

**TOWN OF PHILIPSTOWN ZONING BOARD OF APPEALS**  
**Philipstown Town Hall, 238 Main Street, Cold Spring, NY 10516**  
**July 11th, 2022 Minutes**

**Present**

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

**Absent**

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: Minutes from June, any board members have any corrections or any on anybody

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

Mr. Frisenda: I'll second.

Chair Dee: All in favor?

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

Chair Dee: All right, minutes are accepted.

**Public Hearing**

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

Chair Dee: next one is the public hearing for 77 Lower Station Road Garrison. Applicant is seeking to construct a 998 square foot accessory structure.

Annie Mennes: I'm from Garrison Foundry the architect on the project and the clients are here tonight; Charity Shumway and Greg Starner and then we have Jason Snyder from Badey and Watson. We met last time for the preliminary meeting and reviewed a little bit about what we're hoping to do. We have Badey and Watson plan behind me and then I also have our plans in addition to the copies that you received. Greg's family has owned this, it's been in his family for about 30 years this property and they took it over six years ago. They live there full time with their family of three kids and they both work full-

time. Charity is a writer and Greg is a lawyer who as many people these days works from home about 50% of the time. When they started this project with the idea there's a couple precedents on the road where people have small barns outside of their structures adjacent to their property. And they thought what a nice idea we could have a separate area for us to both of us work and then also have more storage because their current home is quite small for some standards. It's 1296 on the property card which they're content with but they need space to work in. They have like I said three kids. So, we started looking at this and decided it was a great idea for them as a family. That's where we decided to pursue this idea and we've located the new structure alongside of the road and what we think is the most economical and least impactful way both visually and from the grade. As we've noted before there is a section that is impacted by a steep slope which is indicated in the yellow and we are looking at that with the Planning Board. We had a preliminary meeting with the Planning Board and we're meeting with them next week. The idea is really to have a structure for their family. The question might come up if it's something that they would be using to rent out. No, they are not interested in that, it's not pursuant to their interest and they would never be using it for that purpose. It's really for home office space and probably to have a little overflow space for both storage and just their family to use. It's going to kind of open up to their yard. This is an underutilized area of their yard right now so it'll access their yard in a better way. Before we get too far with all of this, we want to make sure that it's something that could be approved but Jason has been working on Health Department applications and you can see here where the septic would be going which we will be designing it for an additional bedroom even though they're not going to be using it as an additional bedroom the Health Department will be considering it a one bedroom. So, we are currently finalizing those plans to go over to the Health Department pursuant on a possible review with both you and the Planning Department.

Lenny Lim: What's the percentage increase in the structure?

Annie Mennes: The current structure is 1296 and there's a minor correction. Why we're here today and there was a little back and forth last session is it an accessory structure, is it an accessory apartment, we deemed it's an accessory structure which has to be for code 50% of the main house. So, the main house is 1296 and this current house is 1260. So, it's about this almost the same size as the main house but you can kind of see it's quite a small house. This is the existing home and this is this is a deck but this would be the footprint. It's under 1,000 square feet footprint, 998. You can see that it's equivalent in size to the main house.

Lenny Lim: You're doubling the size.

Annie Mennes: Well partly because the house is quite small. It's almost equal to the main house

Mr. Cestone: Did you say it's 1260? What is included in that 1260?

Chair Dee: The new building is 998 not 1260.

Ms. Mennes: I'm sorry the footprint is 998. It's two stories. It's a little bit unusual because of the grade so you can kind of see from this image even we can go through the plans.

Chair Dee: What's the square footage of it?

Ms. Mennes: 1260.

Chair Dee: So, the total square footage of the building is going to be 1260? What's the original house?

Ms. Mennes: 1296.

Chair Dee: So, it's 30 feet shorter, I've got 998 here. Now you said something about a bedroom.

Ms. Mennes: We're always trying to be 100% open and clear about what we're doing. While we're going to the Health Department for a septic design it's not going to be used as a bedroom but Charity's office for example, they would consider this structure of this size the Health Department to have a septic design that would allow for one bedroom. So, while this building is not a bedroom, never going to be used as a bedroom space that's not the intention of the structure the Health Department in order to have because there's a powder room and a bathroom in this building. In order to have allowable septic we're building the septic design to allow for one bedroom.

