

**TOWN OF ARIETTA
ZONING BOARD OF APPEALS
Old Piseco Road
Piseco, NY 12139**

Public Meeting Dated:
Monday September 14, 2020 - 6:00 P.M.
Piseco Community Hall

Approved Minutes - Town of Arietta Zoning Board of Appeals was called to order by Chairman Frank Sczerzenie at 6:02 PM.

Members present: Barry Baker Kevin Dorr Bill Hotaling Dave Roberts Frank Sczerzenie
Secretary Marie Buanno Zoning Officer Mel LaScola

Public present: Jonathan Glover (Pro Care), Alex Rabinowicz, Tony Colby, Vickie Orr

Chairman Frank Sczerzenie brought the Meeting/hearing to order at 6:02 PM.

Case #2002 – Joshua and Richmond Rabinowitz of 52 Arrowhead Road wants to put a 314 square foot addition and a 145 square foot deck on their house which is not in compliance with Code #11.010 A. Any lawful non-conforming use, structure, or property existing on the effective date of this ordinance or any amendments thereto may be continued, subject to the following requirements: (1) Enlargement, alterations and /or repairs of buildings and structures. (c) Buildings and structures which do not comply with the minimum setbacks specified in these regulations shall not be permitted to expand their non-conformity in any direction, including height, without the issuance of a variance by the Zoning Board of Appeals. Code #4.010 states the setback from a lot line for SR1, SR is 15ft. Code # 5.030 states a minimum setback of one hundred (100) feet from the shoreline is required for all structures in excess of one hundred (100) square feet except docks. Zoning Officer Mel LaScola said initially he had thought the lot was non-conforming but it is not so the only variance needed will be for the shoreline setback. If you were to measure from the mean high water mark they are within 6 feet of complying and that is what he feels they need a variance for. Mel said he was considering it a conforming lot because of the lot size. They have .6 acres. Barry Baker said non-conforming has to do with setbacks, not lot size, so they should still need a variance for a non-conforming lot. Jonathan Glover from Pro Care said he revised the variance plans for the Rabinowitz project in accordance with what Mel had told him about not needing two variances. Bill Hotaling asked if it would be a lateral expansion and Mr. Glover said yes. Frank commented that being the project will take up more than 50% of the lot width, it will need the second variance. Kevin asked what the lot width was at the back of the house but it was unclear on the map available (which was not a survey map). Barry said looking at the plans it appears the sideline setbacks would be well over 25 ft. Bill Hotaling commented that the completed house cannot be more than 50% of the lot size. Since the lot is wider in the front than the back, the plans are within several feet of complying with modifications made. Even though they were not noted on the map, Mel verified the septic system was new last year. Some discussion ensued about the possibility of cutting down the size of the deck in order to meet the setbacks even if it were at an angle. It is a matter of 2 -3 feet.

There were no other questions from the ZBA members. No comments from the public present.

The ZBA went on to vote on the variance criteria.

(1) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. All 5 voted Yes.

(2) Whether an undesirable change in the character of the neighborhood will be produced or a detriment to nearby properties will be created by the granting of the area variance. All 5 voted No.

(3) Whether the requested variance is substantial. 4 voted No, 1 voted Yes.

(4) Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood. All 5 voted No.

(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the ZBA, but shall not necessarily preclude the granting of the area variance. All 5 voted Yes.

Tony Colby who has stake in adjoining property offered that he can verify where the survey pins were. They disappeared with septic work done. On the driveway side, a new shoot of the survey lines may prove that the Rabinowitz property may, in fact, have the allotted 2- 3 foot difference needed.

The vote whether to approve the variance: Kevin Door motioned that the variance be approved with the stipulation that the deck be cut down in size in order to meet the setbacks required if a new survey shoot doesn't verify the footage needed. Second by Barry Baker. A third member agreed. 1 voted to approve as is being it was only a couple of feet difference. 1 member did not approve of the variance. (3 Yes with Stipulation, 1 Yes as is, 1 No).

Neighbors within 500 ft. were notified. It is unknown to the Secretary if any were returned undeliverable. There were no other comments from the ZBA members.

Nothing can be done until the APA responds and they have 30 days to do so.

Case closed.

Chairman Sczerzenie asked for a motion to accept the minutes of the January 13, 2020 meeting. Bill Hotaling made a motion to accept as written. Seconded by Barry Baker. All were in favor (4 – 0). Frank Sczerzenie did not vote as he was not present at the January meeting.

A motion to adjourn was made by Bill Hotaling and Seconded by Barry Baker. All were in favor (5 -0).

Attachments: Project permit submitted (2 pages)
Project write-up submitted by Mr. Glover
Project announcement by Chairman

Respectfully Submitted
Marie C. Buanno