

The Deerpark Zoning Board of Appeals met for their monthly meeting on Thursday, January 20, 2022 at 7:30 pm at the Deerpark Town Hall, 420 US Route 209, Huguenot, NY. The following were present:

**BOARD MEMBERS PRESENT:**

Cheryl Greene-Chair  
Michael Witt  
Tanner Sexton

Robert Zeller-Vice-Chair  
Philip Niosi

**OTHERS PRESENT:**

Glen Plotsky, Town Attorney



**Motion to open meeting.**

Motion made by Michael Witt, 2<sup>ND</sup> by Philip Niosi, to open January 20, 2022 meeting at 7:30 p.m.

**Vote 5 Ayes:** Tanner Sexton, Robert Zeller, Cheryl Greene, Michael Witt, Philip Niosi.

**MOTION CARRIED**

Pledge of Allegiance

**APPROVAL OF DECEMBER 16, 2021 MINUTES-**

**Motion to APPROVE Minutes.**

Motion made by Robert Zeller, 2<sup>ND</sup> by Tanner Sexton, to approve minutes for December 16, 2021.

**Vote 5 Ayes:** Tanner Sexton, Robert Zeller, Cheryl Greene, Michael Witt, Philip Niosi.

**MOTION CARRIED**

**KATE TRAYNOR – 4 MAPLE LANE – AREA VARIANCE – GARAGE – PUBLIC HEARING –**

Justin Traynor-Applicant

Kate Traynor-Applicant

Town Attorney explained that this was scheduled for the December 16 meeting and there were written comments received and Mr. Traynor asked to be given the opportunity to see the comments and respond. There was one oral comment during the public hearing that night and unless there is any new oral comments then there will be no more public comment. Mr. Traynor gave a brief explanation that it was for a variance for a pre-existing shed and he submitted letters from other neighbors in favor of the variance. Town Attorney stated that there were 2 letters first was a handwritten letter dated December 18 from Jeff Harrington that he was not opposed to the variance. The second was a typed letter dated December 17 from April Olander and Lars Leithner that it has not been an inconvenience or disturbance to them, they live across the street and see no issue to the community or the location where it is placed. Mr. Traynor stated he understands the issue of the 10ft but there are 20-30 sheds in the Manor at the end of driveways and at the fence line and most do not meet the setbacks. He continued that in the backyard there is a tee for leach fields and the other side he would have the same setback issue. He continued that the shed is not level as of now but can be. Town Attorney asked if there were other properties with similar issues and asked if there is more room where the shed is now and if the shed was parallel or in front of home. Mr. Traynor stated that if put on the other side it will be just as bad if not worse and the shed is set back from the house. Town Attorney asked why it could not be in the back yard, Mr. Traynor stated that 3 leach fields meet he does not want to drive a machine over it he is afraid it could crush a pipe. He further stated that he would like to put it at the end of his driveway to hold his kids toys and some outdoor equipment. Bob Zeller asked if the shrubbery is what is being affected on the fence line, Mr. Traynor explained that when they purchased the home it was overgrown and they cut back what was on his side, he added that if it is not allowed right on the line, he was not opposed to shifting it closer to the house. Bob Zeller acknowledged that he drove by and looked and there really is not much room. Mr. Traynor explained that he has installed septic for about 7 years and he has seen before where heavy equipment has caused damage. Bob Zeller asked if he was opposed to moving it and Mr. Traynor answered not in the backyard. He stated that there are probably about 2 dozen other properties with shed that are in violation. Town Attorney asked how much room was between the shed and the house, he answered about 4ft, Town Attorney asked if he could bring it closer to the home, Mr. Traynor answered yes.

**ZONING BOARD OF APPEALS MEETING DECEMBER 16, 2021 continued –**

**KATE TRAYNOR – 4 MAPLE LANE – AREA VARIANCE – GARAGE – PUBLIC HEARING – continued –**

Mike Witt asked if moving closer would block off access to the backyard or if they could use the other side. Kate Traynor answered that the issue with it being too close to the neighbor was more of a fire hazard issue and now it will move closer to their home. Chair Greene asked if there were any new comments from the Public. No new public comment.

**Motion to close public hearing.**

Motion made by Cheryl Greene, 2<sup>ND</sup> by Robert Zeller, to close the public hearing for the Traynor Variance.

**Vote 5 Ayes:** Tanner Sexton, Robert Zeller, Cheryl Greene, Michael Witt, Philip Niosi.

**MOTION CARRIED**

Town Attorney acknowledged that the Board has 62 days to make a determination and was not sure if they would deliberate tonight. Kate Traynor asked who does the determination, Town Attorney answered that the 5 members deliberate and make the decision, and he writes up the resolution.

