

**ZBA MEETING MINUTES****June 28, 2007**

Having determined that a quorum is present, Vice Chairman Tony Padalino called to order the June 28, Meeting of the Zoning Board of Appeals. There being no objection, the action is adopted. Vice Chairman Padalino introduced the members present: Joanne Anthony, Peter Carberry, Alternate Marie Lourenso, Tony Padalino, Linda Tiano and the Secretary, Ann Brandt. Members absent: Howard Harris.

1. ADMINISTRATIVE MATTERS

-Call meeting to order, etc. Addition of the Board doing a consensus of the public hearings heard the evening of the public hearings.

-**Approve draft meeting minutes of May 24th.** Vice Chairman Padalino moved to accept the meeting minutes as submitted. Seconded by Linda Tiano. Motion passed 4-0-1-0.

-**Approve draft public hearing minutes of May 24th:**

-ZBA #07-1516. The Woodstock Byrdcliffe Guild as Represented by Les Walker, Architect. Vice Chairman Padalino moved to accept the public hearing minutes as submitted. Seconded by Peter Carberry. Motion passed 4-0-1-0.

-Secretary collected certificates of attendance at the Planning Seminar.

2. PUBLIC HEARINGS SCHEDULED for JUNE 28, 2007 were now heard.

-ZBA #07-1520. The Application of KAREN O'NEIL & PETER CLAPPER.

-ZBA #07-1519. The Application of MIRIAM COOPER.

-ZBA #07-1521. The Application of GARY HELLER as REPRESENTED by JOHN WASYLYK, NORTH ENGINEERS.

3. DECISIONS & ORDERS OUTSTANDING

#07-1516. Woodstock Byrdcliffe Guild as Represented by Less Walker, Architect. Letter dated 5/25/07 withdrawing application.

4. REVIEW CASES RECEIVED/SCHEDULED for JULY 12, 2007

-ZBA #07-1523. The Application of Kenneth Quick & Yvonne Read.

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

5. OTHER

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-Secretary reminded members to submit their mileage reimbursement reports for 1/1/07-6/28/07.

-Discussion of cases heard this evening.

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

7/11/07: Draft e-mailed to Members

7/12/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono

The first part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$. It is shown that the solutions of the system (1) are bounded and tend to zero as $t \rightarrow \infty$. The second part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow 0$. It is shown that the solutions of the system (1) are bounded and tend to zero as $t \rightarrow 0$.

The third part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$. It is shown that the solutions of the system (1) are bounded and tend to zero as $t \rightarrow \infty$. The fourth part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow 0$. It is shown that the solutions of the system (1) are bounded and tend to zero as $t \rightarrow 0$.

The fifth part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow \infty$. It is shown that the solutions of the system (1) are bounded and tend to zero as $t \rightarrow \infty$. The sixth part of the paper is devoted to the study of the asymptotic behavior of the solutions of the system (1) as $t \rightarrow 0$. It is shown that the solutions of the system (1) are bounded and tend to zero as $t \rightarrow 0$.

**MINUTES OF THE TOWN OF WOODSTOCK ZONING BOARD OF APPEALS
PUBLIC HEARING on the APPLICATION of MIRIAM COOPER
ZBA #07-1519 June 28, 2007**

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

ZBA Members Absent: Howard Harris

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

7:40 pm. ZBA #07-1519. The Application of MIRIAM COOPER for property located 66 YERRY HILL ROAD, WOODSTOCK, NY, a 3.235 acre parcel in an R3 District for variances from Area and Bulk Regulations, Minimum Yard Requirements, Section 4A-3f for a 49 foot infringement into a minimum required 50 foot side yard and Section 4A-3g for a 49 foot infringement into a minimum required 50 foot rear yard in order to legalize an 8 foot by 10 foot storage shed.

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, Miriam Cooper, was present for the meeting and stated that although her property is over 3 acres, the usable building area is 200 feet by 160 feet. A good portion of the entire property is located within the flood zone and the rest are trees. She installed the shed already about a foot from the property line, painted it dark green and what my neighbor actually sees is about 2 ½ feet of the roof area of the shed.

Ms. Tiano visited the property and stated that all of the buildings on Ms. Cooper's property are within the required setbacks. She is using all the usable space of the property considering the major portion is located across the stream and DEC permits would be required to access that section of the property. Ms. Tiano stated that fencing and an arbor appear to screen the shed from her neighbor.

Ms. Anthony asked if the shed was installed at the same time as the 279 s.f. addition to existing studio building w/bathroom and enclosed stair. Ms. Cooper responded yes, ZBA Case #06-1508. Ms. Anthony asked why didn't Ms. Cooper get a variance for the shed at the same time she requested the variance for the studio? Ms. Cooper

responded she didn't know what came first and feels very nervous about this public hearing but believes the shed was purchased last fall. Ms. Cooper stated Mr. Shultis did not accept the overall "design plan" which included the studio and shed and which her neighbor's husband drew.

