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**MINUTES OF THE TOWN OF WOODSTOCK ZONING BOARD OF APPEALS  
PUBLIC HEARING on the APPLICATION of CHRIS MOSHONAS as REPRESENTED  
by PETER WALTHER  
ZBA #07-1532**

**October 11, 2007**

ZBA Members Present: Joanne Anthony, Peter Carberry, Howard Harris, Marie Lourenso, Alternate, Tony Padalino, Linda Tiano

ZBA Members Absent: None

Having determined that a quorum was present and introducing the Members, the Secretary read the published legal notice for this case.

7:30 pm. ZBA #07-1532. The Application of CHRIS MOSHONAS as REPRESENTED by PETER WALTHER, for property located at 6 OLD FORGE ROAD, WOODSTOCK, NY, a 0.17 acre parcel in an HC District for variances from Area and Bulk Regulations, Minimum Yard Requirements, Section 4A-6g, for a 17 foot infringement into a minimum required 25 foot rear yard and Maximum Structure Coverage, Section 4A-6, to allow 50% maximum structure coverage in order to allow a 186 s.f. kitchen expansion.

This Application was not sent to the UCPB. The UCPB has determined that matters related to residential area variances involving side and rear yard setback requirements as well as fence heights are of local, rather than county-wide concern.

**NYSEQR DETERMINATION**

In accordance with the guidelines set forth in 6NYCRR, Part 617, the Zoning Board of Appeals has determined that the instant application is classified as a Type II Action which, by definition, does not have a significant effect on the environment and is exempt from environmental review.

**HEARING**

The Applicant's Representative, Peter Walther, was present for the meeting and stated he is applying for the above mentioned variances on behalf of Mr. Moshanos. Ms. Anthony visited the property and asked Mr. Walters to state, using the submitted plans, where the proposed addition of a prep kitchen will be, what is being removed and replaced, explain the present stairs and bluestone patio use, etc.

Discussion of the submitted plans. It was determined the northeast section of the building is what is under consideration for the expansion. At this moment, that section now contains a Bilco door that accesses the basement and an external staircase. Chairman Harris asked the square footage of the Bilco Door and the answer is 6'x8'=48 sqft. and the stairs are 3'x4'-12 s.f. 48' + 12' = 60 sqft. The variance is amended to 126 sqft. lot coverage for the kitchen expansion. Additionally, the landing will be 3'6"x6' and 4' of stairs. The Chairman stated the application has to be amended again. The lot coverage will now be 159 sqft. Mr. Walther's submitted a list of measurements indicating the proposed changes.

Discussion of the grease trap. It will remain in the same location. The owner will be taking responsibility for the maintenance of this trap. A letter from the Sewer/Water Department with the approval of the Town Attorney to this effect is forthcoming.

Discussion of the roof line. Mr. Walther stated the roof line will remain the same with walls and siding stained but raised approximately 12 inches to install a header for a door and rafters in the future, the remainder of the roof is being considered for raising because it is under framed and insulated.

Discussion of cellar entrance. There is an entrance to the cellar already within the building. The CCD has reviewed the project and requested 15 inch treads for the steps to the side yard for the waitresses. It does not have to have a handicapped entrance. One Hydrangea plant and another small one will be moved to allow for the proposed expansion

Discussion of garbage disposal. Ms. Anthony asked about the garbage cans along the fence. Mr. Walther responded the plan is to build a 6 foot high fence where the chain link fence is now located in the rear to hide the garbage cans.

Chairman Harris asked the purpose of the expansion and Mr. Walters responded there will be no cooking in that area. The roof will have nothing on it. The square footage of the present structure:  $51 \frac{1}{2} \times 47.8 = 2,441$  sqft. minus 186 sqft.; add 60 sqft. for cellar stairs and inside steps, kitchen back step is 15 sqft., bluestone front steps in front of real estate office total 148 s.f. If the above measurements have to be included the lot coverage will be increased by 6.2%; if they are not relevant, an increase of 5.7% which already above the minimum lot coverage. This facility is on Town water and sewer.

The following are the questions from NYS imposed criteria the Board asks to determine the benefits to the Applicant from the request versus the detriment to the health, safety and welfare of the community that would occur if the variance were granted.

**1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties created by granting of the variances.**

Mr. Walther responded no and believes it will enhance it.

**2. Whether the benefit sought by the applicant could be achieved by some feasible method other than variances.**

The answer is no as the building is already over the lot coverage.

**3. Whether the requested variances would be substantial.**

The requested variances are substantial.

**4. Whether the proposed variance would have an adverse effect or impact on**

**the physical or environmental condition in the neighborhood or district.**

The Chairman explained that the question bears on whether the proposed variance would increase noise, dust, smells, sight obstruction, etc. There would be no adverse effects or impacts by the granting of this variance on the environmental condition in the neighborhood. Two plants will be relocated.

