

**ZBA MEETING MINUTES****April 12, 2007**

Having determined that a quorum is present, Chairman Howard Harris called to order the April 12, 2007 Meeting of the Zoning Board of Appeals. There being no objection, the action is adopted. Chairman introduced the members present: Joanne Anthony, Peter Carberry, Howard Harris, Alternate Marie Lourenso, Tony Padalino, Linda Tiano and the Secretary, Ann Brandt.

1. ADMINISTRATIVE MATTERS

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

-Approve draft meeting minutes of March 9, 2007. Chairman Harris moved to accept the draft meeting minutes as submitted. Seconded by Ms. Tiano. Motion passed 5-0-0.

-Discussion of the draft Decision and Order for Case #06-1496A, Dennis and Abby Bressack. Items under Resolution, Findings (2), (4), add findings of the Planning Board, on page 2, #2, and Additional Findings B).

-Approve draft public hearing minutes of March 8, 2007. There were no public hearings scheduled for this date.

2. PUBLIC HEARINGS SCHEDULED for APRIL 12, 2007 were now heard.

ZBA #07-1511. Royta, LLC c/o Robin Danziger as Represented by Colin Houston of North Engineers. Discussion of the subdivision and its sale to the NYCDEP. The Secretary who is the LASP (Land Acquisition and Stewardship Program) Coordinator for the Town explained the program to the Members.

ZBA #07-1512. Gary Heller as Represented by John Wasylyk of North Engineers. Discussion of internal staircase in the proposed accessory structure and its size; the accessory apartment should be self-contained. This application deals w/accessory for a height variance and an interpretation as to whether an accessory structure is required to be limited to 25 feet in height. A letter to the Building Inspector asking if the ZBA has the authority to determine re the size of the proposed accessory apartment, does the internal staircase make it part of the main structure rather than a separate structure.

3. DECISIONS AND ORDERS OUTSTANDING

-ZBA #06-1496A. The Rescheduled Hearing of Dennis & Abby Bressack as

Represented by Marc Miller, Esq.

RESOLUTION: Based upon the Standards for Consideration of Area Variances and the findings of this Board and the Planning Board as listed below, the requested Area Variances from the Zoning Law of the Town of Woodstock, for Proposed Lot #1 as follows: from Area and Bulk Regulations, Section 4A-6a, Minimum lot area to allow a 8,588.78+/- square foot lot where a 10,000 square foot minimum lot size is required, Section 4A-6d, Minimum lot width to allow a 41 foot wide lot where a minimum 60 foot lot width is required and Section 4A-6f, Minimum side yard requirements to allow a 1

foot 11 inch infringement into a minimum required 10 foot side yard setback and for Proposed Lot #2 as follows: from Area and Bulk Regulations, Section 4A-6a, Minimum Lot Area to allow a 7,592.72+/- square foot lot where a 10,000 square foot minimum lot size is required, Section 4A-6d, Minimum lot width to allow a 20 foot 6 inch wide lot where a minimum 60 foot lot width is required and Section 4A-6f, Minimum side yard requirements to allow a 1 foot 11 inch infringement into a minimum required 10 foot side yard setback, in order to subdivide the parcel, are 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, Aye.

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

4. REVIEW CASES REVIEWED/SCHEDULED for Meeting of April 26, 2007

-ZBA #07-1513. Taconic DDSO26 Center as Represented by J. Costa-Peter Carberry will visit the site

-ZBA #07-1514. Jerome & Natalie Margolis as Represented by William Dailey, Tivcorp, Inc. - Joanne Anthony will visit the site .

5. OTHER

-ZBA Case #05-1448, Robert & Lesley Sibner. Chairman Harris moved to extend their variance for another six months to October 27, 2007. Seconded by Linda Tiano. Motion passed 5-0-0-0.

-Reviewed the following materials distributed to Members:

-UCPB Spring Planning Seminar Series: reviewed Members attendance

-Hanowitz Application Stipulation

-NY Planning Federation News.

-Discussion of cases heard this evening.

Chairman Harris made a motion to adjourn the meeting. Seconded by Ms. Tiano. Motion passed 5-0-0-0. Meeting adjourned at 9 pm.

4/23/07: Draft to ZBA Members

4/30/07: 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 ROYTA, LLC. c/o ROBIN DANZIGER as
REPRESENTED by COLIN HOUSTON, NORTH & HOUSTON
ZBA #07-1511 April 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.

7:15 pm. The Application of ROYTA, LLC, c/o ROBIN DANZIGER as REPRESENTED by COLIN HOUSTON, NORTH & HOUSTON, for property located at 359 OHAYO MOUNTAIN ROAD, WOODSTOCK, NY, a 18.53 acre parcel in an R5/R8 District for a variance from Area and Bulk Regulations, Minimum Lot Width, Section 4A-2d, to allow a 192 foot front lot width where a 300 foot lot width is required in order to complete a subdivision.

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, Mr. Colin Houston, was present for the meeting and stated the 18.53 acre parcel is located in an R5 District with the exception of a southeasterly corner located in an R8 District. The owner is proposing a subdivision of Lot #1 consisting of 13.03+/- acres and Lot #2 consisting of 5.50+/- acres. There is an existing house on proposed Lot #2 and this lot will be retained.

The lot width is defined as the width of the road at the front yard setback which here is 75 feet; so the width of the lot requires a variance of 192 feet where 300 feet is required. Further into the lot where a structure could be placed, there is enough width. Mr. Houston presented a tax map showing the other properties in the neighborhood that have less than the required lot width of 300 feet.