Mr. Carberry asked if the shed could be moved back from the fence two feet. Ms. Cooper responded it would be very expensive but may not solve her neighbor's problem. Ms. Cooper stated both the studio and shed are at least 1-2 feet from the fencing.

Mr. Padalino asked, with the understanding of the dimensions of the flood plain area, about moving the shed closer to the building that was given the original variance where there appears to be more room; there is a lot of congestion in that corner. Ms. Cooper stated she has spent a lot of money on the screening plantings and if she moves the shed behind the studio and further away from the property line. Ms. Tiano stated there would only be a 2-3 feet space at that location. The Board reviewed the present plantings and the water flow through the property.

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.

Ms. Cooper responded no.

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

Ms. Cooper responded no.

3. Whether the requested variances are substantial.

The requested variances are substantial because they are more than the 50% setback requirement.

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

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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.

This Application was instantly amended to variances from Area and Bulk Regulations, Minimum Yard Requirements, Section 4A-3f for a 48 foot infringement into a minimum required 50 foot side yard and the rest of the original application is unchanged.

The Secretary read the roll call of contiguous neighbors. Contiguous neighbor, Sue Wilens Ramsey, submitted a letter w/photos which the Secretary read into the record. Ms. Cooper stated her husband, and not she gave assurances regarding moving the shed.

The Vice 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, signed the statement and it is now part of the record.

Vice Chairman Padalino moved to recess the public hearing of this case. Seconded by Ms. Tiano. Motion passed 4-0-1-0. There being no objection, this Hearing of Case #07-1519 is now recessed to the call of the Chairman.

7/10/07: Draft e-mailed to ZBA Members

7/16/07: 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 KAREN O'NEIL & PETER CLAPPER
ZBA #07-1520 June 28, 2007**

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

ZBA Members Absent: Howard Harris

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

7:15 pm. ZBA #07-1520. The Application of KAREN O'NEIL & PETER CLAPPER for property located at 3933 ROUTE 212, LAKE HILL, NY, a .427 acre parcel in an R3 District for variances from Area and Bulk Regulations, Modification of Required Yards, Section 4K-2b, for a 48 foot infringement into a minimum required 50 foot rear yard and Section 4K-2b, for an 18 foot infringement into a minimum required 25 foot side yard in order to install an 8 foot by 10 foot storage shed.

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, Mr. Peter Clapper, was present for the meeting and stated he needed the two variances to install an 8'x10' wooden storage shed. Mr. Clapper's neighbor, Mr. Terry Graham, whose property would be most impacted by the shed accompanied the Applicant.

Mr. Carberry visited the property and stated Mr. Clapper originally wanted to locate the proposed storage shed in the very corner of his property. That has changed. The new proposed location would be 13 feet from the Graham property and 3 feet from the City of Kingston Water Department property but still close to the corner of the property.

Mr. Carberry stated the proposed location was chosen because both the septic and leech fields are located at an angle from the house into the rear of the property and one cannot build on top of the area. Mr. Carberry asked if the shed will match the house. Mr. Clapper responded his wife is requesting yellow with a window on the right side facing Cooper Lake Road. Mr. Clapper presented a photo of the proposed shed which is entitled "Liberty." Mr. Clapper stated there are other structures in the yards of

his neighbors such as a gazebo. Mr. Carberry verified the location of the well on the parking area side of the house (the Lake Hill Post Office).

Ms. Anthony asked the purpose of the shed and Mr. Clapper responded since he does not have a garage, this shed would store outdoor equipment such as rakes, shovels, mower and gasoline for the mower and kerosene for a heater (fuel would be standard 5 gallons). Ms. Anthony asked if the shed would be on a foundation or flat on the ground and Mr. Clapper responded he would be setting it up on 4x4's. Does this mean it is moveable and Mr. Clapper responded, hopefully not. Mr. Carberry stated the neighborhood has very small lots.

Mr. Padalino stated the houses in the area are very close together and asked if there was space available in the center of the lot near behind the leech field. Mr. Clapper stated the proposed location and visibility is nicer at the proposed site and the terrain slopes down from the leech field because of water drainage problems.

Ms. Anthony asked the distance from the back property line to the water's edge of the lake. Mr. Clapper responded 1/8 - 1/4 mi with dense foliage. Moving the shed closer to the leech field is not possible. Discussion of change from 1 foot to 13 feet from the Graham (side) property line and 3 feet from the City of Kingston Water Department line.

Mr. Padalino asked if any screening is being considered and Mr. Clapper responded no. Mr. Padalino asked the distance from the proposed shed to the Mr. Graham's house and Mr. Graham responded 15 feet on a diagonal from his house to the shed. Mr. Padalino asked the shade of yellow being considered and Mr. Clapper responded cadmium which is a variation of bright lemon yellow.

