ZONING BOARD OF APPEALS **TOWN OF WOODSTOCK, NY**
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ZBA MEETING MINUTES
January 11, 2007

Having determined that a quorum is present, Chairman Howard Harris called to order the January 11, 2007 Meeting of the Zoning Board of Appeals and 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.

-Chairman Harris welcomed new member, Joanne Anthony, to the Board.

-Chairman Harris made a motion to name Tony Padalino Vice Chairman of the Board, term to run concurrent with the Chairman's term. Seconded by Linda Tiano. Motion passed 4-0-0-1.

-Vice Chairman Padalino stated any calls received regarding cases should be referred to the Chairman. Changed to any calls received after the conclusion of the public hearing should be...

-Vice Chairman Padalino asked the Secretary to retype the "Conduct of Meetings" outline and send it to him for updating.

-Secretary announced the offices will be closed Monday, January15th.: Martin Luther King, Jr. Day.

-Chairman Harris asked Ms. Anthony if she felt ready to vote on the minutes, draft decisions, etc. received to date.

-Approve draft ZBA Meeting Minutes of December 14th. Chairman Harris moved to accept the draft meeting minutes of December 14th as submitted. Seconded by Linda Tiano. Motion passed 4-0-0-1.

-Approve draft public hearing minutes of December 14th

#06-1504, David & Gina Maloney Chairman Harris moved to accept the draft public hearing minutes of this case as submitted. Seconded by Peter Carberry. Motion passed 4-0-0-1

#06-1505, Jana Lucas. Chairman Harris moved to accept the draft public hearing minutes of this case as submitted. Seconded by Linda Tiano. Motion passed 4-0-0-1.

#06-1506, Michael & Donna Stock. Chairman Harris moved to accept the draft public hearing minutes of this case as corrected. Seconded by Linda Tiano. Motion passed 4-0-0-1.

#06-1507, Craig & Lori Gurian dba Justice Seekers, LLC -Rep: Kevin Conklin. Chairman Harris moved to accept the draft public hearing minutes of this case as corrected. Seconded by Linda Tiano. Motion passed 4-0-0-1.

2. PUBLIC HEARINGS SCHEDULED for January 11, 2007 were now heard

#06-1503. Rescheduled Application of Diane Germaine as Represented by James S. Lonergan

#06-1508. Miriam Cooper as Represented by Kevin Conklin, North Engineers.

#06-1509. Woodstock Guild as Represented by Les Walker, Board Member

#06-1496A Dennis and Abby Bressack as Represented by Marc Miller postponed to January 25, 2007 at 7:30 pm.

3. DECISIONS AND ORDERS OUTSTANDING

#06-1504, David & Gina Maloney. Chairman Harris moved to reopen the public hearing of this case for the purpose of voting. Seconded by Ms. Tiano. Motion passed 5-0-0-0. Chairman Harris moved to close the public hearing of this case. Seconded by Ms. Tiano. Motion passed 5-0-0-0.

RESOLUTION: Based upon the Standards for Consideration of Area Variances, Area Variances from the Zoning Law of the Town of Woodstock: **#1; Pool Pavilion**; from Area and Bulk Regulations, Modification of Required Yards, Section 4K-2c, for an 11 foot infringement into a minimum required 50 foot side yard in order to construct a pool pavilion: **#2; Deck & Hot Tub**; Area and Bulk Regulations, Modification of Required Yards, Section 4K-2c for a 10 foot 8 inch infringement into required 50 foot side yard setback in order to build a deck and hot tub: **#3; Carport**; Area and Bulk Regulations, Modification of Required Yards, Section 4K-2c for a 4 foot 8 1/4 inch infringement into a minimum required 50 foot side yard set back in order to build a carport with the condition that landscaped screening is to be provided behind the carport on the east side of the property; are hereby granted w/conditions, subject to binding requirements of New York State Real Property Law and/or other applicable Laws.

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

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

#06-1505, Jana Lucas. Chairman Harris moved to reopen the public hearing of this case for the purpose of voting. Seconded by Ms. Tiano. Motion passed 5-0-0-0. Chairman Harris moved to close the public hearing of this case. Seconded by Ms. Tiano. Motion passed 5-0-0-0.

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, Accessory Structures and Features in Yards, Section4I-2, to legalize a pre-existing pool in the front yard and Supplementary Regulations, Fences, Walls and Gates, Section 5D-4 to allow a pre-existing 4 foot 6 inch pool fence in the required front yard 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, Abstain, Peter Carberry, Aye, Howard Harris, Aye, Tony Padalino, Aye, Linda Tiano, Aye.

