

**TOWN OF LEWISBORO
WESTCHESTER COUNTY, NEW YORK**

**ZONING BOARD OF APPEALS
TOWN OF LEWISBORO
MINUTES**

Minutes of the Meeting held by the Zoning Board of Appeals held via the videoconferencing application Zoom (Meeting 979 5423 4205) on Wednesday, February 24, 2021 at 7:30 P.M.

Board Members Present: Robin Price, Jr. Chairman
Thomas Casper
Daniela Infield
Carolyn Mandelker
Todd Rendo

Also Present: Kara Sullivan, Secretary
Joseph Angiello, Building Inspector
Greg Folchetti, Attorney for Town

The Meeting was called to order at 7:32 P.M. by Chairman Price who introduced the members of the Board and outlined the meeting's format and procedures. (The next ZBA meeting is scheduled for Wednesday, March 24, 2021.)

I. Review and adoption of minutes of December 30, 2020

The Board reached consensus to approve the meeting minutes. To approve: Chairman Price, Mrs. Mandelker, Mr. Casper, Ms. Infield, and Mr. Rendo. To Abstain: None.

II. PUBLIC HEARINGS

CAL NO. 10-20-BZ

Application of Kenneth Askildsen, [Askildsen, Kenneth, owner of record], 82 Mill River Road, South Salem, NY, for a variance in the matter of a proposed replacement dwelling that will have a southeast front yard setback of 21.3' whereas 50' are required per Article IV Section 220-23E, a proposed replacement dwelling overhang that will have a southeast front yard setback of 20' whereas 50' are required per Article IV Section 220-23E, a proposed replacement dwelling that will have a southwest side yard setback of 33.5' whereas 50' are required per Article IV Section 220-23E, a proposed deck that will have a southeast front yard setback of 26.5' whereas 50' are required per Article IV Section 220-23E, a proposed replacement dwelling that will have a northeast side yard setback of 36.5' whereas 50' are required per Article IV Section 220-23E, a proposed covered porch that will have a northeast side yard setback of 32.5' whereas 50' are required per Article IV Section 220-23E and a proposed covered porch steps that will have a northeast side yard setback of 30.5' whereas 50' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code.

The property is located at 82 Mill River Road, South Salem, NY and designated on the Tax Map as Sheet 42 Block 10299 Lot 83 in an R-4A Residential District consisting of approximately .467 acres.

There were no objections to the notice of public hearing as published.

Chairman Price requested a comparison be made of the earlier plan to the new one.

Jody Cross, Esq., appeared on applicant's behalf, and noted that the Chairman had acknowledged architect Hans Hansen's presence. Ms. Cross summarized the property and application. Applicant is seeking to demolish existing home that was destroyed by fire in 2011 and construct a new home in substantially the same footprint. The applicant is also seeking to use the studio structure for a personal art studio. The house is proposed to be 3.5 feet larger to display art. The intent is for the applicant to reside in the house. Variances being sought have been included in a submitted chart and are slightly reduced from what was noticed. Majority of dwelling will be 36.5 feet from neighbor. Front yard setback was pulled back additional 12 feet to 27.3 feet. Statutory factors were reviewed; the same were laid out in the submission to the Board. Ms. Cross noted a comment from a neighbor about the of house but the house has always been visible and will be new.

Mr. Hansen detailed changes made since the last application. The dwelling has been moved back substantially, and the footprint has been reduced. Stories are stepped back. Entry portico has been reduced due to comments on its size. House layout has not changed very much since last submission. Additional measurements have been added for clarity. To reduce porch any further reduces the sheltering effect. Mr. Hansen clarified that the half story will be in the rear of the house, with the attic space stepped back substantially.

Chairman Price inquired about the size of the proposed dwelling, with concerns that it will look like a very large house on a small lot. Mr. Hansen advised that the applicant will occupy the attic rather than have a basement. More detail was provided on the gallery space and size of house. There will be no commercial use of the property, particularly with respect to the gallery.

Building Inspector Joe Angiello advised about the condition and use of the studio on the property. A kitchenette would have to be legalized; a full bathroom is fine but the applicant would need a Health Department approval, as they could construe it as an extra bedroom. The studio was at one time connected by a walkway to the main house. Ms. Cross stated that it would be an acceptable condition that the studio is not to be used as a residence; it is rather an accessory structure to the new home. Applicant stated sink is used for cleaning art brushes. Mr. Angiello said property is not able to have an accessory apartment. Applicant stated he would remove full bathroom but also contact the Health Department.

Neighbor Oliver Brahmst of 75 Mill River stated the picture shown does not representative how little the setback is and will be, even if set back. He stated it will be an ugly site that will detrimentally affect the neighbor.

Mr. Casper inquired about the connection to the back building. Mr. Folchetti stated this is not a use issue as it proposed to be a residential use in a residential area. Ms. Cross stated a CO was in existence; Mr. Angiello agreed. Mr. Casper asked what the studio structure is then considered legally. Mr. Angiello stated the structure would need a variance due to its size. Discussion ensued. Chairperson Price stated it needed to be determined how to legalize the studio structure. He further noted that proposed welling is probably twice what it is now, which is an increase in nonconformity.

Resident Kate Elliott, a next-door neighbor, stated that the porch will be closer to her property; it is a large footprint on a small lot, and isn't understanding why art viewing is an issue. Applicant stated the last time there was a tenant in the accessory building was 13 years ago, and he would not have a tenant again. He would use the bottom floor for storage. Ms. Cross did not know structure was considered illegal, as it has a CO. Resident Natasha Brahmst stated environmental issues and neighbors need to be considered. Ms. Cross stated this will be subject to a wetlands permit and must go before the Planning Board before the home is built. Chairman Price stated that he is concerned about setbacks and size of structure itself. He has objections to the size of the proposed dwelling, and the structure in the back as it has an active violation which must be remedied. He stated the Board could vote, or table it for a new plan with the structure violation remedied, or the applicant could withdraw the application and reapply with a more modest dwelling.

Mr. Casper would like the applicant to regroup as well as find clarity on the violations, as he feels the Board should not be listening to the application. Mrs. Mandelker is less troubled by the plan for the dwelling but has concerns about the eyesore of the back structure; it also has wetlands issue. She stated the Board has before approved larger sized dwellings on smaller properties. Ms. Infield is concerned about violations on the accessory building so is less concerned with the dwelling's size, as it will fix an eyesore. Mr. Rendo stated that the dwelling should conform and the recent comments by the Board should have been heeded. Ms. Cross noted that the back structure itself is pre-existing and nonconforming with a CO.

Ms. Cross requested the matter be tabled. Mr. Hansen stated because the current dwellings doesn't meet any requirements that new construction requires, it would be impossible to build with the same volumetric footprint and yet have the same space. Mr. Angiello offered to meet with applicant.

Chairman Price made a motion to table the matter for two months, with public hearing held open. Mr. Casper seconded. To Approve: Chairman Price, Mrs. Mandelker, Mr. Rendo, Mrs. Infield and Mr. Casper. To Deny: None. Abstain: None

CAL. NO. 01-20-SP

Application of John Vuolo [Thomas Gossett, Trustee for the Thomas Gossett Revocable Trust, owner of record], 1202 Route 35, South Salem, NY for a Special Permit pursuant to Article V, Section 220-43.6 of the Zoning Ordinance to allow an accessory winery.

The property is located on the north side of Old Post Road (Route 35), designated on the Tax Map as Sheet 31, Block 10805, Lot 46, in an R-2A, Two-Acre Residential District consisting of approximately 5.50 acres.

There were no objections to the notice of public hearing as published.

Michael Sirignano, Esq., appeared as Applicant's representative. Mr. Sirignano explained special permits as they relate to wineries and his reasoning as to why the Applicant meets the conditions necessary for the permit, all included in Applicant's submission. Gossett's operates under a special permit currently. It is hoped the Planning Board will approve the site plan at its next meeting. John Vuolo was present to answer questions.

Chairman Price asked if any Board or member of the public had questions; none responded.