Mr. Padalino instantly amended this Application to a variance from Area and Bulk Regulations, Modification of Required Yards, Section 4K-2b for a 47 foot infringement into a minimum required 50 foot rear yard and Section 4K2b for a 12 foot infringement into a minimum required 25 foot side yard in order to install an 8 by 10 foot storage shed.

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. Clapper responded no.

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

Mr. Clapper responded no.

3. Whether the requested variances would be substantial.

The requested variance of 12 feet into a minimum 25 foot setback is not substantial but the requested variance of 47 feet into a minimum 50 foot setback.

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

The Vice 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. There were no written nor telephone communications received on this application. Present for the meeting was Mr. T. Graham, a contiguous neighbor, who has no objection to the application and agrees the chosen spot is the right place to locate it.

The Vice Chairman asked if there were any other questions or comments from the Board or Public. There were no other responses.

The Applicant was given a written statement attesting to the time frame for a decision. The Applicant signed the statement on June 20, 2007 and it is now part of the record.

Vice Chairman Padalino moved to recess the public hearing of this case. Seconded by Ms. Tiano. Motion passed 4-0-1-0. There being no objection, this Hearing of Case #07-1520 is now recessed to the call of the Chair.

7/9/07: Draft copy to ZBA Members

7/17/07: 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 GARY HELLER as REPRESENTED by
JOHN WASYLYK
ZBA #07-1521**

June 28, 2007

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

ZBA Members Absent: Howard Harris

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

8:10 pm. ZBA #07-1521. The Application of GARY HELLER as REPRESENTED by JOHN WASYLYK, NORTH ENGINEERS, 176 HUTCHIN HILL ROAD, BEARSVILLE, NY, a 26.7 acre parcel in an R5 Scenic Overlay District, for a variance from Supplementary Regulations, Section 5FF, Accessory Apartment in Detached Structure, in order to construct an accessory structure to house an apartment, music studio and garage and an INTERPRETATION of Section 5FF-7, that since accessory apartments shall be self contained, clarifying access to other parts of the structure and whether an accessory apartment and music studio can be in the same structure.

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, John Wasylyk, was present for the meeting and stated he would like to clarify the legal notice Interpretation as to whether an accessory apartment can exist in a accessory building with other functions. Historically, the Town has allowed an accessory apartment in an accessory structure which have other functions; i.e., the Logstock Project.

After a Planning Board Review and because the property is located in the Scenic Overlay District, the question was raised: was the Applicant allowed to have a door? Originally, the plan had a door to allow the tenant to access the accessory apartment through stairs to the main level or through the garage. The Planning Board questioned whether the total square footage of the accessory apartment should include all the square footage in the building. Mr. Wasylyk's position is that the accessory apartment

complies with the definition of an accessory apartment (Section 5FF-7) up to the point of the door. Beyond that, it is not substantial to being added to the square footage of the apartment: i.e., on the other side of the door is a staircase that does not lead to another primary part of the building but to a vestibule at the top of the staircase. This vestibule accommodates entry to both the studio and the accessory apartment but not the ability of one opening to the other. The Interpretation request is for a determination that the accessory apartment is self-contained (Section 5FF-7) and is permitted communication with other parts of the structure without jeopardizing the Section 5FF-7 definition.

Mr. Padalino asked what plans are specifically being submitted. The owner does not like the original plan and wants to include a door to the entryway. The apartment will be on the lower level and the garage is on the next level and the tenant should have access to the garage from the inside. A discussion followed regarding blocking off the studio from the accessory apartment and, again, if the apartment is self-contained. Defining the self-contained aspect will be a lock under the building owner's control from the vestibule into the music studio and loft and the tenant would only have a key to his/her own area.

Mr. Wasylyk stated that an accessory apartment is allowed access to other secondary or utility spaces in the building by means of a door such as the staircase/garage. If there was direct communication between the accessory apartment and the music studio that would be an issue. The Applicant is asking for a direct communication for the tenant to use the secondary utility spaces of the building. It was considered by the Board the first part of the Application - a variance from Section 5FF has already been handled. The Planning Board approved the building w/door and having a wall between the areas. A variance will allow a door to be added as in the original plan.

Mr. Carberry asked if the total square footage of the accessory structure is 35% or less of the principal residence. The answer is yes but we're dealing with only the apartment.

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. The questions deal only with the variance request and not the interpretation request.

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. Wasylyk responded no because the apartment will be self-contained.

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

Mr. Wasylyk responded no as using an exterior entrance only would require extensive cost.

3. Whether the requested variance would be substantial.

The requested variance is not substantial since the facility will be self-contained.

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 as the request is for internal changes to a structure..

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 Applicant were given a written statement attesting to the time frame for a decision.

Vice Chairman Padalino moved to recess the public hearing of this case. Seconded by Ms. Tiano. Motion passed 4-0-1-0. There being no objection, this Hearing of Case #07-1521 is now recessed to the call of the Chairman.

7/10/07: Draft copy to ZBA Members

7/17/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono

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