Chair Dee: Now we get to the question of accessory apartment because we're talking about if you do that with the Health Department says it could be a one-bedroom they could use it as accessory apartment. That's why probably when it came to us originally the Building Inspector had it down as an accessory apartment.

Ms. Mennes: For all intents and purposes I think in my mind either way we have a variance.

Chair Dee: Well, it does make a difference to us. I mean if you're going to go for accessory apartment let's go for accessory apartment if you're going to go accessory building then go for accessory building because you go accessory building, you're talking like one bedroom nobody could live in there, okay? But you're getting one bedroom approved by the county they can live in there. So, it creates an issue for us.

Ms. Mennes: The Health Department considers any room over seven feet wide to be a bedroom.

Jason Snyder: So, because it has a kitchenette and a bathroom the Health Department is going to attribute a one potential bedroom associated with it regardless and not only that even if it did not have a bathroom or did not have a kitchenette and it just was a one-room office we still have to attribute a design flow because if it has sewer and water service, we have to attribute some flow to it. So, in those circumstances we usually just do a one-bedroom design flow of 150 gallons per day.

Chair Dee: Once you get it approved for a one bedroom you got a kitchen and bath you could rent it out. That's the problem I have with it. Honestly you probably would be better off going for an accessory apartment.

Ms. Mennes: On our applications it's an accessory apartment and then last meeting we spoke and we thought it was an accessory structure.

Adam Rodd: If I can just add looking at the zoning code section 175-74 accessory structure includes among other things of parking, storage, recreation, home occupation and accessory apartment. So, accessory apartment is included within the definition of an accessory structure. Whether it's an accessory apartment or an accessory structure I understand what you're going to use it for anyway slice it you still need an area variance. As I understand it in the you're in the hamlet residential zoning district and for the sake of argument accessory structures are a permitted use in that district even though you're telling us you're not going to use it for that. So, what I'm just commenting on and advising the board is whether it's an accessory structure or it has a kitchenette and a bathroom and could be used as an accessory apartment you still need an area of variance.

Chair Dee: But my question is an accessory structure is not living area?

Mr. Rodd: An accessory structure can include under the definition an accessory apartment. You can have that under the code and in the hamlet residential district it's permitted use.

Chair Dee: Then they should be replying for accessory apartment.

Ms. Mennes: Which we and which we do actually which we are.

Mr. Rodd: Well, they're telling us they're not using it as an accessory apartment but it can include an accessory apartment because it's permitted as of right but they still need an area variance. In other words, if they came to us as I understand it and said we want to put in the structure as an accessory apartment, we don't want it as a home office or for outside storage they would still need an area variance because their principal building is 1296 square feet and they're proposing 1260 square feet. The analysis doesn't change you still need an area of variance.

Mr. Snyder: If it's an accessory apartment you're limited to 800 square feet two bedrooms and 35% of the primary residence whereas with the accessory structure it's 50% and 1,000 square feet.

Mr. Rodd: You would still need a variance that's all I'm saying. I'm looking at the code, you're proposing an accessory structure, correct? Just to make it simple you're proposing an accessory structure and the principal building is 1296 square feet and your accessory structure which you described as home office and storage is 1260 square feet which is more than half the floor space of the principal building. So, you're here before us for an area variance.

Annie Mennes: (inaudible) good breakdown

Mr. Snyder: I guess the bottom line is this is what they want to do so we can apply for however you want it worded.

Mr. Rodd: I'm just taking your application at face value. It's a structure for overflow storage and a home office which fits within the definition of an accessory structure. I don't mean to make this complicated but in the definition of accessory structure one of the things you can have in it is an accessory apartment and I understand your comments about the limitations of size of an accessory apartment which you're not proposing. But even if hypothetically you said I want to have this as an accessory apartment I mean you're not saying that you would still need an area variance because the structure wouldn't comply with the dimensional limitations of accessory apartment either.

Mr. Snyder: We could have both too. You can have an accessory structure with a home office which is customary to the use of the primary residence and also an accessory apartment in that accessory structure. A lot of times people have a barn with an apartment on the second floor so in that case you have a garage which is customary to the primary use of the primary residence and then you have your apartment which can be 800 square feet so if you take all those together notwithstanding the restrictions of the of the main residence you could have more than 800 square feet associated with that structure.

Chair Dee: My only area of confusion is which way you should go with it. What I'm trying to say because it's almost the same size as the house. What is it 30 feet smaller than the house?

Mr. Snyder: I guess the point is also it is quite a bit but it's also I think it's also in in conformance with the area.

