

DRAFT

Minutes of Meeting July 10, 2023

Chairman Schaffer called the meeting to order at 7:00pm

Roll Call:

Present: Walter Garrow
Art Gerbec
Matt Klettke
Arthur Kroening
Michael Schaffer (Chairman)

Planned Absence: Matthew Kroening – Permitted Leave of Absence

General Business:

Motion to approve Board minutes of June 12, 2023 was made by W. Garrow, Seconded by A. Gerbec with 2 corrections:

FROM: under resident concerns, #3: ...Owners have safety concerns and think that the fence being *stalled* further back would help with visibility along Joann Court...

TO: ...Owners have safety concerns and think that the fence being *installed* further back would help with visibility along Joann Court...

FROM: under findings, #2: ...installing the fence inside the fifteen (15) foot easement and that there are other corners lots have fences...

TO: ... installing the fence inside the fifteen (15) foot easement and that there are other corners lots *that* have fences...

Motion unanimously carried.

ZBA member M. Klettke recused himself from the next agenda item.

Hearings Held:

7:05pm: Kalid & Nicole Abusalah, request an area variance for Lot# 162.14-2-22, located at 2606 David Drive, to construct a six (6) foot fence which exceeds the maximum height for front yards. This property is a corner lot, at David Drive and Joann Court. A front yard, residential use fence can only be, per code, a maximum of four (4) feet.

Chairman Schaffer opened the Public Hearing at 7:05pm. The applicant's explained their request for a variance. The proposal is to install the fence along Joann Court, thirty (30) feet from the centerline of Joann Court, which will be on the owner's property.

Board Findings

1. The applicant's acquired the property in September 2020.
2. The applicant's will install a vinyl fence, if approved.
3. The applicant's are requesting this variance to install a fence for privacy and protection for their pool.
4. The applicant's have three children, ages 8, 13 and 17.
5. The fence, if approved, will be installed starting just south of the current pine trees along Joann Court and within the Town and Utility Easement.

Resident Concerns

David & Joan Smith – 2636 David Drive – With the new location of the installation of the proposed fence, these residents feel more comfortable with the proposal.

Motion to close the Public Hearing was made by A. Kroening, Seconded by W. Garrow.

- W. Garrow
- A. Gerbec
- A. Kroening

- M. Schaffer
- Motion carried.

Findings per NYS Law Guidelines

1. Whether benefit can be achieved by other means feasible to the applicant: It should be noted that the applicant's have three (3) children, ages 17, 13, and 8. The applicant's are interested in this fence for privacy. There are however, other feasible means to accomplish privacy: they could add arborvitae for screening; the applicant's can add privacy slats to the chain link fence that exists around the pool. It should be noted that the applicant's did take down trees that were twenty (20) to thirty (30) feet in height that were in the Right-of-Way.
2. Undesirable change in the neighborhood character or detriment to nearby properties: It should be noted that two neighbors who attended the meeting and spoke and did not have an issue with the new location of the proposed fence and that there are no sightline issues. It should also be noted that there are other six (6) foot fences in the vicinity.
3. Whether request is substantial: Numerically, the request is substantial, the request is from four (4) feet to six (6) feet. Visually, the request is not as noticeable with the fence being on the owner's property.
4. Whether request will have adverse physical or environmental effects: No.
5. Whether alleged difficulty is self-created: This is a self-created hardship.

Motion made by W. Garrow, Seconded by A. Kroening to recognize this request for variance as a Type 2 Action under SEQR.

- W. Garrow – Yes
- A. Gerbec – Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

Motion made by M. Schaffer, Seconded A. Kroening, to grant the variance as requested. The fence is to be installed on the owner's property as designated by a land surveyor.

- W. Garrow - Yes
- A. Gerbec – Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

ZBA member M. Klettke returned to the table as a voting member.

7:35pm: Chelsea Ramirez, requests an area variance for Lot# 177.13-1-16, located at 7475 Shawnee Road, to construct an addition to the existing building. The proposal encroaches on the front yard setback on state/county roads. The owner proposes the addition to be 1.72 feet from the Shawnee Road Right-of-Way. Code states that buildings must be sixty-five (65) feet setback from the right-of-way. Chairman Schaffer opened the Public Hearing at 7:36pm. Ms. Ramirez explained her request for a variance.

Board Findings

1. The existing building is already in the Right-of-Way (approximately two [2] feet).
2. The proposed addition is less than what is currently exists.
3. The applicant acquired the property in November 2020.
4. The existing building was built in 1910.
5. A letter of support was emailed to the ZBA Secretary (and is now on file) from a neighbor, Robin Hurley, 6987 Shawnee Road.