**5. Whether the alleged difficulty was self-created.**

A difficulty is self-created where the Applicant for an area variance acquired the property subject to the restriction from which relief is sought. This Board finds that in the instant case, the difficulty is self-created in that the Applicant is deemed to have constructive knowledge of the Zoning Law. It is noted, however, that the fact that the difficulty is self-created, although a factor relevant to the decision of this Board, does not necessarily preclude the granting of this requested area variance.

The Secretary read the roll call of contiguous neighbors. Contiguous neighbor Ms. Avital Greenberg is not in favor of granting of the variances and submitted a letter and photographs as part of her submission. Ms. Greenberg repeated her reasons as documented in her letter to the ZBA of 10/12/07. In addition, she stated it would appear garbage will increase due to an enlargement of the kitchen area.

Another question Ms. Greenberg asked dealt with the septic tank's location. Mr. Walther stated the previous plan has been changed and the septic system contains a holding tank which is pumped out periodically. The size of the holding tank is similar to other businesses in the area. Items such as odors and garbage, etc. will be handled by the Planning Board.

The Chairman asked if there were any other questions or comments from the Board or Public. There were none.

The Applicant was given a written statement attesting to the time frame for a decision. The Applicant signed the statement, submitted it on 9/14/07 and it is now part of the record.

Chairman Harris moved to recess the public hearing of this case. Seconded by Linda Tiano. Motion passed 5-0-0-0. There being no objection, this Hearing of Case #07-1532 is now recessed to the call of the Chairman.

10/18/07: Draft copy e-mailed to ZBA Members

10/30/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono



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**MINUTES OF THE TOWN OF WOODSTOCK ZONING BOARD OF APPEALS  
PUBLIC HEARING on the APPLICATION of MARK & LISA VIANELLO  
ZBA #07-1533  
October 11, 2007**

ZBA Members Present: Joanne Anthony, Peter Carberry, Howard Harris, Marie Lourenso, Tony Padalino, Linda Tiano

ZBA Members Absent: None

Having determined that a quorum was present and introducing the Members, the Secretary read the published legal notice for this case.

8:12 pm. ZBA #07-1533. The Application of MARK & LISA VIANELLO, for property located at 2 HUTCHIN HILL ROAD, SHADY, NY, a 1.6 acre parcel in an R3 District for a variance from Area and Bulk Regulations, Modification of Required Yards, Section 4K-1 to allow a 40 foot, 6 inch front yard set back from the center line of Hutchin Hill Road where a 50 foot setback is required.

This Application was not sent to the UCPB. The UCPB has determined that matters related to residential area variances involving side and rear yard setback requirements as well as fence heights are of local, rather than county-wide concern.

**NYSEQR DETERMINATION**

In accordance with the guidelines set forth in 6NYCRR, Part 617, the Zoning Board of Appeals has determined that the instant application is classified as a Type II Action which, by definition, does not have a significant effect on the environment and is exempt from environmental review.

**HEARING**

The Applicant, Mark Vianello, was present for the meeting and stated he needs a front yard set back variance in order to construct a 320 sqft. front porch.

Mr. Carberry visited the property and using the submitted drawings, stated the septic system is to the right rear of the house underneath the existing wooden deck, the proposed porch will be 8'6" x 43' wide and the roof line will match the front of the porch. In addition, the existing garage is already in the front yard and was part of the original purchase of the property. Mr. Vianello stated the distance from the center of Hutchin Hill to the front of the garage is 40' 10". The proposed porch finish will match the house.

The following are the questions from NYS imposed criteria the Board asks to determine the benefits to the Applicant from the request versus the detriment to the health, safety and welfare of the community that would occur if the variance were granted.

1. **Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties created by granting of the**

variance.

Mr. Vianello responded no.

**2. Whether the benefit sought by the applicant could be achieved by some feasible method other than a variance.**

No, because the present house is already located within the set back.

**3. Whether the requested variance would be substantial.**

The requested variance is not substantial.

**4. Whether the proposed variance would have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.**

The Chairman explained that the question bears on whether the proposed variance would increase noise, dust, smells, sight obstruction, etc. There would be no adverse effects or impacts by the granting of this variance on the environmental condition in the neighborhood. A forsythia and rhodedendrum will be relocated.

**5. Whether the alleged difficulty was self-created.**

A difficulty is self-created where the Applicant for an area variance acquired the property subject to the restriction from which relief is sought. This Board finds that in the instant case, the difficulty is self-created in that the Applicant is deemed to have constructive knowledge of the Zoning Law. It is noted, however, that the fact that the difficulty is self-created, although a factor relevant to the decision of this Board, does not necessarily preclude the granting of this requested area variance.

The Secretary read the roll call of contiguous neighbors. There were no telephone nor written communications received for this application.

The Chairman asked if there were any other questions or comments from the Board or Public. There were none.

The Applicants were mailed a second written statement attesting to the time frame for a decision on 0/17/07.

Chairman Harris moved to recess the public hearing of this case. Seconded by Linda Tiano. Motion passed 5-0-0-0. There being no objection, this Hearing of Case #07-1533 is now recessed to the call of the Chairman.

10/18/07: Draft e-mailed to ZBA Members

10/30/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono