

TOWN OF PHILIPSTOWN ZONING BOARD OF APPEALS
Phillipstown Town Hall, 238 Main Street, Cold Spring, NY 10516
June 13th, 2022 Minutes

Present

Robert Dee (Chair)
Vinny Cestone
Granite Frisenda
Lenny Lim
Adam Rodd (Attorney Drake Loeb PLLC)

Absent

Janice Hogan

Please note that these minutes were abstracted in summary from the meeting and a taped recording. Chair Dee opened the meeting at 7:32 pm and led the pledge of allegiance.

Approval of Minutes

Chair Dee: The first order of businesses is to approve the minutes from the May 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
Granite Frisenda: Aye
Lenny Lim: Aye

Chair Dee: All right, minutes are approved.

Public Hearing

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

Chair Dee: Applicant is seeking a special permit to construct a 987 square foot accessory structure with apartment. It's under chapter 175 20 B and it requires a special permit.

Annie Mennes: I'm from Garrison Foundry Architecture. Our permit was flagged because our project is off of a private road so that was the reason, we're seeking a special permit or variance, I wasn't sure.

Chair Dee: This is for a special permit, accessory apartment.

Annie Mennes: Yeah, right so it's because it's on a private road otherwise my understanding is we comply, we are under a thousand square foot footprint and that's kind of the logistics but Stephen and his mom and dad are here and we spoke a little bit last time about why they're building this accessory structure. It has multiple uses. The main use is for Stephen and his parents bought this house about a

year ago. Stephen lives in the city and he has three children and the house has three bedrooms and it's fairly small and so when Stephen and his family come up, they need more space for family and friends and that kind of thing so it's an overflow space is one use for it and also for Stephen for his office, he works from home a lot up here as many people do and then also there's a pool structure there but there's no pool accessory building for it. So, the use is sort of a multi-use for the family and I think last time they asked the question of would it be intended for an Airbnb and that's absolutely never going to be the intent here or ever be used for that. It's really a particular need for this family because they have three kids and two grandparents and two parents and it's just not enough space for them and also the way that the house is situated with the pool it makes sense to create this extra space for them in this way.

Chair Dee: I'm just reading the denial letter from the from the Code Enforcement Officer who says he's requiring you to get a special permit for access.

Annie Mennes: Yes, I think it's because of the private road, that was my understanding.

Chair Dee: Yeah, it's a couple different things. It's an apartment, there's a bedroom in there there's a kitchen in there.

Annie Mennes: Which is mainly because of the pool.

Lenny Lim: They want to have a house.

Chair Dee: It's a kitchen and everything it's the second house.

Annie Mennes: Right, it's like a kitchenette but yes, I agree and the reason why they want to have an ability to cook there is because they want to have overflow from the pool come over hang out.

Chair Dee: I understand it completely but unfortunately it falls under that category.

Annie Mennes: Absolutely, we're not trying to hide anything.

Chair Dee: I know you're very upfront and it makes a lot easier for us when you're up front. You don't have to do the five factors for this because there's not a variance but it does come under the requirements and I'm looking at it and I'm seeing that you said you had a Board of Health approval?

Annie Mennes: We do.

Chair Dee: Do you have it with you?

Annie Mennes: I believe the town has it, if not we can get a copy. We've been working on the project for about two years so we have the set here plus Badey & Watson's drawings. We have the approved Board of Health approval for both the septic and for the additional bedroom.

Chair Dee: All right because that falls under 175-12-3, it says no permit shall be granted for an accessory apartment without the certification of the county report.

Annie Mennes: I'll make sure that you get a copy.

Adam Rodd: (inaudible) county health department approval stamp yeah part of the package.

Annie Mennes: Maybe it's on Badey & Watson's drawings but we also have a letter as well.

Chair Dee: Okay, no problem so make sure you have that otherwise you're not going to be able to get the building permit. Okay I'm trying to answer any other questions let's see what we have here. Is this a private road?

Annie Mennes: It's a private road.

Chair Dee: Is there a maintenance agreement on this road, I mean for who does the plowing and stuff and everything else like that?

Mr. Spruiell: We do have a maintenance agreement and Polhemus Construction does the plowing and the maintenance on the road when it's snowy they plow it.

Chair Dee: Okay, so there's a couple houses there that are in this agreement?

Mr. Spruiell: Yeah, I think we have like four neighbors and we supplied their contact information and details in the package we submitted in back in May.