Motion to close the Public Hearing was made by W. Garrow, Seconded by A. Kroening.

- W. Garrow - Yes
- A. Gerbec – Yes
- M. Klettke - Yes
- A. Kroening – Yes

- M. Schaffer – Yes

Motion carried.

Findings per NYS Law Guidelines

1. Whether benefit can be achieved by other means feasible to the applicant: It should be noted that the current building has existed since 1910. The owner purchased the property in November 2020. The proposed setback is 1.72 feet. The owner is limited in making changes due to the size of the property.
2. Undesirable change in the neighborhood character or detriment to nearby properties: It should be noted that the Board received an email in support of the business. No other correspondence was conveyed. Businesses exist across the street and next door to the Salon.
3. Whether request is substantial: Per code, this request is substantial. However, it is inconsequential in the current configuration. The road pavement is offset far to the west. The proposal is on the east side, separated by an existing grassy area. The applicant is improving the property.
4. Whether request will have adverse physical or environmental effects: the current building has been in existence since 1910. It should be noted that New York State changed Shawnee Road when the road was improved, creating some of this issue. The road pavement is offset far to the west. The proposal is on the east side, separated by an existing grassy area.
5. Whether alleged difficulty is self-created: This is a self-created hardship.

Motion made by W. Garrow, Seconded by M. Schaffer to recognize this request for variance as a Type 2 Action under SEQR.

- W. Garrow – Yes
- A. Gerbec – Yes
- M. Klettke - Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

Motion made by W. Garrow, Seconded A. Gerbec, to grant the variance as requested.

- W. Garrow - Yes
- A. Gerbec – Yes
- M. Klettke - Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

8:05pm: Mark Anastasia, Jr, requests an area variance for Lot# 163.04-7-80, located at 3401 Ashwood Drive, to construct an in ground pool that encroaches on the setback from the main dwelling. Town code requires a minimum of ten (10) feet separation from the main dwelling to an accessory building, in this case a pool. The owner is requesting the in ground pool be installed eight (8) feet from the dwelling.

Board Findings

1. Applicant acquired the property in September 2019.
2. Applicant has the smallest usable land area that abuts the lake.
3. The fence installed on the property is where an easement begins for the lake.
4. Applicant requires a variance due to size of the backyard.
5. The attached survey has a house number of 39 not 3401.

Motion to close the Public Hearing was made by A. Kroening, Seconded by A. Gerbec.

- W. Garrow - Yes
- A. Gerbec – Yes
- M. Klettke - Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

Findings per NYS Law Guidelines

1. Whether benefit can be achieved by other means feasible to the applicant: Applicant has the smallest usable land area that abuts the lake and this parcel owns into the lake. The degree of slope to the lake does not permit placing the pool further from the house.
2. Undesirable change in the neighborhood character or detriment to nearby properties: the applicant verbally spoke to neighbors about his proposal. The neighbors are willing to sign a letter in support of the project. No one appeared at the Hearing for or against the project. It should be noted that the adjacent neighbor has a pool but did not need a variance, due to property configuration.
3. Whether request is substantial: the request is not substantial, going from the required ten (10) feet to eight (8) feet.
4. Whether request will have adverse physical or environmental effects: There are numerous pools in the neighborhood. This request will also be determined to be a Type 2 action under SEQR.
5. Whether alleged difficulty is self-created: This is a self-created hardship.

Motion made by W. Garrow, Seconded by A. Gerbec to recognize this request for variance as a Type 2 Action under SEQR.

- W. Garrow – Yes
- A. Gerbec – Yes
- M. Klettke - Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried.

Motion made by W. Garrow, Seconded A. Gerbec, to grant the variance as requested.

- W. Garrow - Yes
- A. Gerbec – Yes
- M. Klettke - Yes
- A. Kroening – Yes
- M. Schaffer – Yes

Motion carried with one stipulation that no structures can be installed in the two (2) foot area (i.e. pool house).

Next meeting: July 24, 2023 @ 7:00pm, Town Hall, Upper Level

Public Hearings: 7:05pm – 6574 Errick Rd – Anthony & Julie Kunecki --- TBD

A motion to adjourn: Motion made by A. Kroening, Seconded by W. Garrow. Ayes: unanimous. Motion carried.

Respectfully Submitted,
Melissa Germann, Secretary

ZBA Distribution Listing

Town Supervisor
Building Dept

Town Board
Planning Board

ZBA members
Town Clerk