**ZONING BOARD OF APPEALS** **TOWN OF WOODSTOCK, NY**
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# ZBA MEETING MINUTES
# SEPTEMBER 27, 2007

Having determined that a quorum is present, Chairman Howard Harris called to order the September 27th Meeting of the Zoning Board of Appeals. There being no objection, the action was adopted. Chairman Harris introduced the members present: Joanne Anthony, Peter Carberry, Howard Harris, Marie Lourenso, Alternate and Acting Secretary tonight, Linda Tiano. Absent is Tony Padalino.

## 1. ADMINISTRATIVE MATTERS

**-Changes/Additions to the Meeting Agenda.** There were no changes to the meeting agenda.

**-Approve Draft Meeting Minutes of September 13th.** Chairman Harris moved to accept the draft meeting minutes of September 13th as submitted. Seconded by Linda Tiano. Motion passed 4-0-1-0

**-Approve Draft Public Hearing Minutes of September 13th.**

**ZBA #07-1527.** The Application of Ramon & Toby Sanchez as Represented by Brooks & Brooks, P.C. Chairman Harris moved to accept the draft public hearing minutes of this case as corrected. Seconded by Linda Tiano. Motion passed 4-0-1-0.

**ZBA #07-1528.** The Application of Leonard & Tanya Farber as Represented by Howard Rifkin. Chairman Harris moved to accept the draft public hearing minutes of this case as corrected. Seconded by Linda Tiano. Motion passed 4-0-1-0.

## 2. PUBLIC HEARINGS SCHEDULED FOR SEPTEMBER 27, 2007 were now heard.

#07-1529. David Ekroth & Pat Horner.
#07-1530. Town of Woodstock as Represented by William McKenna.

## 3. DECISIONS & ORDERS OUTSTANDING.

**#07-1527. Ramon & Toby Sanchez as Represented by Brooks & Brooks, P.C.** Chairman Harris moved to reopen the public hearing of this case for the purpose of voting. Seconded by Peter Carberry. Motion passed 4-0-1-0. Chairman Harris moved to close the public hearing of this case. Seconded by Linda Tiano. Motion passed 4-0-1-0.

**RESOLUTION:** Based upon the Standards for Consideration of Area Variances, an Area Variance from the Zoning Law of the Town of Woodstock, Area and Bulk Regulations, Minimum Yard Requirements, Section 4A-3f for an 11.3 foot infringement into a minimum required 50 foot side yard in order to legalize an existing 1700 square foot, 2-story addition is hereby granted and subject to binding requirements of New York State Real Property Law and/or other applicable Laws.

The vote was announced as follows: Joanne Anthony, Aye Peter Carberry, Aye Howard Harris, Aye, Tony Padalino, Absent, Linda Tiano, Aye.

**THE RESOLUTION WAS ADOPTED** by a vote of four in favor, none opposed, one absent, and none abstaining.

#07-1528. Leonard & Tanya Farber as Represented by Howard Rifkin. No decision or order was made on this application.

**4. REVIEW CASES RECEIVED/SCHEDULED for Meeting of October 11th**

#07-1531. James & Janet Nelson - Interpretation. Tony will visit the property.
#07-1532. Chris Moshonas as Represented by Peter Walther. Joanne will visit the property.
#07-1533. Mark & Lisa Vianello. Peter will visit the property.

**5. OTHER**

Chairman Harris moved to adjourn the meeting. Seconded by Ms. Tiano. Motion passed 4-0-1-0.

10/2/07: Draft e-mailed to members
10/16/07: 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 DAVID EKROTH & PAT HORNER**
**ZBA #07-1529** **September 27, 2007**

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

ZBA Members Absent: Tony Padalino

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

7:15 pm. ZBA #07-1529. The Application of DAVID EKROTH & PAT HORNER for property located 26 VAN WAGNER ROAD, WILLOW, NY, a 0.464 acre parcel in an R3 District for variances from Area and Bulk Regulations, Maximum Lot Coverage, Section 4A-4, and Area and Bulk Regulations, Minimum Yard Requirements, Section 4K-2b for a 23 foot infringement into a minimum required 25 foot side yard setback in order to replace a 10'x10' metal yard shed with a 10'x15' wood frame shed in the same location.

This application is instantly amended to Area and Bulk Regulations, Maximum Lot Coverage, Section 4A-3, and Area and Bulk Regulations, Minimum Yard Requirements, Section 4K-2b for a 23 foot infringement into a minimum required 25 foot side yard setback in order to replace a 10'x10' metal yard shed with a 10'x16' wood frame shed in the same location. See another amendment below.

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 Applicants, David Ekroth and Pat Horner, were present for the meeting. The application was amended and an explanation of the change was discussed. Mr. Carberry visited the property. Mr. Carberry began a discussion on the square foot measurements submitted with the application as follows: House footprint, 2190, Front porch, 70; Rear deck, 390, Existing attached shed, 125; and Existing shed, 100 for a total of 2876 s.f. which equals 14.2%.

Mr. Carberry asked if the proposed shed could be moved another foot further from the property line and the Applicants agrees. This amends the application again to a 22 foot infringement into a minimum required 25 foot side yard. Mr. Carberry asked if the

proposed shed will be constructed of wood and painted gray to match the house. The present shed is metal and ready for recycling. The height will be 9-10 feet from the base floor to the peak of the shed set on pre-cast concrete piers; not on a slab. Mr. Carberry reported that after a site visit to property, the following report was made. It is a small lot and the location of the shed is the better area due to the landscaping, the site will be 25-30 feet from the creek bank.

Chairman Harris made a copy of the letter received for a similar application in which the comments from the DEP/DEC appear and gave it to Mr. Ekroth. Chairman Harris suggested Mr. Ekroth contact the Building Inspector concerning any problems regarding the distance from the creek and also send a copy of the plot plan drawing the distances to the DEP and DEC..

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.**
No, the new shed will be an improvement and will match the house.

**2. Whether the benefit sought by the applicant could be achieved by some feasible method other than a variance.**
No, due to the size of the lot and the present landscaping.

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

**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.

Mrs. Lourenso 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 sent a written statement attesting to the time frame for a decision on 10/2/07.

Chairman Harris moved to recess the public hearing of this case. Seconded by Linda Tiano. Motion passed 4-0-1-0. There being no objection, this Hearing of Case #07-1529 is now recessed to the call of the Chairman.

10/2/07: Draft copy emailed to ZBA Members
10/16/07: Final to ZBA, Building Inspector, Planning Board, Case File, Minutes Book, Chrono