Chair Dee: Well, that's your opinion.

Mr. Lim: How so?

Mr. Snyder: Well because those other houses to the south have similar.

Chair Dee: Are those structures the same size of the house?

Mr. Snyder: I'm not sure.

Ms. Mennes: We were conscious of that when situating it you can kind of see from here this would be the street side. So, the idea is by also situating it where we have it on the site, we're trying to make it not this huge structure sitting on top of a hill. We want it to be architecturally appropriate and also neighborhood appropriate. The clients did bring pictures of some barns that are on their street if you want to look at those. But it will not only fit with their site but also be sort of a low-profile structure. It's not going to sit in this overwhelming manner towards the street. We've been very conscious of that from a design perspective and also how it relates to the house because it's an interesting design problem to solve, right? How do you build something that's not going to overwhelm this adorable cottage that has been in their house for 30 years? But once you need to put all the clearances and all the corridor space whatever you need it has to become a certain size.

Chair Dee: You have to understand it is almost the same size as the house.

Ms. Mennes: I understand completely and that's why we're here to discuss it.

Chair Dee: That's why an accessory apartment is smaller, you're right there's only so many square feet allowed for the accessory apartment but they want to build an accessory apartment almost the same size as the house.

Ms. Mennes: Right, but a lot of times those are inside larger structures. So, if you have a big barn like Jason was saying you can allocate 800 square feet of that barn to be apartment space which in this case, we're building a new structure so we're counting the whole thing as that square footage as opposed to taking a piece out of the building to make an apartment out of it.

Mr. Cestone: Just some clarification for me. You said the footprint of the proposed structure is just under 1,000 square feet. So, rough numbers it has the potential of being 2,000 square feet rough numbers. What's the other 800 square being used for?

Ms. Mennes: So actually, let me show you the plan. It's partly because of the site and also how you enter but you can see here that you do enter through the second floor which is 100% because of the site conditions. Then at the road line it's one story. Most of the second floor is just open it's just a corridor going straight back to Charity's office so it's not two floor plates continuous. We have a corridor going across and then this is going to be her office.

Mr. Cestone: That's where I saw the bridge that was going across, there's no structure in there at all?

Ms. Mennes: It's just going to be a hand rail, a walk through and that this will be open to below. Then also we have a little exercise room/more storage probably. We have the stair corridor or going down

and then also on the first level we have this mechanical space. Honestly a lot of this mechanical space may not be counted because the slope is coming in and we might have ledge through let's say 50% of this mechanical space we're not sure. This is going to be this open area with that little kitchenette. There's no cooking element for the kitchenette, we're not putting a full range or any kind of cooking it's just a refrigerator and sink, no stove. Charity's a writer so there's bookcases and then this is the storage and then this is the full bathroom back here. A lot of it is a circulation space as you can see it's just like I said in order to get from one place to the other the square footage does add up but upstairs you can see that line is not a full floor plate.

**Mr. Cestone:** The roof pitch can you stand in the center of the roof pitch if you go into the attic?

**Ms. Mennes:** We're not really planning on any attic space. It's going to be equipment. It's going to be cathedral ceilings and then the bathrooms will be dropped and then upstairs partly dropped for just equipment to be placed up there. No attic space.

**Chair Dee:** Any other questions? Is there anybody in the audience would like to speak regarding this?

**William Felder:** I'm William Felder, 92 Lower Station Road. We bought our house in the 2014 and 2015 time frame, I live there with my wife and two kids. We're the house right up the hill so we pretty much occupy the entire uphill property of the construction site and from an early stage and their thought process of what they were going to do they approached us and sort of walked us through the whole idea and the entire plan. I live in a barn so I'm very familiar with the layout of the neighborhood and also the fact that they've done such an incredible job with the renovation of their existing house to fit with the character of the neighborhood. It's a beautiful property and they haven't done any of the things they would be allowed to do to increase their living and storage space inside their house to maintain the integrity of the structure from what it's been for the entire time it's been in their family. They've designed this new project with our best intentions in mind to make sure that it doesn't obstruct any of the views from our property. It's as unoffensive to our sight lines and to the detriment of the things that they could do with their property really thinking about the historical nature of the area and our best interests. So, we're hugely supportive of the project and it would be a big loss for our neighborhood should they not be able to live the lives that they live with their three kids and our two kids play and all that stuff. We'd hate to lose them and I think this is an important thing for their family so thank you.