Chair Dee: Okay, now looking at this section here on it, it says if an accessory apartment is created on a lot which is accessed by a private right-of-way or easement for which there is a written maintenance agreement no special permit shall be issued unless the maintenance agreement is amended to require the owner of the dwelling with the accessory apartment to pay an increased proportionate share of the cost of maintaining said right-of-way or easement to reflect the existence of an accessory department. I don't know how that comes in because you're not making a special road for this right?

Mr. Spruiell: We're not making a special road for it; it's built like literally like right across from the main house.

Chair Dee: Adam, would you read that?

Adam Rodd: What section are you reading from?

Chair Dee: Section 175-12, C5. I'm just trying to see, according to this it says that it has to be amended. I guess that's mean you would pay more into the thing. I just want to see how this works legally that's why I asked the attorney.

Mr. Spruiell: (inaudible) we pay into it

Chair Dee: Right, every quarter or something.

Mr. Spruiell: (inaudible)

Ms. Mennes: (inaudible) You can kind of see right here this is the end of the loop and then the house.

Chair Dee: I read it because these are requirements for the accessory apartment. So, it's like a 40,000 square feet you fit that and all like that and you got the Board of Health from it but I saw here it says that the agreement's supposed to be amended to require the owner to pay an increased proportionate share, so I'm just asking attorney.

Adam Rodd: That could be a condition of approval.

Ms. Mennes: Either way it's fine but I wonder just from a does it have any language as far as like if there's an extra road to plow that goes to some new structure but maybe it's moot, I mean if it doesn't or just extra.

Chair Dee: Yes, I guess what they're looking at figuring out, would there be another car or two or something like that I guess that's how it reads.

Mr. Spruiell: It would be the same number of people. It's just right now the bedroom situation in the main house is just inadequate if we're going to start spending summers at the property which we already do and so our car already stays in Garrison year-round like we gave up our parking space in the city our car and my parents car the only two cars that are there and the only two cars that would be there.

Mr. Lim: Are they going to grow up and drive?

Mr. Spruiell: No, I mean like eventually yes. The oldest one is 13. I'm hoping cars are not going to come into the picture for a long time, at least five years.

Chair Dee: I see but to cover us legally this is a requirement. So, the attorney says we could make that a contingent.

Mr. Rodd: You can make it a condition of approval.

Chair Dee: Okay, we can make it a condition of approval if it gets approved that you would have to speak with your board or your group who handles this and see if they want extra money if you're kicking extra money for that. If they say no or something is fine just you'd have to give us a letter one way or the other.

Mr. Spruiell: Got it, so a letter signed by our neighbors saying that we have (inaudible).

Chair Dee: Signed by who's ever in charge of the group whoever handles the maintenance. Let that person know just a letter that you're putting in an accessory apartment and there's not going to be any more traffic but it could be you understand what I'm trying to say but let's say you were to sell the next guy could end up renting it out.

Mr. Spruiell: Okay, so we can talk to our neighbors and or whoever handles the maintenance or handling arrangements for with Polhemus and provide them with an overview of our plans and explain to them what's going on.

Adam Rodd: If you look at that section 175-12 I'm not sure if there is or is not a written road maintenance agreement.

Mr. Spruiell: I don't either.

Mr. Rodd: But what I'm saying is the next section is if an accessory apartment is created on a lot which is accessed by a private right-of-way or easement for which there is no written maintenance agreement section C5 above which is what the Chairman referred to shall not apply. So, if there is no written road maintenance agreement the way the code is written there is nothing to amend and it doesn't apply. We could still make it a condition of approval if of course the board approves that satisfaction of this

requirement in the code would need to be satisfied before the building department could issue a building permit for the proposed dwelling unit.

Mr. Spruiell: Got it okay.

Chair Dee: So, if there's no written agreement then you don't need it.

Mr. Spruiell: So, the first order of business let me get to the bottom of that and figure out whether there is or not and if there is not then it seems like this is moot and if it is we'll talk about it with our neighbors and we'll get a letter.

Chair Dee: If it's approved can I give him the form for the building permit or not?

Mr. Rodd: No, because this is a conditional approval so it would need to wait satisfaction of the conditions. Normally you can give someone that slip if there are no conditions to be satisfied and they're done but here there are.

Chair Dee: okay, so what the attorney is saying is if we approved it tonight, I could give you a slip and you could go to the building department he would give you a building permit. I can't do that because you don't have this answered. But we don't have to wait another month. All you have to do is get an answer and give it to our secretary one way or the other okay and I will go up to the office and sign it for you. So that way it'll be there, we don't have to wait till next month's meeting doesn't have to be approved by a meeting right Adam?

Mr. Rodd: You can vote and if you deem fit to approve with conditions you can do that tonight right and I'll prepare a resolution, but what the conditions mean is that a building permit won't be issued until the condition is satisfied.

