

**TOWN OF PHILIPSTOWN ZONING BOARD OF APPEALS**

**Via-Zoom**

**February 14<sup>th</sup>, 2022 Minutes**

**Present**

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

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.

Chair Dee: You guys know Paula Clair resigned. She was a former board member, I'll just read you her letter. She resigned January 1st, she sent it to the Town Clerk:

*"Dear Tara, It's with much regret that I tender my resignation as member of the Philipstown Zoning Board effective January 1st 2022. I want to express my deep respect and admiration for the Town Board, the Town Supervisor, Richard Shea and the new Town Supervisor, John Van Tassel as well as the Zoning Board Chairman, Bob Dee and the members of the Zoning board. I've enjoyed working with all of you and happy with the direction you have set and continue setting for the town."*

Paula was on the board for I think over 10 years. She was always prepared; she always did a good job. But we have a new member okay, we have Janice Hogan you want to say hello?

Janice Hogan: Hi everybody, I'm glad to be joining you.

Chair Dee: Good, all right congratulations. We also have a new liaison Councilwoman Megan Cotter.

Megan Cotter: Hi everybody, how's everything? I'm here to listen, to report back to the Board on their monthly meetings. If you ever have any questions feel free to contact me on my Philipstown email.

Chair Dee: Don't tell them anything bad about us.

Megan Cotter: No this is my crew, Bob; this will be our crew.

**Approval of Minutes**

Chairman Robert Dee: Can we approve the minutes for the October 4<sup>th</sup> meeting?

Vincent Cestone: I'll make the motion.

Granite Frisenda: I'll second.

Chairman Dee: All in favor?

Robert Dee (Chair): Aye

Granite Frisenda :Aye

Janice Hogan :Aye

Lenny Lim : Aye

Vinny Cestone : Aye

Chairman Robert Dee: Okay, minutes are approved. The next meeting is going to be March 14<sup>th</sup>, Monday but it's going to be at Town Hall because I think by this time, I think most of the mandates are going to be lifted and I think it would be better, a lot easier to for us to do it in person.

**Betsey Haddad, 15 Lake Celeste, Garrison, NY TM#72.17-1-15**

Chairman Dee: The applicant proposes an addition within a side yard setback, proposing 27.67' setback where 30' is required. Now, they first came to us last year. That's why you guys don't have the deed, you don't have a full application but I looked at the original application and everything's in there, the deed and we have the survey on this one. I just want to find out if the applicant is there. We sent them to the Conservation Board because they were going into the wetlands. They were going to go 39 feet in separation into the wetlands and that area was an active waterway. So, they went to the Conservation Board and did get the wetlands permit and that permit was issued September 15th 2021. So, they are back here now looking for the variance. Is the applicant there, is somebody speaking for the applicant?

Betsey Haddad: Hello, hi I'm Betsey and this is Marshall and Manuel our architect is here.

Chair Dee: I know last year you guys were before us, we sent you to the Conservation Board you got the wetlands permit. Did you have to change the plans at all?

Manuel Quezada: Yes, we did. Part of that was the addition that we were doing in the rear. When we went in front of the Conservation Board was stated we actually made some modifications. We took our addition in the rear, we pretty much removed that and what we did is we added an extra four feet in the front which did not affect the variances that we are asking because it was within line itself. I could share my drawing or you guys have the drawings in front of you. So, we're very minor portions that we did in the front just to get some square footage that we were losing when we removed the proposed addition on the back. But again, that does not affect the required setbacks that we are asking to this board right now.

Chair Dee: Okay now, I see in this wetland permit there's a lot of regulations you have to follow, about 14; Notify them it says five working days before you start any work. You agree with that, you understand that?

Mr. Quezada: Yes.

Chair Dee: Now, I know that the property I think was purchased in 2017?

Ms. Haddad: No, it was earlier, I can't remember exactly but it was around 2012.

Chair Dee: Do you know when the house was built?

Ms. Haddad: I believe around 1940. Do you know better Manuel?

Mr. Quezada: If you just give me one second, I think I can get that information for you.

Chair Dee: That would make a difference on something.

Lenny Lim: (inaudible).

Chair Dee: No, you got the plans. You don't have the deed because that was with the original application was last year. I need to know it was built before '57.

Mr. Quezada: Okay, I'm going through our documents right now if you just give me one second, I apologize.

Chair Dee: Ms. Haddad, do you know when the house was built?

Ms. Haddad: I'm going to look through my files but what I remember is the 1940's. I don't think I have my deed online but I can look and see if I do.

Chair Dee: I just need to know it was built before 1957.

Mr. Quezada: So, I found the certificate of occupancy and the application was required in the bottom it says by deed April 1953 and recording from Putnam County Clerk's office in October, 25 1957. I don't know if that helps or not.

Chair Dee: All right so when was building permitted or you have what?

Mr. Quezada: I have the certificate of occupancy.

Chair Dee: What is that dated?

Mr. Quezada: So, confirmation when purchased in 1957 it was dated, this is just dated though. I'm not sure what that means is that was 9/9/94 when they gave them a certificate of occupancy though.

Ms. Haddad: The community was original bungalows, summer bungalows built in the '40's and he put on an addition later on so I think that's what that was for.

Chair Dee: The reason I ask you that is because and I'll check with the attorney but under section 175 of the code 23, if the house was built before '57, '57 is when the zoning code started first. So, that makes it pre-existing, non-conforming and you would need another variance, Adam am I correct?

Adam Rodd: Well, there's a site you're probably familiar with it is Putnam County Parcel Access. It just has property data and according to the parcel access site the structure was built in 1940. So, it's a pre-existing, non-conforming structure and if you're increasing the floor area by more than 25% which is what I think the proposed additions do, that would trigger the need for a special permit, requirement by the board.

Chair Dee: We need to do both, we need the permit and then we need the variance for over 25% right because it's going to be 48%?

Mr. Rodd: Right, you need a permit to increase a non-conforming structure up to 25% and here according to the application I think it's around 48% the increase in floor area, right?

Chair Dee: So that's what we're looking at now. Like I said under the zoning code which started in April '57 and your house was built before that. So, this is a pre-existing, non-conforming structure. So, besides needing the side yard setback you're going to need a permit. Under the current zoning you can increase it by 25%, okay a pre-existing, non-conforming but you're increasing at 48%, right?

Mr. Quezada: Actually, what we have is I'm sorry to correct, we have a 58% on the floor area for dwelling is that the one that you're referring to? I want to make sure you have the numbers right that's all.

Chair Dee: I have 48, what do you have in your drawing? I'm reading that at 48.

Mr. Quezada: Are you reading from the letter from the Building Inspector?

Chair Dee: No, I'm reading from your plan, first page from your site plan that's a site plan one, you said that let's see the existing footage is.

Mr. Rodd: Just to be clear the application submitted by Kamentall Architects references a 48% increase in floor area.

Chair Dee: That's what the plan says. Now are you telling me it's more?

Mr. Quezada: No, it's good, that is correct I apologize yes 48%.

Chair Dee: I'm going by the plan. What you're going to need is this wetland going to need a variance for the side yard setback, you're going to need a permit to increase a pre-existing non-conforming up to 25% and seeing that you're going over 25%, you're going to need the variance to go over that. So, three different items you've got okay so that's one. So, when letters get sent out to the neighbors this will be explained to them so if they want to come to the meeting and ask questions that's what it'll be. Otherwise, you won't be covered legally.

Mr. Quezada: Yeah, totally understandable.

Chair Dee: And you can get the building permit. Now, I looked at everything and it all looks complete because like they say the other members don't have the deed because you originally turned in the plan last, February of 2021. You were all complete and you got your wetlands permit but I just want to know you're going for two variances and a permit.

Mr. Quezada: Now may I ask, the special permit is that something that the Zoning Board regulates?

Chair Dee: We regulate that so you don't have to go anyplace else. I just want to make it because you know if you do it and then she goes to sell it and you find out it's not.

Mr. Quezada: Of course, totally understandable.

Chair Dee: Okay are there any questions from the board members?

Mr. Rodd: Just one thing to add Bob and I assume the applicant agrees with this. Looking at the plans the impervious surface limit is 10% and I think according to the plans you're proposing 10.56%, correct?

Mr. Quezada: Yes, that is correct.

Mr. Rodd: So that that would be another one.

Mr. Quezada: yeah, thank you for bringing that up. I was going to ask if that is okay. I mean we can play a little bit with the surface to limit the .56 % and that was something that you know

Chair Dee: Well, if you could get it down to 10%, he wouldn't need another variance right Adam?

Mr. Rodd: Well, that's correct, that's the limit. My suggestion would be just to play it safe if we're going to be putting this on for next month. On the public hearing notice that gets published we would just want to make sure that we include all the variances that you need. So, the suggestion is to err on the side of caution because according to the plans it's 10.56%. I recommend that you put that in the notice, if that turns out to be incorrect and or whatever you can always advise that you're within the limit. But I'm just going by what your plan's say.