With everything noted to be in order with the Planning Board and Building Inspector, Chairman Price made a motion to approve the application, seconded by Mr. Rendo. To Approve: Chairman Price, Mrs. Mandelker, Mr. Rendo, Mrs. Infield and Mr. Casper. To Deny: None. Abstain: None

CAL. NO. 01-21-BZ

Application of Jennifer Clark [Clark, Gerald F., owner of record], 68 East Ridge Rd, Waccabuc, NY for variances in the matter of a proposed accessory garage/apartment that will have a floor area of 2,270 square feet whereas 600 square feet is the maximum permitted per Article IV Section 220-23D(11) of the Town of Lewisboro Zoning Code and a proposed accessory garage/apartment that will have a building height of 25'-6" whereas 20' is the maximum permitted per Article I Section 220-2 of the Town of Lewisboro Zoning Code.

The property is located on 68 East Ridge Rd, Waccabuc, New York and designated on the Tax Map as Sheet 25, Block 10812, Lot 26, in an R-2A, Two-Acre Residential District consisting of approximately 3.640 acres.

There were no objections to the notice of public hearing as published.

Roger Bailey, architect, was present on behalf of the Applicant. Applicant is seeking two variances, one for height. The property was described. Both the owner and contractor were present.

Mr. Bailey noted the existing house is about 2200 square feet, and the proposed garage and apartment will be 2270 square feet. The footprint of the new building is smaller than the existing house, but the square footage is about the same. Applicant Jennifer Clark was present, noting that the original house has a second story. Mr. Bailey said the new building is smaller than the existing house. Ms. Clark noted no work is presently being done on the existing house, and the existing garage is attached to the house.

Mr. Casper noted that houses in the neighborhood average 8000-10,000 square feet, also stating the new structure is not intrusive or unattractive and seems acceptable for this parcel. Mr. Rendo agreed. Mr. Casper noted it is a three-acre parcel. Mike Wetzel, contractor, was also present. Mr. Wetzel advised renovation will be undertaken to meet the standards of and be similar to other houses on the road when Ms. Clark's mother moves out of the main house in the future. Chairman Price noted that 9% building is allowed on the lot, and this lot will be at 2.5% with the proposed building.

Chairman Price asked if any neighbors had comments. Ms. Clark advised that neighbor John Mazella had sent a letter in support.

Chairman Price asked for further comments; with none made, Mr. Casper made a motion to approve the application, seconded by Ms. Infield. To Approve: Chairman Price, Mrs. Mandelker, Mr. Rendo, Mrs. Infield and Mr. Casper. To Deny: None. Abstain: None

CAL. NO. 02-21-BZ

Application of Thomas Gossett [Thomas Gossett, Trustee for the Thomas Gossett Revocable Trust, owner of record], 1202 Route 35, South Salem, NY for a for variances in the matter of a proposed office trailer that has an eastern side yard setback of 18' whereas 40' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code.

The property is located on the north side of Old Post Road (Route 35), designated on the Tax Map as Sheet 31, Block 10805, Lot 46, in an R-2A, Two-Acre Residential District consisting of approximately 5.50 acres.

There were no objections to the notice of public hearing as published.

Mr. Sirignano was present for the Applicant. He described the property and advised that the site plan is before the Planning Board for approval and under SEQR is classified as unlisted, and the Planning Board has taken lead agency status, concluding that the action is unlisted and will not have an adverse impact on the environment. A Negative Declaration was determined. Because of the pending variance approval, the Planning Board cannot rule. The variance applies to the proposed office trailer. The trailer is

concealed behind the nursery buildings. The neighbor to the east, Mr. Jacobson, fully supports all applications. The trailer is to be legalized by the variance. Mr. Jacobson has also given an informal easement for parking. Mr. Sirignano reviewed the factors necessary for a special permit. Applicant Tom Gossett was present.

Mr. Sirignano stated that the site is part of the Agricultural District; but that a variance is needed.