Ms. Anthony, who visited the property, asked about access to proposed Lot #1 since the driveway for Lot #2 appeared to be the only access. Mr. Houston stated there is an 50 foot right of way for access to the proposed Lot #1 and the Planning Board has

requested a road maintenance agreement and bonding the 200 foot portion of the road to insure that it is brought up to Town's specs for a shared driveway. Ms. Anthony led a discussion of the differences in the tax map from a new survey. After Mr. Houston surveyed the parcel, the acreage settled as Lot #1, 13.03 acres and Lot #2, 5.50 acres. Of the original parcel, the 13.03 acres of proposed Lot #1 is located in Woodstock and 11.09 acres are located in Hurley.

Ms. Anthony stated the proposed house site is shown behind the present structure and 15 feet higher. Any future structures proposed for Lot #1 would have no use for variances. Chairman Harris asked what is being done with both lots. Mr. Houston stated Lot #1 and all the land in Hurley is under contract to NYCDEP. First, it has to be approved as a building lot even though no building will occur on the site. Mr. Padalino verified the driveway location as being away from the stream but close to the proposed property line.

Secretary Ann Brandt, WEC's Land Acquisition and Stewardship Program Coordinator, stated the property was reviewed by the WEC on March 28th and NYC is proposing and the WEC agrees there be no proposed recreational use at this time due to the small size and isolation of the property. This could be reconsidered in the future if additional acquisitions are made in the area. Chairman Harris stated if the variance were granted, it would be conditional upon the accuracy of the figures submitted.

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. Houston responded no as other parcels in the area do not conform to the 300 foot width.

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

Mr. Houston responded no as there is only 500 feet of width to work with and create a two lot subdivision.

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.

The Secretary read the roll call of contiguous neighbors. Only contiguous neighbor, Ms. Laurie Ylvisaker, was present and questioned why the 400+/- frontage has to be cut into two since the City will be using the existing driveway. Her suggestion was to reconfigure the lot by adding acreage from propose Lot #1, 13.03 lot, to the front of the existing total parcel which would equal 490+/- frontage. She also has concerns about the amount of water on the property and it was suggested that Ms. Ylvisaker contact both the NYCDEP and the Planning Board concerning the water issues on this property.

The Chairman asked if there were any other questions or comments from the Board or Public.

The Applicant/s were given a written statement attesting to the time frame for a decision. The Applicant/s signed the statement 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 #07-1511 is now recessed to the call of the Chairman.

4/19/07: Draft copy to ZBA Members

4/30/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono

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**PUBLIC HEARING on the APPLICATION of GARY HELLER as REPRESENTED by
JOHN WASYLYK, NORTH ENGINEERS
ZBA #07-1512**

April 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.

7:42 pm. ZBA #07-1512. The Application of GARY HELLER as REPRESENTED by JOHN WASYLYK, NORTH ENGINEERS, for property located at 176 HUTCHIN HILL ROAD, BEARSVILLE, NY, a 26.7 acre parcel in an R5 District, for a variance from Area and Bulk Regulations, Accessory Structures and Features in Yards, Section 4I-1a as defined in Section 15A, in order to construct a studio/accessory apartment totaling 4 feet above the maximum 25 foot height requirement and an Interpretation of Section 15A, General Definitions, Height, Building relating to accessory structures.

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.

Chairman Harris moved to amend the above legal notice to read as follows: "in Yards, Section 4I-1a in order to construct a studio/accessory apartment totaling 29 feet, 6 inches where only a 25 foot high structure is allowed."

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 of North Engineers, was present for the meeting and stated the Applicant wants to build another structure on his property for an accessory apartment and private music studio/practice area. Mr Heller currently has a constructed/completed house 150 feet away from the proposed second building. Mr. Wasylyk brought with him a model of the present house showing the proposed structure as a second living room with the ability to protect his instruments in a climate controlled environment.

The property is on a slope, not steep, and there was an old orchard from MacDaniel Road down to the stream. The house faces the stream and is behind a knoll. Any additions

such as this proposed structure will match other structures on the site. The proposed accessory apartment will be on ground level. The area is heavily wooded by a hemlock forest and the proposed addition will be well hidden. To minimize the footprint, the ground level will be open on two sides; on the hillside side, the accessory structure will be 4 feet higher than allowed because the height of the building is measured from the lowest side to the mid point of the ridge of the principal roof. Discussion followed of number of accessory structures vs. accessory apartments on a property and that this is an extension of the principal structure.

Mr. Padalino asked the location of the access to the lower level, accessory apartment - outside or inside? Mr. Wasylyk responded it is an on-grade walk from the main structure; otherwise, it is up a hill to the entrance door from the back and there is an internal staircase. Mr. Padalino stated an internal staircase would change consideration of the entire structure as an accessory apartment. One of the entrance doors to the apartment is also an entrance for the mechanicals for the principal structure. The actual entrance door to the apartment is in the basement. The staircase will also take one to the main level and the garage.

Mr. Carberry asked the measurements of the proposed accessory apartment and Mr. Wasylyk replied 758 s.f. The music studio is 750 s.f., 312 s.f. garage on the same level and also storage rooms, utilities, entries of 360 s.f.

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. Wasylyk responded no because is not visible from the road and is in the middle of a 26.7 acre parcel.

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

Mr. Wasylyk responded the design/plan could be made smaller but the square footage would spread out the plan.

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

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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 messages received on this case.

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

The Applicant's Representative was sent statement attesting to the time frame for a decision. When it is returned, it will become 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 #07-1512 is now recessed to the call of the Chairman.

4/19/07: Draft copy to ZBA Members

4/23/07: Amended version to ZBA Members

4/30/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono

Addendum: Variance request was amended after the close of the hearing to a height of 30 feet, 6 inches instead of 29 feet, 6 inches. Chairman Harris moved again 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 #07-1512 is now recessed to the call of the Chairman.