Chair Dee: Okay you understand?

Mr. Spruiell: Yes

Chair Dee: Any board members have questions on this at this time?

Lenny Lim: How come you don't have to attach to the main dwelling?

Mr. Spruiell: So, we talked about that and I think we decided for two reasons. The main reason being that the construction would be very disruptive to our enjoyment of the property as it was happening. So, we thought it would be less disruptive if it was happening away from the property such that they were not tearing down walls and having a lot of noise going on because we hoped to continue to enjoy the property over the summer when the construction was happening. We're a little delayed, we were thinking we would start back in May with the construction and that would be going on during the summer and that it would be better if that was happening sort of away from the main dwelling. The second reason was that it was just as you can see, we kind of have a vision for when we have people over to swim in the pool hang out on the deck.

Mr. Lim: Where would the pool be?

Mr. Spruiell: Basically, in front of those doors that open. So, like the idea is we can we can throw that open, we got the kitchen, we can be bringing out food, people can be going in going out. We got a tv on the wall behind those doors people are watching the game.

Chair Dee: Sounds great, we'll be there Sunday.

Mr. Spruiell: There you go everybody's invited.

Ms. Mennes: So, the existing house is here and the existing pool is here and they have this very beautiful flat piece of property which is unusual for Garrison. Architecturally we did look at trying to attach it here but this house has a lot of very unusual roof angles and funny conditions. It just looked very odd too, it wasn't harmonious with the house, it would have been disruptive it wasn't going to get them what they want because it's not in a nice spot of the house sort of in the back by the not pretty part of the house. So, for ease of construction, cost of construction being very kind of simple and just a rectangle and then also to enjoy the property the land that's this beautiful spot here, it's a low-rise building, they have a very pretty river view and if we had tucked it back here there's a very steep slope here.

Mr. Spruiell: So, you have to build super high also to see because this deck is kind of elevated so we would have had to build up and in front of our neighbors in order to actually be able to preserve a view of the river whereas if we build over here.

Mr. Lim: (inaudible) the hills and the angles going down and everything.

Ms. Mennes: Yes, we have that on the Badey & Watson plans, also we have that here. It gets very steep here so this is really not buildable and then the septic is here. So, we had limiting factors as far as where we could do it.

Lenny Lim: (inaudible)

Ms. Mennes: This is the original survey which you can see a little bit better. In your packages you have the Badey & Watson plan but you can see these are the topo's it's a little darker on this plan. So, this whole part is completely flat almost completely flat and then it has a steep dive down to the neighbor's property. This is not a really buildable area plus it wouldn't be attractive and then again over here this would be very difficult from an architectural perspective to build on what Stephen was saying about trying to elevate it it's a raised pool so they would have to come up higher even just to walk to the pool regardless of a view. So, we're trying to keep it very simple and beautify the land and make use of this nice piece of property. They already use this place already they have a little fire pit over there it's a nice spot that's sort of underutilized.

Lenny Lim: (inaudible)

Ms. Mennes: I think we have that on the Badey and Watson ones too, but I believe we're around 50 feet. We're well within our setbacks.

Mr. Cestone: Your neighbors will this be visible to them?

Ms. Mennes: The only person who could possibly see it would be the neighbor up the hill but they see everyone's house. So, this low-rise, one-story structure would be less obtrusive than the existing house that's here. It doesn't impede their view; we're trying to keep it just a very simple kind of Garrison-like house with you know cedar shake shingles on the outside and just a very simple structure something that feels very harmonious and sort of easy. Nothing that's going to make a statement.

Chair Dee: Who's your nearest neighbor?

Ms. Mennes: Who do you think your nearest neighbor? Is it's across the street?

Mrs. Spruiell: As far as who could see? Patty Smith.

Ms. Mennes: Patty Smith across the street would be the closest in proximity to the house.

Mr. Spruiell: But she wouldn't have any like visibility of this structure because from her point of view the main house would get in the way.

Chair Dee: Well, she was notified. If she had any problems she would be here or she would let us know herself.

Mr. Spruiell: She would be here.

Ms. Mennes: We had a lot of conversations about that we didn't want it to feel unusual to the house itself.

Mr. Spruiell: That was a big reason for not going here and attaching to the property because we would have had to build higher in order to have a view of the river and that would have gotten in the view way of the Schweppes.

Mrs. Spruiell: The Schweppes and the Seekirchers and we've had many conversations with them about how we can accommodate their view. Actually, their address is Upper Station Road but they're adjacent to our property.

Lenny Lim: When you're finished how many square feet will it be between two buildings.