Chairman Price asked for comments from the Board. There being none, Mr. Rendo made a motion to approve the application, seconded by Mr. Casper. To Approve: Chairman Price, Mrs. Mandelker, Mr. Rendo, Mrs. Infield and Mr. Casper. To Deny: None. Abstain: None

CAL. NO. 03-21-BZ

Application of Leila Colbert [Deborah Kelleher, owner of record], 43 Knapp Road, South Salem, NY for a for variances in the matter of a proposed additions to their existing, non-conforming structure and are requesting a rear yard setback of 5'4" whereas 40' is required, a west side yard setback of 10'10" whereas 30' is required and an east side yard setback of 13'11" whereas 30' is required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code.

The property is located on the north side of (#43) Knapp Road, designated on the Tax Map as Sheet 34C, Block 11826, Lot 26, in an R-1A, One-Acre Residential District consisting of approximately 0.480 acres.

There were no objections to the notice of public hearing as published.

Ms. Colbert, architect, was present on behalf of the application. She stated that the existing house is non-compliant. Ms. Colbert described the need for the variance. There is a minor extension of the envelope, but the structure remains in the footprint of the ground floor. The second floor is a smaller footprint than on the plans. The height remains the same. The house is in disrepair and not habitable. The deck is not safe to stand on presently. It will remain a two-bedroom home.

Chairman Price asked for comments from the Board. No comments were given. Favorable emails from neighbors were reviewed. No comments from the public were given. Mr. Casper made a motion to approve the application; Ms. Infield seconded. To Approve: Chairman Price, Mrs. Mandelker, Mr. Rendo, Mrs. Infield and Mr. Casper. To Deny: None. Abstain: None

CAL. NO. 04-21-BZ

Application of Jane Lindau [Lindau, Jane, owner of record], 65 Knapp Road, South Salem, NY for a for variances in the matter of proposed above ground LP tanks that

will have an eastern side yard setback of 18'-0" whereas 30' are required and a proposed generator that will have an eastern side yard setback of 18'-0" whereas 30' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code.

The property is located on the north side of 65 Knapp Road, designated on the Tax Map as Sheet 34D, Block 11826, Lot 36, in an R-1A, One-Acre Residential District consisting of approximately 1.410 acres.

There were no objections to the notice of public hearing as published.

Ms. Lindau was present.

Ms. Lindau reviewed the easement and property line on her property. Neighbor Joe Tansey sent an email to the Board, stating he had no objection to the proposed location for the generator. No other options are available. Applicant plans to plant around tanks and can plant around generator.

The Chairman asked for comments from the Board and public. No comments were offered.

Mrs. Mandelker made a motion to approve the application, seconded by Mr. Rendo; To Approve: Chairman Price, Mrs. Mandelker, Mr. Rendo, and Mrs. Infield. To Deny: None. Abstain: None. Mr. Casper did not respond.

CAL. NO. 05-21-BZ

Application of Judith Hausman [Hausman, Judith, owner of record], 58 Cove Road, South Salem, NY for a for variances in the matter of a proposed generator and added propane tanks that will have a front yard setback of 15' whereas 25' is required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code.

The property is located on the south side of (#58) Cove Road, designated on the Tax Map as Sheet 33A, Block 11156, Lot 14, in an R-1/4A, One-Quarter Acre Residential District consisting of approximately 0.407 acres.

There were no objections to the notice of public hearing as published.

Ms. Hausman was present and explained the application for a generator and two additional propane tanks to where there is already one. Electrician Jim Gillies was also present and shared photos of the property. Two additional tanks will be contained in a stockade fence. Wetlands were taken into consideration. No other appropriate locations were available.

Chairman Price asked for comments from the Board or neighbors. Ms. Hausman stated her neighbors gave her verbal approval. Mr. Rendo noted that on his site walk he found no other appropriate location. Mrs. Mandelker stated that as long as the generator is behind

the fence it is fine; however, in the resolution she'd like to add that should there be a new owner, that the generator must be shielded from the street

Chairman Price moved to approve the application, seconded by Mrs. Mandelker; To Approve: Chairman Price, Mrs. Mandelker, Mr. Rendo, Mr. Infield and Mr. Casper. To Deny: None. Abstain: None

III. CORRESPONDENCE & GENERAL BUSINESS

The Board reached consensus to adjourn the meeting at 9:57 P.M.

Respectfully submitted,



Kara Sullivan
Secretary, Zoning Board of Appeals