

**TOWN OF PHILIPSTOWN ZONING BOARD OF APPEALS**  
**Phillipstown Town Hall, 238 Main Street, Cold Spring, NY 10516**  
**May 9<sup>th</sup>, 2022 Minutes**

**Present**

Robert Dee (Chair)  
Vinny Cestone  
Janice Hogan  
Lenny Lim  
Adam Rodd (Attorney Drake Loeb PLLC)

**Absent**

Granite Frisenda

Please note that these minutes were abstracted in summary from the meeting and a taped recording. Chair Dee opened the meeting at 7:30 pm and led the pledge of allegiance.

**Approval of Minutes**

Chair Dee: The first order of businesses is to approve the minutes from the April meeting.

Mr. Cestone: I'll make a motion to accept them as submitted.

Chair Dee: Second, all in favor?

Chair Dee: Aye  
Vinny Cestone: Aye  
Janice Hogan: Aye  
Lenny Lim: Aye

Chair Dee: All right, minutes are approved.

**Public Hearing**

**Adam & Diana Hird, 30 Walmer Lane, Cold Spring, NY 10516 TM# 16.20-1-25.1first**

Chair Dee: First order of business is a public hearing for an application for a building permit for 30 Walmer Lane, Cold Spring. Applicant is seeking a variance to build a 1560 square feet accessory structure with the garage, office and shop space. Is someone here to speak to that?

Adam Hird: I currently live on Horton Road and I'm moving to 30 Walmer. The existing home has gone through a few expansions over the years and part of our renovation is to reorganize it. There's an existing three-car garage that's about seven feet higher than the first floor of the house and part of our proposed work is we're changing the way the driveway comes in and bringing the garage down about seven feet and entering from the other side instead of the side facing the road.

Lenny Lim: Why are you doing that?

Mr. Hird: Well, it's long story. The driveway used to be this way and there were drainage issues that the previous owner was trying to correct so he moved the entrance down to here but it kind of created other drainage problems this way where now water was coming this way between the two and actually the soil was getting higher than the floor of the house so the weep holes in the brick were now underground and so was the wood ledger and all this. So, we're putting it back the way it was they've since improved the drainage here and we're going to add sort of a pool to collect the runoff and then it gets collected. So, we're bringing the driveway the driveway originally came like this and then at the garage here we're coming further this way and coming from the other side.

Mr. Lim: Basically, you're improving the drainage problem you have on the property.

Mr. Hird: Yes, so there's a three-car garage and we will have a retaining wall here the garage a new garage will come down and you enter from this side and while we're doing that, we expanded the footprint of the building to include an office and a wood shop for hobby work. The zoning code limits the footprint of a garage to a thousand square feet. The portion of the building for the three vehicles is still below a thousand square feet. The issue is that if you include the shop and the office in that we go over.

Chair Dee: Right and it's all in one building, it's all a contained building. What I'm trying to say is even though you only have a three-car garage it's one building. You put your shop and your office in the same building, it's one structure.

Mr. Hird: Right, but if it was attached to the house, you wouldn't include the house as part of the garage.

Chair Dee: Well, the Building Inspector turned you down, that's the reason you're here.

Mr. Hird: We could break it off these things and have a separate building. We are way under allowed coverage and there's no limit on how many outbuildings we can have. We could also put the uses on top of the garage, there's no limit on that but now it's just a bigger structure close to the street. We really feel this is a much better solution to have it all in one building, all on grade, it's less visible from the road. It's more efficient construction wise, it's more efficient for heating and cooling, it's less site work so less impact environmentally.

Mr. Lim: How close are your nearest neighbors?

Mr. Hird: This is the garage. The closest neighbor is right here and there's a house behind them here so there are two lots here people on this side are I mean this lot is enormous and they're all the way over here.

Chair Dee: Well, the neighbors have been notified by mail so and they had ability to go to the town and check the plans and to be here tonight to speak on it.

Mr. Hird: The garage isn't moving any closer to our neighbors. The renovation of the existing building doesn't change the footprint.