Mr. Quezada: You know I prefer to leave it like that because we are going to be doing some modifications within the landscape so I think because of the wetlands and everything else so I think we won't be overpassing that limit but I'll take your recommendations sir. I will rather leave it the way we have it right now.

Mr. Rodd: Okay.

Chair Dee: Okay here, so you want to do 10.56% impervious surface, right? We're talking 4 variances. Okay because what we have to do when we send out the notice is we want the neighbors to know what's going on.

Mr. Quezada: Totally understandable, yes.

Chair Dee: Okay and you understand they'll be able to go look at the Town Hall, look at the plans if they want to and everything else like that and then at the public hearing, they'll be able to come and that they have any questions and the public hearing is going to be at Town Hall.

Mr. Quezada: Yes. That's what according to the uh Governor Hochul I believe they extend in one more month and by next time we are going to be in person.

Chair Dee: Yes. It is going to be in person. Okay is there any other questions on this application from any of the board members>

Mr. Lim: (inaudible) they got to get more paperwork into us.

Mr. Cestone: Yeah, I've got something to ask. On the other side where your house was pre-existing non-conforming, Adam does it make sense to add the variance for that section so that everything is legal or is that not an issue?

Chair Dee: So, we're going to add the two. We're going to add the permit for 25% above the pre-existing, non-conforming and then go for a variance over the 25%, right? Is that what you mean Vinny?

Mr. Cestone: Coming in from the roadway the right side of the property there's a part of the structure that's in the side yard setback that's probably when it was built and it looks like it says 19.33 feet as

opposed to the required and I was wondering if it makes sense to put that in as a variance all sides are covered?

Mr. Rodd: I'm not sure where the 19 feet comes from?

Mr. Frisenda: Where the sunroom is, right?

Mr. Quezada: On the side of the sunroom, correct.

Mr. Cestone: See there's 19.33 feet where the stairs come down there's like a little structure there.

Mr. Quezada: What it is, that is a patio area that you know you come downstairs is a patio area and then above that is that the sunroom portion of it so what he's referring to is the 19.33 feet from the lot line to that edge of the concrete patio itself.

Mr. Cestone: So, it's probably pre-existing and I'm not sure if you really do need to do that but I was thinking that this would be a way of covering the bases so if you ever have to go forward with something else that's not brought up as an issue.

Mr. Quezada: May I ask you a question though because let's say in the future we do decide to add to the house just for argument sake which we haven't talked anything with Betsy but just for arguments let's say we do want to do that. Even though we do have because we will be doing an addition. Do we still let's say have to come back to the Zoning Board at that point? So, to me to ask for another variance is a little bit more irrelevant because no matter what we do in the future we still have to come back in front of the board, correct?

Mr. Cestone: Right, you would still have to come back, I just didn't want you to have the waters muddied if that should happen.

Mr. Rodd: As I'm looking at the and I could confirm with the Code Enforcement Officer, I'm looking at the plans the reference to the 19.33 that's actually an existing setback from a lot line. That's not the result of any new construction or any proposed construction that's an existing side yard setback. So, they don't need to come for a variance for that side of the structure. They only need on the side yard it's the new construction that's going to shorten the side yard setback on the opposite side of the house.

Mr. Cestone: Alrighty if it's not going to be an issue for the applicant in the future, I'm okay with it.

Ms. Haddad: Thanks for checking though.

Chair Dee: Any other board members have any questions on this application? All right. Can get a motion that the application is complete, we'll set up a public hearing.

Granite Frisenda: I'll make that motion.

Vincent Cestone: I'll second.

Chair Dee: All in favor?

Robert Dee (Chair): Aye

Granite Frisenda :Aye

Janice Hogan :Aye

Lenny Lim : Aye  
Vinny Cestone : Aye

Chair Dee: What we're voting on is that the package is complete enough that when we have the public hearing next month, we don't need any more information. What's your vote?

Janice Hogan: yes, complete.

Chair Dee: So, you'll come to us next month but I'm going to want you to make a little more explanation next month about exactly what you're doing, okay?

Mr. Quezada: Of course, not a problem. I'll be in person; it'll be a little bit easier to do all that stuff.

Chair Dee: The dog and pony show.

Mr. Quezada: I appreciate that and I do thank you for meeting us today on Valentine's Day so wish you all you guys a Happy Valentine's Day.

Chair Dee: Thank you. All right I need a motion to adjourn.

Lenny Lim: I'll make the motion.

Mr. Cestone: I'll second.

Chair Dee: All in favor?

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

The meeting was adjourned at 7:54pm.

Date Approved: 4/11/22

Respectfully submitted by



Cheryl Lockett

Zoning Board Secretary