**Chair Dee:** Thank you anyone else in the audience would like to speak to regarding this? Any other questions for any board members? All right. I'll close the public hearing then we'll go over the factors. did I get a motion to close the public hearing?

**Mr. Cestone:** I'll make that motion.

**Mr. Lim:** Second.

**Chair Dee:** Aye

**Vinny Cestone:** Aye

**Granite Frisenda:** Aye

**Janice Hogan:** Aye

**Lenny Lim:** Aye

Chair Dee: The public hearing is closed. Now I want to go into the five factors. What the five factors are used for is the board to consider the application whether we grant it or not.

1. **Will an undesirable change be produced in a character neighborhood or will a detriment on to nearby property be created by granting of the area variance?** *We do not believe the accessory structure will negatively affect the neighborhood along 77 Lower Station Road. The few houses there and origination have currently very similar structures that will serve as examples of what we're hoping to build.*
2. **Can the benefit sought be achieved by some method?** *Feasible but to pursue other than area variance through the interior floor plan configuration and existing site conditions an additional home would not be easily architecturally feasible. The client is hoping to gain extra storage and recreational space along with a small office in a way that is cost effective and will not negatively affect the existing architect of the main residence or the site.*
3. **Is the requested area variance substantial?** *The square foot we're asking for is approximately 500 square feet above the 800 allowable.*

Chair Dee: Explain that to me.

Ms. Mennes: Initially filling out this application before we had some clarity on, is this is an accessory apartment? Is this an accessory structure? We did fill a lot of this out as an accessory apartment. So, some of these questions are kind of moot at this point. To explain what we're saying here regardless of whether it's an accessory apartment or accessory structure. Yes. The area variance is substantial because we are asking for more than is allowed per code.

4. **Will proposed variance have an adverse effect or impact on our physical or environmental conditions in a neighborhood or district?** *We do not feel it will have a negative environmental or physical effect on existing conditions. We have provided a steep slope analysis and are happy to forward any suggested mitigation the board would recommend for approximately 500 square foot of land that will be affected.*

Chair Dee: Well, that's going to be up to the Planning Board. You understand if this is granted it's no building permit. You have to wait for the Planning Board.

Ms. Mennes: Yes. We had our pre-app meeting.

Chair Dee: If the Planning Board turns you down, you're going to have to rethink what you're going to do.

Ms. Mennes: Yeah, understood.

5. **Is your alleged difficulty self-created?** *The existing home is small but serves our family of five well. We're happy with the size of the home but we do wish to expand the footprint.*

Chair Dee: Basically, the answer to all these questions is yes. It's self-created because you want to do it. We'll go self-created because it's something that you want to do and I understand that. Any questions from the board?

Ms. Mennes: One question as far as the Planning Board obviously pursuant to what happens tonight but we're going to the Planning Board, they're going to be focused on the special use permit for the steep slope analysis. I guess we can lay it out but if we do get denied then that's it or we come back to you?

Chair Dee: If the Planning Board denies it because of the steep slope you'll have to redesign it. I don't know if you can get around the slope or how you'll do it. You'll have to use your architectural genius to come up with an answer to that one. Because if they don't give it to you, we can't give you a building permit. Any other questions, no. Okay I'll call for a vote at this time.

Mr. Cestone: I'll vote to approve.

Mr. Lim: I'll vote to approve.

Mr. Frisenda: I vote to approve.

Ms. Hogan: I vote to approve.

Chair Dee: I vote to approve.

Chair Dee: All right. So, you're all set but you're not set.

Ms. Mennes: No, I understand and I appreciate it and we have to obviously get Health Department approval.

Chair Dee: You can always come back to us if the Planning Board has an issue or something like that.

Ms. Mennes: We can always put another pencil to the paper but I appreciate it it's been very reassuring for us to meet with you and just understand that this is feasible so thank you so much for everything tonight.

Chair Dee: Any old business, any new business. The board doesn't meet in August so the next meeting will be Monday, September 12<sup>th</sup>. Motion to adjourn?

Mr. Cestone: I'll make a motion.

Mr. Lim: Second

Chair Dee: All in favor? The board voted unanimously to adjourn the meeting.

The meeting was adjourned at 8:14 pm.

Date Approved: 9/12/22

Respectfully submitted by



Cheryl Rockett  
Zoning Board Secretary