, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.

ROSEMARY A. MEYER

Date Transcribed: June 26, 2018

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