Ms. Mennes: The house is 2800 and then the main house so I guess a little less than 3800.

Mr. Lim: So, the total would be 3,800 something like that something like that?

Chair Dee: The new one would be 987. So, 987 plus 2800. Come over here. Okay take your time just tell us who you are.

Eugena Lowe: My name is Eugena Lowe. I live at 40 Upper Station Road and my understanding is our properties between Patty Days and their property, so my question is how close are you to our property?

Mr. Spruiell: So, I don't think that that can be right because if Black Diamond Hill is right here, Patty is across the street from us so there's nothing in between our property and Patty's property other than the road.

Ms. Mennes: On this little site plan where are you?

Ms. Lowe: I might have the wrong road but I got a letter that you were up against our property in the mail. I am across the street from Patty Hearst's driveway.

Ms. Mennes: You're far away.

Mr. Spruiell: No, not Patty Hearst, Patty Smith.

Ms. Mennes: You're on a different road actually, I don't think you'd be able to see this house from here.

Ms. Lowe: So, you're not on the road in the back the private road? We're on Upper Station Road. When you come up, we're the first property on the left side. I believe Patty Smith is up against us on the left our driveway is across from Patty Hearst Day.

Ms. Mennes: So Black Diamond is basically at the bottom by the train station off of Lower Station Road

Ms. Lowe: all right, I was confused because they sent a letter.

Chair Dee: Are you on the private road? Are your concerns answered with this?

Ms. Lowe: I'm not on the private road. I'm not as good as I should be and I thought Black Diamond but I thought they were talking about Patty Smith's property goes along the side of the back and there's a private road. So, I know exactly what you're doing right. So, our property comes down there so I was thinking is that why they're getting a letter. They have a pool are they building another house. So, I received a letter from the township so I guess that is what confused me and what I needed clarity on.

Chair Dee: Right okay, do you have any concerns about this?

Ms. Lowe: Not on the other side of the road no, only if it was on the other private road up against our property.

Chair Dee: Good thing you came. That's what this is all about. That's why we send the letters out so people know and they know what's going on. There's no secrets here.

Mr. Cestone: Am I correct from reading the drawings that the accessory building is no more than 21 feet high?

Ms. Mennes: Yes, it's very low rise. It's one level and it's low rise on slab.

Adam Rodd: Okay so, a one-story structure.

Chair Dee: Okay, any other board members have any questions? Anybody in the audience would like to speak to this besides the young lady who just spoke? At this point I'd make a motion to close the public hearing.

Vincent Cestone: I'll second.

Chair Dee: All in favor?

The board voted unanimously to close the public hearing.

Chair Dee: All right, I'm going to call for a vote, now if it's approved it's going to be contingent right Adam?

Mr. Rodd: Right, I'll write in the resolution, I'll make any approval contingent on satisfaction of the requirements for an accessory apartment as set forth in the code.

Chair Dee: Okay, and you could find out or you know get that settled and then let the secretary know.

Mr. Spruiell: Alright I don't know answer that question but I'm sure that Patty will know or we could find out.

Chair Dee: There may not be a maintenance but like the attorney says this gets covered both ways.

Mr. Spruiell: If there is a written maintenance agreement then we will we will talk to our neighbors and figure out.

Chair Dee: They may not need any money from you just the fact that they know that it's there. Okay the public hearing is closed. I'm going to call for a roll call vote.

Mr. Cestone: I'd vote in favor.

Mr. Lim: I'll vote in favor.

Mr. Frisenda: I vote to approve.

Chair Dee: And I vote to approve. So, you're set. Like I said what the attorney said he's going to write the resolution so it's going to take a week or something like that.

Mr. Rodd: I could certainly get it out within like the next 14 days.

Chair Dee: And then you'll let the secretary know she'll call him. I don't want to hold you up any longer than you have to be.

New Business:

Shumay/Starner, 77 Lower Station Rd., Garrison, NY 10524 TM#71.5-1-4

Chair Dee: Next order of business. Let's see proposed accessory structure at 77 Lower Station Road. The application proposes an accessory structure at approximately 500 square feet of disturbance on steep slope. Also, the floor area of the proposed accessory apartment excludes a total 800 allowable square foot or 30% of the 1260 square foot principal house. The proposed accessory structure is 998 square feet. Since the steep slopes and accessory apartment dimensions do not meet the requirements of the Philipstown zoning; 175 36b 175 12c the building permit is denied. Is anybody going to speak here for that tonight?

Annie Mennes: I am also here for that.

Chair Dee: I see you got a letter signed here too that you're going to represent them.