**ABER – ROUTE 42 & 97 – NOTATION REMOVAL – PUBLIC HEARING –**

Ann Walsh-Representative for Applicant

Town Attorney explained that at the last meeting in December the public hearing was held open for written comment because it was less than 30 days from the mailing of the GML-239. The County responded and it was received December 20, they found no evidence of impacts, they had no advisory comments and left it for local determination. He suggested that the public hearing could be closed. Ms. Walsh stated that there was a question of the proposed use of the property. Town Attorney confirmed that there was a potential sale of the property and it was asked what the new owner was going to do with the property, and they will be using it in the same manner as the adjoining property, to park commercial vehicles and also stated that they will put of fencing and landscaping. Town Attorney stated that there was one written correspondence from Tri-County Properties that he was opposed to the removal of the note. Bob Zeller acknowledged that the note states to remain vacant it was not commercial when it was put on. The application that they are considering is not for the potential commercial use. The comment that was made the gentlemen owns a commercial oil company there, this property is now zoned commercial and there is other commercial properties in that area. He continued that whatever the use will be it will go back to the Planning Board for their review and appreciates that he was forthcoming in telling the use and the fencing and landscaping that would be done.

**Motion to close public hearing.**

Motion made by Robert Zeller, 2<sup>ND</sup> by Philip Niosi, to close the public hearing for the Aber Variance.

**Vote 5 Ayes:** Tanner Sexton, Robert Zeller, Cheryl Greene, Michael Witt, Philip Niosi.

**MOTION CARRIED**

Tanner Sexton stated that it will used for commercial, Philip Niosi added that no neighbors on Johnson Lane spoke about the variance. Bob Zeller asked if it was a open sale, Town Attorney stated he believed so, Ms. Walsh confirmed that it was public. Chair Greene asked about it going to Town Board first. Town Attorney explained that in 1971 when the note was placed on this property it was before the Planning Board and 2 were in favor, 2 were opposed and 1 did not vote. It was sent to the Town Board and they put the note on to keep it open and vacant due to the manufactured home park that was in the vicinity of the property. Recently it went to Planning Board and they said they didn't put note on it the Town Board did; 1 member was the potential buyer and another is his brother-in-law, so they sent it to the ZBA for an interpretation. Zoning has changed since then and any use will go to the Planning Board, he stated that the Town Board did want all adjoining neighbors to be able to be heard. He added that the Board has 62 days to decide.

**Motion to approve application.**

Motion made by Robert Zeller, 2<sup>ND</sup> by Philip Niosi, to approve variance for Aber.

**Vote 3 Ayes:** Tanner Sexton, Robert Zeller, Philip Niosi. **2 Nays:** Cheryl Greene, Michael Witt.

**MOTION CARRIED 3-2**

**ZONING BOARD OF APPEALS MEETING DECEMBER 16, 2021 continued –**

**MALZAHN – 210 BOEHMLER ROAD – POLE BARN – VARIANCE –**

John Fuller-Representative for Applicant

Bill Malzahn-Applicant

Mr. Fuller explained that this was a referral from the Building Department, Mr. Malzahn wants to construct a pole barn on his property next to where he lives. It has been surveyed and it is 1.34 acres on Boehmler Rd, it had once had a mobile home on it that was removed and currently still has a well and septic. It is a landlocked piece with a driveway easement, there is no road frontage. He further stated that there is a 69-acre piece on the side and rear of the property it is in the residential settlement district (RS) he continued that they were looking for an interpretation regarding § 230-15 for the Town Zoning regarding Accessory Use stating:

*“Accessory structures not attached to a principal structure shall:*

*1. Be located not less than ten (10) feet from any side or rear lot line or in such a fashion as to prevent emergency firefighting access or to shade a residential structure on an adjoining lot. Any structure over 1,000 square feet in floor area shall meet setbacks for principal structures.”*

He continued that it is 60x60 pole barn, it will be about 22ft high, set 10ft on one edge and 18ft on the other edge, usually an accessory structure is 10ft but if it is over 1000sqft then it will have to meet the standard setbacks of 35ft. It is being set where it is due to the well and septic that they will service the pole barn, Mr. Malzahn plans on putting in a bathroom and it is also in the general area that the old mobile home was so then it will limit the area of disturbance. Town Attorney disclosed that he represents the Malzahn family. He asked if the barn was purposed in the location of the mobile home, Mr. Fuller answered in the same area of clearing not sure if it is same dimensions. Bob Zeller asked why it will be on an angle, Mr. Malzahn stated that adjacent lots are on an angle. Chair Greene asked if it could be seen from the road, Mr. Malzahn answered yes, Mr. Fuller stated there is a line of vegetation and the surrounding parcel is a vacant piece and is irregular and topography would make it hard to build on. Town Attorney asked who the owners of the 69-acre piece was and if it was adjacent to the house and asked if he had approached the current owner to purchase what would be needed to satisfy the setback. Mr. Malzahn stated he believed the parcel was owned by Sigmound and Mr. Fuller answered that they have not reached out. Town Attorney asked if there was any other way to satisfy if not, they cannot contact the property owner. Bob Zeller asked how far off the line, Mr. Fuller answered 10ft and 18ft. Town Attorney asked if it was 500ft of State Highway or Municipality, Mr. Fuller answered No. Town Attorney acknowledged that all blanks on application were filled in and suggested that a public hearing could be scheduled.

**Motion to schedule a public hearing.**

Motion made by Robert Zeller, 2<sup>ND</sup> by Philip Niosi, to schedule a public hearing for Thursday, February 17, 2022 at 7:30PM for the Malzahn Variance.

**Vote 5 Ayes:** Tanner Sexton, Robert Zeller, Cheryl Greene, Michael Witt, Philip Niosi.

**MOTION CARRIED**

Town Attorney stated that in the RS Zone an Accessory structure is not allowed without a principle use but there is a provision of storage of certain things, so the public hearing will be both for an interpretation and for the side yard setbacks. Chair Greene asked if it was personal or commercial, Mr. Malzahn answered no commercial, Mr. Fuller confirmed it will be for personal use.

**ZONING BOARD OF APPEALS MEETING DECEMBER 16, 2021 continued –**

KATE TRAYNOR – 4 MAPLE LANE – AREA VARIANCE – GARAGE – PUBLIC HEARING – revisited –

Tanner Sexton stated the in the Manor it is almost impossible to put a shed on a property. Chair Greene agreed but stated however he already has two on the property. Tanner Sexton stated that other properties have multiple. Chair Greene stated that this a second hand shed, Tanner Sexton asked if it was a brand new would it make a difference, Chair Greene answered it could. Bob Zeller asked Mr. Sexton if he had gone to look at it. Tanner Sexton stated that they are voting if the applicants can have the shed where it is. Town Attorney stated that their job is to consider the adverse effects, aesthetics, environment and if it is consistent with the neighborhood. Philip Niosi asked how long it had been there, Tanner Sexton answered about 2 years. He stated that a stipulation can be put on to make it look better, there is a lot worse in the Manor. Philp Niosi asked why it took the neighbor so long to complain. Tanner Sexton stated that if approved a stipulation to paint and shift it closer to home can be done. Chair Greene asked if there were any stipulations to how many accessory uses can be on one property. Bob Zeller and Philip Niosi stated that they drive over their leach fields. Town Attorney stated he saw no specific designation of how many in the Zoning. He stated you can have a garage and storage shed more than one no limit 10ft from line, not in front yard. Mike Witt acknowledged he felt that putting a restriction on is a good idea, move it over more, paint it and level it. Town Attorney disclosed that he knows Mr. Beatini they have mutual friends and Mr. Beatini called him before he wrote the letter. Philp Niosi stated that he will approve with restrictions or deny. Chair Greene stated with stipulations. Mike Witt asked if a time frame could be put on, Town Attorney answered yes.

**Motion to approve application.**

Motion made by Cheryl Greene, 2<sup>ND</sup> by Tanner Sexton, to approve variance for Traynor contingent on it being moved 3ft from side yard property line, being more aesthetically pleasing, level shed and paint it to match house, they have till June 1, 2022 and it will be inspected by the Building Inspector immediately thereafter.

**Vote 4 Ayes:** Tanner Sexton, Cheryl Greene, Michael Witt, Philip Niosi. **1 Nays:** Robert Zeller.

**MOTION CARRIED 4-1**

**Motion to Adjourn Meeting.**

Motion made by Michael Witt, 2<sup>ND</sup> by Tanner Sexton, to Adjourn January 20, 2022 Meeting at 8:48 p.m.

**Vote 5 Ayes:** Tanner Sexton, Robert Zeller, Cheryl Greene, Michael Witt, Philip Niosi.

**MOTION CARRIED**

Respectfully Submitted By,



Amanda Gorr, Zoning Board of Appeals Secretary