

**MINUTES OF THE TOWN OF WOODSTOCK ZONING BOARD OF APPEALS  
PUBLIC HEARING on the APPLICATION of KENNETH QUICK & YVONNE READ  
ZBA #07-1523  
July 12, 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.

7:20 pm. ZBA #07-1523. The Application of KENNETH QUICK & YVONNE READ for property located at 281 EIGHMEY ROAD, WILLOW, NY, a 1.04 acre parcel in an R3 District for a variance from Area and Bulk Regulations, Modification of Required Yards, Section 4K-2b, for a 10 foot infringement into a minimum required 50 foot rear yard in order to install a new modular structure to replace an old mobile home in disrepair.

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.

Chairman Harris asked the size of the property. Ms. Read and the Secretary stated that the tax map and Application indicated 1.10 acres but the submitted survey map and legal notice indicate 1.040 acres. Chairman Harris asked Ms. Read the names of the property owners and Ms. Read responded: "Theresa Quick, Kenneth Quick, his son, my Father (Kenneth Quick) and now, I am also on the deed."

**Chairman Harris instantly amended this application to a variance from Area and Bulk Regulations, Modification of Required Yards, Section 4K-2b, for a 5 foot infringement into a minimum required 50 foot rear yard setback.**

**HEARING**

The Applicant, Yvonne Read, was present for the public hearing. Ms. Anthony visited the property and questioned the address of the property. The application indicated PO Box 100, the legal notice indicated 281 Eighmey Road, the building permit record indicates PO Box 281 as an address but 281 Eighmey Road as a site/location, and the Certified Ulster County Assessment Roll states 85-93 Eighmey Road.

Using the submitted survey map, Ms. Read stated that the mobile home has been on the property for 40+ years. The addition was put on in 1975 (ZBA Case #233). Ms. Read wants to remove the mobile home and put up a modular structure which will be attached to the house already in place. Chairman Harris asked why the proposed modular building can't be moved forward and Ms. Read responded because there are trees.

Ms. Anthony asked Ms. Read to point out the location of the new leech field, septic and the present well using the survey map. The proposed septic system and leech field will be closer to the new modular structure and the present well is in the back. Mr. Carberry asked if the porch will be removed and was told yes.

Mr. Padalino reviewed the square footage of present structures on the property. The new house, ground floor, will be 1340 s.f., the second house, your Grandmother's house, is 540 s.f. ground floor, the shed is 140 s.f., the garage is 768 s.f., equals 2788 s.f. . Mr. Padalino asked the height of the proposed modular structure from grade level to the top. Ms. Read responded: "it has to have a four foot crawl space because of the water table. The structure is of a salt box design: first floor 9 feet high and then an 8 foot second story." Mr. Padalino stated the height would be 21 feet at the front edge and progressively higher to the peak - 6/7 foot pitch and confirmed the type of the roof on the house and addition will be Williamsburg Slate.

Chairman Harris asked the direction of the peak. The front of house will be facing Eighthmead Road. The back will face the stream and the high peak will be parallel to the road. Chairman Harris asked why the proposed modular building can't be moved forward. Ms. Read responded because there are many trees and shrubbery in between the driveway/parking area and the present 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.**

Ms. Read responded no as this will be an improvement to the site.

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

Ms. Read responded no as it would require the destruction of trees and shrubs maintain the character of the neighborhood.

**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.

**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. D. Dorian, was present and had questions regarding the word infringement, distance from a stream, and the continued erosion of the stream. The Chairman responded distances from the stream would have been dealt with by the former Wetland and Watercourse Law which is no longer valid. Chairman Harris explained what setbacks are for that area. Ms. Dorian has no objection to the application.

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 and submitted the statement on 7/9/07 and it is now part of the record.

Chairman Harris moved to recess the public hearing of this case. Seconded by Ms. Tiano. Motion passed 5-0-0-0. There being no objection, this Hearing of Case #07-1523 is now recessed to the call of the Chairman.