Annie Mennes: I'm here again, both of these projects have been going on for a year and change, this one a little shorter than the last project and they happen to share some characteristics. We do other work than accessory structures but these two just happen to be unusual circumstances that these families are trying to solve through this use. Charity is here one of the owners to introduce her here they live on Lower Station Road and they have a small smaller home that we have done work on over the years. It's sort of a very sweet kind of typical garrison cottage. It's a about 1300 square feet. They're both two working adults with three kids and that said they have no problem with the size of their house. The way that it's set on the property again they have an unusual property but they're not looking to expand their house put an addition on right but they have two working adults that need office space and storage space, there's no space to store things in a 1300 square foot house. Recreation room for kayaks and things like that. So, we're here to talk about this project on two different levels. One is because the house is 1300 square feet this proposed structure is over 50% of what the current square footage of the house is. Then also the way that the way that the house is sitting there's a portion of the house that is

on a steep slope. So, there's two different conditions that we're addressing tonight and we're hoping to get your feedback and talk it through.

Chair Dee: Well, I spoke with the attorney today because I was a little confused.

Ms. Mennes: We spoke today as well.

Chair Dee: It comes under accessory apartment and you're not putting in an accessory apartment.

Ms. Mennes: It's an accessory structure. We clarified that.

Chair Dee: So, what you're really looking for is a variance on the area for the building and the other thing would be a special use permit for the steep slopes that has to go through the Planning Department.

Ms. Mennes: Right, we spoke a little bit about that today and then we also talked to Badey & Watson and I understand Jason spoke with you a little bit so, I'm fairly clear and I spoke to Charity about the possible next steps.

Chair Dee: The next step would be, the quickest way to do it I don't want to send you there and come back and forth and like that. If we feel the package is complete, we'll vote on that and we'll set up a public hearing next month. But then you'll have to get in touch way before that with the Planning Board get in touch with them as quick as you can because even if we approved it, we wouldn't be able to give you a permit.

Ms. Mennes: I was discussing with Badey & Watson whenever you're ready it could be as soon as tomorrow if things go. I can set up a pre-app meeting if that would make sense with the Planning Department. Badey & Watson and myself can sit down with Greg and the Town Engineer and go over the steep slope issues and look at their plan and how we're trying to solve some of the steep slopes if that makes sense.

Mr. Rodd: I can write a letter on behalf of the Zoning Board referring the steep slope component of the application to the Planning Board just so you have a record of that.

Chair Dee: That's probably the easiest way because if I just send you there then you've got to go back and forth to be another couple of months before. Does anybody have any questions on this tonight I mean as far as complete?

Mr. Lim: It's not complete.

Chair Dee: How do you mean? It has to go to the Planning Board all we're looking at is variance okay that's the only thing. We're doing the variance for the size of the structure that they're building is more than 30% of the original structure. As far as the steep slopes we're not going to get involved in that. If we were to approve the variance, we still couldn't give them a building permit because we'd have to wait for the permit for the approval for the Planning Board.

Ms. Mennes: Just so we're all clear because I was getting confused too and correct me if I'm wrong but I believe the difference is an accessory structure can be no more than 50% or 800 square feet and an accessory apartment is the 30%, am I right about that?

Mr. Rodd: You're proposing an accessory structure as it's defined by the code and because the structure that you're proposing is greater than half the size of the principal building you need a variance for that.

Chair Dee: The confusing part was the accessory apartment thing that that kind of threw us all off but the attorney will speak to the Building Inspector and he'll that all out. It looks like you have everything here. You need the five factors but I think you had the five factors here. You've got the plans and you got the survey okay so it looks complete to me. Anybody have any questions on completeness? I make a motion that the application complete, we'll set it up for public hearing next meeting which would be Monday, July 11th. Can I have a second?

Mr. Lim: Second.

Chair Dee: All in favor?

The board voted unanimously to schedule the public hearing for Monday, July 11th, 2022.

Chair Dee: Okay so you're all set.

Ms. Mennes: We'll see you in a month. I will follow up with the Planning Department.

Chair Dee: Any new business? Old business? Councilwoman Cotter's not here tonight but she told me that she spoke with the Town Attorney regarding 5g. So, they're going to look into the 5g and he's going to look into the 5g and see if the you know I know there are other towns that do have codes to it so maybe he can get some code so we don't get caught like we did with the wind turbine. Motion to adjourn?

Mr. Cestone: Second.

Granite Frisenda: Aye

Lenny Lim: Aye

The meeting was adjourned at 8:10 pm.

Date Approved: 7/11/22

Respectfully submitted by



Cheryl Rockett
Zoning Board Secretary