Chair Dee: So, you're putting an electric car charging outlet in?

Mr. Hird: I know I'm going to need it sooner or later.

Chair Dee: Does anybody have any questions on this or any other questions? All right, what we're going to do is go over the five factors. Does somebody else want to speak sure just one thing okay so just come to the microphone and tell us who you are please.

Beth Sigler: Sigler Henderson Studio, I'm the architect for Adam and Diana Hird. One thing I did want to mention is that the view of it from both Perks Boulevard and from Walmer Lane the grade slopes down so there's very little of the structure that is visible from the road or from the neighbor's properties.

Chair Dee: What the five factors is one of the things we use to decide on the variance whether we can give you a variance or not. What variance is like somebody comes here that means they've been turned down by the Building Inspector. You didn't come here because you just want to spend time with us. You came here because you're turned down so we have to decide whether we could give you the variance or not that's what it's about. So, the five factors I just want to go over there with you.

***Number 1; Will an undesirable change be produced in the character of the neighborhood or will a detriment to nearby properties be created by granting this area of variance?***

Chair Dee: You answered that ***the proposed structure will not produce an undesirable change to the neighborhood, the proposed structure is far from neighboring properties the height is an average of 18 feet.*** What do you mean average of 18 feet?

Ms. Sigler: The grade varies so there may be a foot or two of difference from one side of the garage to the other so plus or minus maybe a foot at most.

Chair Dee: Continuation of factor 1. ***Those properties slope away from Walmer Lane further reducing their visibility restructure from Perks Boulevard or Walmer Lane. The structure is in scale with the surrounding properties and reflects the more rural character of Walmer Lane.***

***Number 2; Can a benefit sort be achieved by some method feasible to pursue other than area variance? Yes, the variance can be achieved by other methods. The owner desire is to keep the new construction to a minimum and have combined uses in a single accessory structure replacing the two existing separate and similar garage structures. The proposed garage use is limited to 852 square feet.***

Chair Dee: What we decided you know even though the garage is going to be 852 the building is over a thousand feet so that's the problem. ***Yes, the benefit could be achieved by other methods.*** What are the methods, architect?

Ms. Sigler: You could have two buildings. It's very difficult to add a garage to the house because of the way it's configured but is it possible yes. It would be much more expensive and require a lot of retaining walls. So, while it could be broken into two buildings, we're really looking at trying to limit construction, have a smaller shop that can expand into the garage when necessary and keep the office on grade so that part of the renovation of the house makes the first floor have a bedroom and bathroom so the first floor is accessible say if they want to live there for many years. he's still quite young. But again, the office is on grade so that you can use it, it's not above the garage with a stair so that was also a consideration we were looking at.

Chair Dee: ***Number 3; is the requested areas variance substantial? The requested variance of 562 square feet is not substantial. The allowable impervious surface coverage is 6.4 including proposed accessory structure. The built area is well under 10% allowance for this 6.118-acre property. Will the***

***proposed variance have an adverse effect or impact on a physical or environmental conditions in a neighborhood or district? The proposed variance will not have an adverse effect or impact on the physical environmental conditions in a neighborhood or district. The owner will use the office for his business and the shop for personal use.***

Chair Dee: The business, is going to be a commercial business? I don't know whether you're in a commercial neighborhood.

Mr. Hird: I have an office. So, it's just me and a computer. Right now, I'm above Phillipstown Square but we don't receive packages or anything. I drive out for work but eventually I want to leave my spare office and just work out of the garage.

Chair Dee: Are you having customers come in the garage?

Mr. Hird: No, we don't have customers

Chair Dee: You don't have customers, what kind of business is it?

Mr. Hird: I do real estate investment and development.

Chair Dee: Oh, okay so there's no customers.

Mr. Hird: No, it's all commercial we go to you.

