

The Deerpark Zoning Board of Appeals met for their monthly meeting on Thursday, April 18, 2019 at 7:30 pm at the Deerpark Town Hall, 420 US Route 209, Huguenot, NY. The following were present:

BOARD MEMBERS PRESENT:

Jane Lord
Robert Zeller
Michael Witt

BOARD MEMBERS ABSENT: Lee Cornell -Chairman, Cheryl Greene

OTHERS PRESENT:

Glen Plotsky, Town Attorney

Meeting brought to order at 7:30 pm.

Pledge of Allegiance

APPROVAL OF February 21, 2019 MINUTES-

Motion to table minutes.

Motion made by Jane Lord, 2ND by Robert Zeller to table minutes until next meeting, May 16, 2019.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

HAROLD SCHMIDT – 139 BERME RD – AREA VARIANCE – PUBLIC HEARING –

John Fuller- Representative for Applicant

Harold Schmidt-Applicant

Motion to Open the Public Hearing.

Motion made by Robert Zeller, 2ND by Jane Lord to open Public Hearing for Harold Schmidt.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

Secretary read public hearing notice into record. John Fuller gave a presentation explaining that the application, was the old Alexander Motel which has ceased operation about 10 years ago. He continued that it was an existing structure with 16 units, it is in very sound condition on a quarter acre of land, which fronts NYS Route 97, Main Street and Berme Road. He further explained that this is historically a pre-existing non-conforming lot, Mr. Schmidt would like to convert it into a 4-unit apartment building, which is permitted in the HMU (Hamlet Mixed USE) district, he added that any proposal there would need variances because of the lot size. Town Attorney asked Mr. Fuller to identify the variances needed. Mr. Fuller explained that in 2017 the Planning Board sent the applicant to the ZBA, he made an application and had a public hearing scheduled that year, then the Town of Deerpark put a moratorium on multi-family; the Town Board adopted a new law regarding multi-family uses and that is why Mr. Schmidt has come back before the ZBA. He further added that all set back requirements need variances; lot area, lot depth, front and side yards, building coverage, also dwelling density in the multi-family section of the zoning requires 3 units and they are asking for 4, no construction within 50ft of the edge of any access road, 2 parking spaces per unit are required and 1 is proposed per unit. Also, any structures must be a minimum of 100 ft from boundary lines and where a property line is not wooded there needs to be 50ft strip of planting, this is not proposed. He then went through the 6 criteria for granting a variance:

1. The benefit outweighs the detriment to the neighborhood, no undesirable change
 - there are other existing multi-family homes in the area
 - it used to be a 16-unit motel now 4-units less intensity
2. Variance is substantial.
 - numerically yes, historically had pre-existing non-conforming, lessening from 16 units to 4 apartments
3. Other feasible methods other than variance.
 - any use on that site would need a variance

Zoning Board of Appeals Meeting Minutes April 18, 2019 continued:

HAROLD SCHMIDT – 139 BERME RD – AREA VARIANCE – PUBLIC HEARING – continued –

4. Adverse impact or effect on the physical or environmental conditions of neighborhood.
-If the variances are approved it will go back to the Planning Board and a SEQRA review will be done
5. Is the difficulty self-created.
-Yes, it is a self-created hardship, it was purchased in the current conditions
6. Is it the minimum variance necessary
-it is pre-existing, non-conforming, 4 units reasonable; historically 16

Jane Lord asked how big the apartments will be, Mr. Fuller answered 1000sqft, 2 bedrooms each. Bob Zeller acknowledged that the 1 car per unit could be unreasonable most people have 2 cars, John Fuller stated 1 parking space per unit but they have an option to ask the State for use in the right-a-way called a Use and Occupancy Permit.

Public Comment:

No Public Comment.

Motion to Close the Public Hearing.

Motion made by Robert Zeller, 2ND by Jane Lord to close Public Hearing for Schmidt.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

Motion to table action on Application.

Motion made Robert Zeller, 2ND by Jane Lord to table action on application to next meeting, May 16, 2019.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

DAVID WILDEMAN – 20 GRANGE ROAD – AREA VARIANCE – FENCE – PUBLIC HEARING –

David Wildeman-Applicant

Motion to Open the Public Hearing.

Motion made by Robert Zeller, 2ND by Jane Lord to open Public Hearing for David Wildeman.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

Secretary read public hearing notice into record. Mike Witt acknowledged that there was an issue of zoning district and a sketch of where the fence would be and what it would look like. Bob Zeller asked if the fence would be around the whole yard, Mr. Wildeman stated no just around the garden and fruit trees, he then asked if it was a new fence, if there were any other fences in the area and if it would be visible to the neighbor. Mr. Wildeman stated there will be a 15ft barrier around the trees, no other fences in the immediate area and there will not be any visibility by the neighbor. Jane Lord explained that most orchards have done away with fences and now use trees tubes and tree nets, she suggested Mr. Wildeman call the DEC (Department of Environmental Conservation) and ask them about this method; she added that it is probably a cheaper way to go and it helps keep the roots watered and keeps bugs off the trees. Town Attorney asked which road the fence would face, Jane Lord answered Peenpack Trail and Grange Road. Town Attorney acknowledged that the applicant has two options, either go through the criteria to prove the need for the variance or look into the other method. Mr. Wildeman asked if the public hearing could be kept open till he can research this other option.

Public Comment:

No Public Comment.

Motion to leave the Public Hearing open.