7/17/07: Draft e-mailed to ZBA Members

7/30/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono



**ZBA MEETING MINUTES****July 26, 2007**

Having determined that a quorum is present, Chairman Howard Harris called to order the July 26<sup>th</sup> 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, Alternate Marie Lourenso, Tony Padalino, and the Secretary, Ann Brandt. Member, Linda Tiano, was absent.

**1. ADMINISTRATIVE MATTERS**

**-Changes/Additions to the Meeting Agenda.** Chairman Harris added: discussion of the public hearings format and re-notification to the Board of the time frame for the review, voting, signing and submission of the final Decision & Order/Interpretation. .

**-Approve Draft ZBA Meeting Minutes of July 12<sup>th</sup>.** Chairman Harris moved to accept the draft meeting minutes of July 12<sup>th</sup> as corrected. Seconded by Peter Carberry. Motion passed 4-0-1-0.

**-Approve Draft Public Hearing Minutes of July 12<sup>th</sup>.**

**#07-1523. Kenneth Quick & Yvonne Read.** Chairman Harris moved to accept the draft public hearing minutes of this case as corrected. Seconded by Peter Carberry. Motion passed 4-0-1-0.

**2. PUBLIC HEARINGS SCHEDULED FOR JULY 26, 2007.**

**#07-1524.** The Application of Alan Pizer & Anna Krawczyk

**#07-1522.** The Application of the Town of Woodstock as Represented by Supervisor Jeremy Wilber.

The above public hearings were postponed.

**3. DECISIONS & ORDERS OUTSTANDING**

**#07-1523. Kenneth Quick & Yvonne Read.** Chairman Harris moved to reopen the recessed public hearing of this case. Seconded by Peter Carberry. Motion passed 4-0-1-0. Chairman Harris moved to close the recessed public hearing of this case. Seconded by Peter Carberry. 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, Modification of Required Yards, Section 4K-2b, for a 5 foot infringement into a minimum required 50 foot rear yard in order to install a new modular structure to replace an old mobile home is hereby granted, 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, Aye, Linda Tiano, Absent

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

**#07-1521. Gary Heller as Represented by John Wasylyk, North Engineers.**

Chairman Harris moved to reopen the recessed public hearing of this case. Seconded by Peter Carberry. Motion passed 4-0-1-0. Chairman Harris moved to close the recessed public hearing of this case. Seconded by Peter Carberry. Motion passed 4-0-1-0.

**RESOLUTION. INTERPRETATION:**

This Board finds based upon its understanding of The Zoning Law of the Town of Woodstock regarding the amended request for an Interpretation that an accessory apartment is allowed within in an accessory structure containing a separate use.

**RESOLUTION. VARIANCE:**

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, Supplementary Regulations, Section 5-FF to allow an accessory apartment in the same structure also containing a music studio and garage, as shown in the submitted plans which indicate a physical communication between the mixed uses, is **HEREBY DENIED**, 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, Aye, Linda Tiano, Absent.

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

**4. REVIEW CASES RECEIVED/SCHEDULED for Meeting on August 9, 2007**

**#07-1525. Susan Barnett.** Joanne Anthony will visit the site.

**5. OTHER**

- Discussion of mileage submission by Mr. Carberry.
- Definition of habitable space handout. Chairman Harris stated habitable space only relates to a principal dwelling in figuring out the size of an accessory apartment. Therefore, remove footage of closets, utility, bathrooms, etc. The accessory apartment has to be 35% of what is left.
- Discussion of public hearings format using copy of Open Spaces Meeting law. D&O should contain what should be in the public hearing minutes; no quotations, no verbatim. Mr. Padalino reviewed other Town's public hearing minutes and found them clear and readable and the information was summarized. Decision: the Secretary is to continue producing the public hearing minutes as in the past, the tapes are to be kept up to 63 days after the close of the public hearing.





-Revised Draft Zoning Law has been received by the ZBA.

-The order of cases for the next meeting will be:

#07-1524. Alan Pizer and Anna Krawczyk

#07-1525. Susan Barnett

#07-1522. Town of Woodstock - Youth Skate Park Fencing.

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

7/31/07: Draft e-mailed to ZBA Members

8/13/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono

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