***Chair Dee: Number 4; Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? No, the owner uses office.***

***Number 5; Is the alleged difficulty self-created? (This consideration should be relevant to the decision of the board of appeals but shall not necessarily preclude the granting the area variance.) The alleged difficulty is self-created.***

Chair Dee: Well, that's the first person who said it was. Usually, they say it's not self-created but you say it is self-created because you want to do it, so at least you're honest with that I'll give you that.

***Answer Number 5; We would like to board to consider benefits of limiting the new construction to a single building that can accommodate multiple needs and future accessibility, use less material when costs are high and reduce energy usage by reducing the exterior envelope.***

Chair Dee: Is there anybody in here neighbors or anybody who would like to speak to this?

Janice Hogan: I actually am a neighbor; I live on Perks. It's large property there's a lot of space.

Chair Dee: Okay, you have no problem with it?

Ms. Hogan: No.

Mr. Cestone: I'd like to ask a question. You're putting a driveway in and I'm looking at the topography of the land. Are you going to put a retaining wall in for the new driveway?

Mr. Hird: No, there will be a rock wall here for the garage because we're lowering the garage but the driveway is following the terrain.

Mr. Cestone: It's following the pitch of the land? Because you know I see there's a quite a change in altitude here and I was just concerned.

Mr. Hird: So, the driveway is coming down all this way. So, we've got a lot of distance. So, you're going to drive up Walmer Lane and then come down this way.

Mr. Cestone: Okay, so there won't be a wall next to the driveway is what you're saying?

Mr. Hird: No.

Mr. Cestone: Okay.

Mr. Lim: One more question, what is this tent with the backhoe is that going to be permanently there?

Mr. Hird: The tent? Yes, there is a tent.

Mr. Lim: It says, tent on gravel for backhoe to remain.

Mr. Hird: For right now yes, we're keeping the tent. I bought the house that came with the tractor, tractors in the tent once we're done with everything and I've been using it to pull garbage out of the woods I'll probably sell off the tractor get rid of the tent.

Mr. Lim: But the tent is in the setback.

Ms. Sigler: The tent is not a permanent structure.

Mr. Lim: That's what I'm asking, is it going to be permanent?

Ms. Sigler: No, it will come down. It's remaining throughout construction and then it will be removed. It's not permanent, it's on a gravel bed no foundation.

Chair Dee: Do you want that in the resolution?

Mr. Lim: Yeah.

Chair Dee: So, what he said he's going to put in the resolution that will that will come down after construction is that okay with you?

Mr. Hird: I was hoping to keep it for like a year or two. I said eventually I was going to once I get rid of the tractor.

Mr. Lim: Well, I'm confused are you taking it down?

Mr. Hird: Right now, our plan is not to take it down, probably in a year or two I was going to take it down.

Chair Dee: Somebody's got to decide what the answer is. She said no, you say yes.

Mr. Hird: I'd like to leave it unless it's a condition.

Chair Dee: He'd like to leave the tent, now did that create an issue?

Mr. Lim: Well, it's in a setback. but it's not permanent, eventually he's taking it down so it's not going to be a permanent structure.

Mr. Dee: No, he's not. He just said he's going to keep it.

MS Hogan: He's not keeping it permanently. The house came with a backhoe and a tent and he kind of likes that backhoe right now but he doesn't like the backhoe for more than five years, right?

Mr. Hird: Right.

Mr. Lim: Why can't you just move to tent back a few feet?

Chair Dee: Why can't you move the tent to get it out of the setback?

Mr. Hird: So, you're asking me about the retaining wall? The grade naturally drops here so to move it back I could relocate it out into this field or something but then this guy is going to see it because his house is here and this is all open. Here it's sort of in the trees. I can't just move it a little bit.

Mr. Lim: (inaudible)

Mr. Hird: This guy? I mean he probably sees the pool and everything. If I'm standing here, I'm looking at his house. this is all this is all from here to there is all cleared.

Chair Dee: What Mr. Lim is saying is the tent is in the setback, that's what he's trying to say, which is a violation. So that's what we're looking at so he's trying to say can you move it back?

Ms. Hogan: Isn't there actually a concrete pad there as well?

Mr. Hird: No, it's literally sitting on little concrete pavers and it's just sitting there I mean I could probably take it apart and move it.

Mr. Lim: Can you move it out of the setback?

Mr. Hird: I could. I think it's better where it is but I could move it. I could put it here but there's a house there if I put it here this guy sees it.

Mr. Lim: But you see it now.

Mr. Hird: I mean if you're driving by, you'll see it but it's gray and they're all trees here.

Mr. Lim: Yeah, but I'm asking can your neighbors see it, not somebody driving by on the road?

Mr. Hird: If they're looking out of their house, they cannot see it. If they're on the road they could see it.

Mr. Lim: Okay, neighbors can't see it but you can see it from the road, thank you.

Chair Dee: Okay, any other questions? I just want to make a motion at the public hearing be closed.

Amy McIlwaine: I just happened to be here not for you, but I'm a neighbor, I'm at 63 Walmer Lane. So, I drive past the house that Adam is moving into every day all the time. I have absolutely no problem with the tractor thing I don't it's not obtrusive at all and actually listening to your plans it sounds like you're really taking into consideration the way the neighbors are going to experience whatever is going on at your house. So, I don't know if that's helpful at all but the tractor thing is not a problem.

Chair Dee: That's what these meetings are about. These meetings are for the neighbors to tell us you know whether it's good or bad you know we don't know, you're the one who lives there. I'd like to make a motion that the public hearing be closed.

Mr. Cestone: Second

Chair Dee: All in favor

Chair Dee: Aye

Vinny Cestone: Aye

Janice Hogan: Aye

Lenny Lim: Aye

Chair Dee: Okay, I'll make a motion now to take a roll call vote on granting the variance.

Mr. Cestone: I approve

Mr. Lim: I'll approve

Ms. Hogan: I approve

Chair Dee: I approve. Okay you're all set.

Chair Dee: What we have now is a form. It used to be the resolution we'd have to wait for the attorney to print out the resolution and by time go before it back and forth it could take another month. We have a new form where I can sign and give you a copy and you can take it tomorrow and get your building permit.

**William Denehy, 32 Hudson Way, Cold Spring, NY 10516 TM# 38.-3-87.22**

Chair Dee: He's not here. This is about a freestanding solar system so we'll put it over to next month which is to be June 13<sup>th</sup> and you can tell them that it's going to be the same thing. It's going to be another couple of months because we're not going to approve it tonight so they'll be starting over again next month.

**Stephen Sprulell, 16 Black Diamond Hill Rd., Garrison, NY 10524 TM#60.17-1-20**

Chair Dee: The applicant is seeking a special permit to construct a 987 square foot accessory structure with an apartment. Is this going to be an accessory apartment, is it going to be rented?

Steven Spruiell: I'm the owner of 16 Black Diamond Hill Rd, Garrison, New York. We bought this property back in 2020 during the pandemic for it to be a permanent residence for my parents who are moving from Texas to be closer to their grandchildren. We live in New York City my wife and I. So, they are the residents of the property now but my wife and I and our three kids spend a considerable amount of time up there. We spend at least over 100 days at the property. It's a three-bedroom house and so for a considerable part of the year we've got seven people staying in a three-bedroom house not to mention the fact that we'd like to start having holidays, our extended family, my in-laws, my aunt and uncle, my brother and sister-in-law up to visit to stay at the house. We need a bigger house, that's the more concise way to put it. So, the idea is this is a place where my wife and I can be more comfortably ensconced when we're up there. My three children stay on the bottom floor of the house they have the two bedrooms and the run of the place down there but then also when we have my in-laws or my brother and sister-in-law they can stay there too. So that's the idea behind this extension and Annie and I have been working on it for about a year and a half.

**Chair Dee:** The purpose of this meeting is just to see that we have everything that we need and then what we'll do is vote on it and then we'll set up a public hearing which would be next month, June 13<sup>th</sup> and then your neighbors are sent letters of what your project is and that gives them the opportunity to go to Town Hall look at the plans or something like that or come here the night of the meeting if they have any questions.

**Annie Mennes:** In the package that we submitted to you we have the architectural plans that are here we have the structural plans from Mike Carr, we have the Health Department approval from Badey and Watson their site plan and we have the site survey and the deed. Please let us know if we're missing anything.

**Chair Dee:** I looked it over I think I see everything here.

**Ms. Mennes:** The reason why we were flagged at the Building Department is that this is a private road as opposed to a public road so that is why we were sent to you.

**Adam Rodd:** It's a special permit so it's not an area variance you don't have to go through the five factors. They just have to satisfy the criteria for a special permit.

**Chair Dee:** Okay great, so you don't have to do that.

**Ms. Mennes:** The lot is 2.7 acres and the house is around 3,000 square feet.

**Chair Dee:** Okay, we're going to have a public hearing and everybody will have a chance to speak then, we just want to get a rough idea of what we're looking at here.

**Ms. Mennes:** It's a one-story accessory structure. One of the other uses is it's for the pool, there's an existing pool there. So, it's really used for Steven and his wife but then also for pool to just kind of create more usable space. It's a very flat area that we're putting it on so right now it's not being utilized so to give it some purpose.

**Adam Rodd:** One thing and I'll clarify this with the code enforcement officer, do you know what a zoning district?

**Ms. Mennes:** HR.

**Adam Rodd:** I'll reconfirm that because if you look on Putnam County Parcel Access the government website is R40. It doesn't make a difference really with respect to your application but just for accuracy and I'll check with the Building Department because they have the zoning map and they will tell you which district you're in but what's on Putnam Parcel access is different from what the Building Inspector wrote up.

**Ms. Mennes:** Okay, I would love clarification on that as well.

**Chair Dee:** Anybody questions from the board at this time? I make a motion that the application is complete.

**Mr. Cestone:** Second

**Chair Dee:** All in favor?



Chair Dee: Aye  
Vinny Cestone: Aye  
Janice Hogan: Aye  
Lenny Lim: Aye

Chair Dee: Okay, you're all set. We'll see you here Monday June 13<sup>th</sup>. Any old business? Any new business? I'd like to speak to our councilwoman on new business. At your next workshop, we don't have any regulations for 5g. I read an article that a lot of towns are starting to have problems with the 5g because there's no variance for it, there's no town ordinance for installation so these phone companies could just put it in and it's a lot of problems. Adam, do you know any towns out there that have passed any regulations?

Adam Rodd: 5g regulations, I'm sure there are but off the top of my top.

Chair Dee: Off the top of your head, you don't know? Okay. I'll do some research and see if I can find it. I'd like to prevent the problem because what happened to us with the wind turbine you know we had that and that turned into a circus. So, we're trying to avoid that. I'll do some research see if I can find some towns. I think Beacon may have done it I'm not sure maybe if you can ask Greg maybe he might know some towns that have done it so just so we can get ahead of the game.

Megan Cotter: (Inaudible)

Chair Dee: You guys are the ones who make up the zoning so you could put in whatever you want, I guess. Of course, you would work with the attorneys and like that.

Mr. Cestone: It's a good idea getting ahead of it.

Chair Dee: Yes, were we speaking about it just last week and I read an article it was it was from an attorney who the neighbors hired for the last cell tower we had over on the Vineyard. The guy's name was something like Campanelli. He wrote a big article in one of those town magazines and it said that towns are starting to have trouble with it because they don't have the ordinance.

Megan Cotter: (Inaudible)

Chair Dee: I make a motion to adjourn.

Mr. Lim: Second

Chair Dee: All in favor?

Chair Dee: Aye  
Vinny Cestone: Aye  
Janice Hogan: Aye  
Lenny Lim: Aye

The meeting was adjourned at 8:04 pm.

Date Approved: 6/13/22

Respectfully submitted by

A handwritten signature in black ink, appearing to read "Cheryl Rockett", with a long horizontal flourish extending to the right.

Cheryl Rockett  
Zoning Board Secretary