Motion made by Robert Zeller, 2ND by Jane Lord to hold the Public Hearing open until May 16, 2019 meeting for Wildeman.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

Zoning Board of Appeals Meeting Minutes April 18, 2019 continued:

DEREK AND SABAH KILFEDDER – 86 HARTWOOD CLUB RD – AREA VARIANCE – GARAGE – PUBLIC HEARING –
Jeff Quinn- Contractor for Applicant

Motion to Open the Public Hearing.

Motion made by Robert Zeller, 2ND by Jane Lord to open Public Hearing for Derek and Sabah Kilfedder.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

Secretary read public hearing notice into record. Mr. Quinn explained that there is an existing shed and deck that will be tore down for the proposed garage, the garage will be 24x25ft. They have explored other options but there is a well on one side and any other would put them above the front plane of the home. The applicants want this to protect their cars in the winter. He added that there was previously a covered carport that encroached on the neighboring property line that was removed. Town Attorney acknowledged that there is an existing non-conforming shed and this garage would make it more non-conforming. Town Attorney then went over the criteria for proving the need for the variance:

1. The benefit outweighs the detriment to the neighborhood, no undesirable change
 - does outweigh detriment to the neighborhood
 - will be made ecstasically to fit in with existing home, elevation will not be above home, other neighbors have garages.
2. Variance is substantial.
 - Town Attorney stated that side yard setback is 35ft, 6ft is asking so it will be a 21ft variance
3. Other feasible methods other than variance.
 - cannot move to other side of home there is a well, pool and an elevation drop.
4. Adverse impact or effect on the physical or environmental conditions of neighborhood.
 - No adverse effect
5. Is the difficultly self-created.
 - Yes, it is a self-created hardship
6. Is it the minimum variance necessary
 - minimum for a 2-car garage is 24x24

Public Comment:

Greg Nowicki-90 Hartwood Club Rd- Mr. Nowicki stated that this is not their primary residence, asked why it can't be pushed over toward the house and back, he added that there is no drawing of what it will look like and asked if there were other options that could be explored. He acknowledged that it was his property that the carport encroached on and if he didn't have such a problem with the old owners it wouldn't bother him so much. He asked if they could extend the driveway and put it back farther.

Jeff Quinn- Mr. Quinn addressed the concerns from Mr. Nowicki stating that there is a walkway between house but could be moved toward house more, he added that he doesn't think it could be attached to the house because he believes there is a bedroom window on that side, due to a door and stairs leading to that door it could not be moved back. He also stated that moving it back further behind the home the septic and leach field are there.

Town Attorney- Mr. Plotsky acknowledged that the Board can put restrictions as part of the approval that it must be same color and style as home.

Motion to Close the Public Hearing.

Motion made by Jane Lord, 2ND by Robert Zeller to close Public Hearing for Kilfedder.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

Zoning Board of Appeals Meeting Minutes February 21, 2019 continued:

DEREK AND SABAH KILFEDDER – 86 HARTWOOD CLUB RD – AREA VARIANCE – GARAGE – PUBLIC HEARING –

Bob Zeller asked what type of garage is was going to be and if it would have living space in it. Jeff Quinn answered that it would flow with the existing home and there would not be any living space. Mike Witt added that restrictions could be placed on it.

Motion to table action on Application.

Motion made Jane Lord, 2ND by Robert Zeller to table action on application to next meeting, May 16, 2019.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

LITTLE POND SOLAR - 181 WHITEHEAD RD – FENCE - HEIGHT VARIANCE –

Kevin Kohlstedt-Representative from Cypress Creek Renewables

Mr. Kohlstedt stated that the Planning Board referred them to the ZBA to apply for a fence variance for the height, it will be a 6ft fence with 3 strands of barb wire or 7-8ft fence around the solar array they are currently before the Planning Board, they need it to comply with National Code. Bob Zeller asked if the other solar projects have had this issue, Town Attorney stated the 1 approved solar facility has a 6ft fence with a mechanism on the equipment for safety. Bob Zeller questioned if the barb wire was to deter anyone from climbing over, Mr. Kohlstedt answered yes. Town Attorney acknowledged this is a 20 MW Solar Array at the end of Whitehead Rd in the middle of nowhere. Jane Lord asked how many acres will the fence encompass, Kevin Kohlstedt answered 140 acres of the 800 plus acres on the property. Mike Witt stated it will be 1ft above code, Town Attorney stated 3 strands of barbwire, Kevin Kohlstedt acknowledged the 3 strands will equal to about 1 ft. Jane Lord asked if the Federal code surpasses Town Code and a variance from ZBA, Town Attorney stated there are other methods but they are not feasible to the applicant. Town Attorney stated that the soil classification was missing from the application. Jane Lord asked about SEQRA, Town Attorney replied that the Planning Board has already declared intent, and they can go to the Planning Board on May 8 for a preliminary environmental review.

Motion to schedule a Public Hearing.

Motion made by Jane Lord, 2ND by Robert Zeller to schedule a Public Hearing for Little Pond Solar for May 16, 2019 at 7:30 PM, subject to the Planning Board findings at the May 8, 2019 meeting.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

Motion to Adjourn Meeting.

Motion made by Jane Lord, 2ND by Robert Zeller, to Adjourn April 18, 2019 Regular Meeting at 8:59 p.m.

Vote 3 Ayes: Robert Zeller, Michael Witt, Jane Lord.

MOTION CARRIED

Respectfully Submitted By,



Amanda Gorr, Zoning Board of Appeals Secretary