

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

Public Meeting Dated:
Monday April 4, 2022 - 6:00 P.M.
Piseco Community Hall

Minutes - Town of Arietta Zoning Board of Appeals was called to order by Chairman Barry Baker at 6:05 PM.

Members present: Barry Baker Dan Fish Bill Hotaling Jaime Parslow

Members absent: Kevin Dorr

Zoning Officer Mel LaScola Secretary Marie Buanno

Public present: Contractor Michael Knapp

Chairman Baker asked for roll call. Having acknowledged a quorum, he asked for a motion to accept the minutes of the February 14, 2022 meeting. Jaime Parslow made a motion to accept them as written. Seconded by Bill Hotaling. All were in favor (4 – 0).

Chairman Baker noted that the Belleville variance (Case #2106) that the ZBA approved in February has been reversed by the APA. Even though the ZBA had thoroughly discussed all aspects of the project before voting on the five criteria points, the minutes and subsequent summary sent to the APA did not sufficiently reflect everything discussed. The Chairman has been in touch with the APA and has been advised that a) additional information that was discussed and presented at the two prior hearings be submitted and b) the Bellevilles can resubmit a request for a hearing with modifications. ZBA member Dan Fish estimated that when considering the five criteria for granting a variance, all members knew what had been discussed but the APA did not have copy of those discussions. Secretary Marie Buanno stated she was of the understanding that the only thing that was required to be included in the minutes was anything that was voted on. The Chairman agreed and felt he needed to include more in his summary to the APA of each variance criteria voted on.

Case #2201 – Contractor Michael Knapp attended representing Michael Hughes concerning his property at 937 Old Piseco Road. His application for a variance to build a 4 foot x 4 foot platform with stairs to a landing then to the ground to serve as a fire escape from the second floor was denied by Zoning Officer Mel LaScola. The proposed project will be 25 feet from the high water mark. It will also be 8 feet from the property line. The project plans are attached to these minutes which shows the location of the septic at the furthest part of the property from the lake. The permit was denied due to Code #11.010 Nonconforming Uses, Structures, & Property A. (1) (a) that states: “Buildings and structures which contain a non-conforming use shall not be enlarged or extended unless the use therein is changed to a conforming use. A structure containing a non-conforming use may be repaired, maintained, or converted, provided that no such activity shall create new non-conformity or increase the degree of existing non-conformity...” (3) states ...Expansion of an existing non-conforming structure not meeting the shoreline setback requirements of 100 feet must also comply with the following standards: (c) Setback will be no less than 25 feet from the sideline and finished structure will not exceed 50% of lot width” without the issuance of a variance by the Zoning Board of Appeals. Chairman Baker asked if there was another way to do this project without increasing the level of non-conformity? Mr. Knapp said short of putting a rope ladder up, he could not see how it could be done. Mr. Hughes has a disability which would not allow for him to climb down a fire ladder. The platform would be a 4 foot square and the stairway leading down would be 3 feet wide which would be the entire width extending past the house. Mel LaScola said he had no issues with the plans. ZBA members agreed this is a matter of safety over anything else and did not feel there was any other location for this project.

There were no other questions from the ZBA members.

The ZBA went on to vote on the variance criteria.

(1) 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 4 voted No.

(2) 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 4 voted No.

(3) Whether the requested variance is substantial. All 4 voted Yes.

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

Bill Hotaling made a motion to approve the variance, 2nd by Jaime Parslow. All 4 voted Yes.

Neighbors within 800 ft. were notified. There were no responses for or against the project.

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

Case closed.

Chairman Baker wanted to have more discussion about the reversal of the Belleville variance by the APA. Chairman Baker referred to the documents he received which he sent to all members for review. The APA indicated the records received lacked discussion of options that would allow the applicants to achieve their goal while minimizing encroachment upon the shoreline setback. They also felt that while the ZBA recognized the variance as “substantial”, they did not discuss alternatives. The record did not address constraints that might exist that would prohibit the addition from being placed further from the shoreline or to the rear of the existing structure, such as slope, bedrock, or proximity to septic. The record did not illustrate the necessity for the more than doubling of the square footage nor did it address the need for a second story balcony/upper deck, new lakeside dormer on the existing dwelling or the need to increase the decking considerably. ZBA discussion was not provided to support the determination that the plans are the minimum necessary to achieve the applicants’ goals. They went on to say the 100 ft. Town shoreline setback is not noted on the plans and the plans lack an overall accounting of existing and proposed square footage within the shoreline setback. Any discussion concerning increased storm water runoff or erosion control measures was lacking. No conditions were noted as being suggested for the visual impact of the expanded structure such a vegetative screening and/or the removal of any trees to accommodate the addition.

It was agreed that these items were discussed at length, and that the actual discussions were not submitted. It is apparent that going forward, future discussions will have to be reported including more detail in how each criteria was voted on. The applicants will need to focus more on how the variance project is due to a hardship. Bill Hotaling added it might not just be a human physical disability but possibly a property limitation such as a rock ledge. Jaime Parslow added that it appears the APA wants to know that it is not just a want or desire to expand.

Chairman Baker will draft a letter to the APA with the detail they are seeking as the ZBA was in agreement that the items were discussed. He is asking for comments before he sends it to them. We will have to see what kind of response or direction they provide so we can be in contact with the Bellevilles to move forward. The Chairman will ask the Bellevilles for the existing and proposed heights of the building as it was not noted that we can see.

Chairman Baker noted the area use and size variance hearing concerning the Town of Arietta sand and salt shed on Route 10 is coming up at our May 9th meeting. Mel LaScola noted it is for a 1st Principle building. Currently there is on an Accessory structure there.

A motion to adjourn was made by Bill Hotaling. Seconded by Dan Fish. All were in favor (4 -0).

3 Attachments to these minutes concerning the Hughes project: 4 page application and denial for this project, 5 page plans for this project and 4 page deed indenture and map of project location.

1 – 6 page attachment to these minutes from the APA to Chairman Baker concerning the reversal of the ZBA decision on the Jon & Kathleen Belleville project.

Respectfully Submitted
Marie C. Buanno

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