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

#06-1506, Michael & Donna Stock. Chairman Harris moved to reopen the public hearing of this case for the purpose of voting. Seconded by Ms. Tiano. Motion passed 5-0-0-0. Chairman Harris moved to close the public hearing of this case. Seconded by Ms. Tiano. Motion passed 5-0-0-0. Chairman Harris relinquishes the reading of the resolution to Mr. Carberry. Seconded by Ms. Tiano. Motion passed 5-0-0-0.

RESOLUTION: Based upon the Standards for Consideration of Area Variances, Area Variances from the Zoning Law of the Town of Woodstock, **LOT # 1: House**, Area and Bulk Regulations, Minimum Yard Requirements, Section 4A2e for a 10 foot infringement into a minimum required 75 foot front yard setback; **Barn,** Section 4A-2e for a 9 foot infringement into a minimum required 75 foot front yard setback and 4A-2f for a 37 foot infringement into a minimum required side yard setback and **Carriage House,** Section 4A-2f for a 62 foot infringement into a 75 foot minimum required side yard setback. **LOT # 2: House,** Area and Bulk Regulations, Minimum Yard Requirements, Section 4A-2f for a 14 foot infringement into a minimum required 75 foot side yard setback and Area and Bulk Regulations, Minimum Yard Width, Section 4A-2d, for 101.1 feet under the required 300 foot width in order to subdivide a 19.11 acre property into a 12.828 acre lot and a 6.046 acre lot are hereby granted conditional upon compliance with Planning Board recommendations, subject to binding requirements of New York State Real Property Law and/or other applicable Laws.

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

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

#06-1507, Craig & Lori Gurian dba Justice Seekers, LLC -Rep: Kevin Conklin. Chairman Harris moved to reopen the public hearing of this case for the purpose of voting. Seconded by Ms. Tiano. Motion passed 5-0-0-0. Chairman Harris moved to close the public hearing of this case. Seconded by Ms. Tiano. Motion passed 5-0-0-0.

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-2E, as modified by Section 4K-1, Modification of Required Yards, for a 17.1 foot infringement into a minimum required 100 foot front yard setback in order to construct a three hundred eighty one square foot addition to the existing structure is hereby granted upon compliance with the Planning Board recommendations, subject to binding requirements of New York State Real Property Law and/or other applicable Laws.

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

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

4. REVIEW CASES RECEIVED/SCHEDULED for Meeting of January 25, 2007

#07-1510. Andrew & Suzanne Parker as Represented by John Wasylyk. Ms. Tiano will visit the property.

#06-1496A. Rescheduled Hearing of Dennis & Abby Bressack as Represented by Marc Miller. Mr. Padalino will review the application.

5. OTHER

-Mileage: Chairman Harris announced members should voucher for their mileage to and from site visits and to and from the meetings. PB is submitting mileage for the previous year. ZBA should start submitting vouchers this year. Mileage charge is 44.5 cents per mile for 2007. The mileage charge for trips in 2006 was 37.5 cents per mile.

Chairman Harris moved to close the meeting. Seconded by Linda Tiano. Motion passed 5-0-0-0. Meeting adjourned at 9:45 pm.

01/23/07: Draft e-mailed to ZBA Members
01/29/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono

MINUTES OF THE TOWN OF WOODSTOCK ZONING BOARD OF APPEALS RESCHEDULED PUBLIC HEARING of DIANE GERMAINE as REPRESENTED by JAMES S. LONERGAN
ZBA #06-1503 **January 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.

7:15 pm. ZBA #06-1503. The Rescheduled Application of DIANE GERMAINE as REPRESENTED by JAMES S. LONEGRAN, for property located at UPPER BYRDCLIFF ROAD, WOODSTOCK, NY, a 1.83 acre parcel in an R3 District for variances from Area and Bulk Regulations, Minimum Lot Area, Section 4A-3a, to allow an undersized lot of 1.93 acres in an R3 District and Area and Bulk Regulations, Minimum Lot Width, to allow a 46 foot width lot where a 200 foot width 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, Diane Germaine and her Representative, James S. Lonegran, were present for the meeting. Also, Colin Houston from North Engineers and Design Associates, Inc was present. Chairman Harris asked how the 46 foot lot width was determined. Mr. Lonegran responded he did not know but it is 30.56 feet at the proposed curb cut. Chairman Harris asked where the 46 foot lot width came from as the required front yard should be measured from the front to the property line. Colin Houston stated that 46 foot figure is at the required front yard line.

Mr. Lonegran stated the lot in question has been in the Germaine family since the 70's out of the Whitehead Estate. The lot has always been 1.93 acres which was legal at the time. Recently, the owner considered selling and found it to be an undersized lot.

Mr. Padalino visited the property. Chairman Harris read a letter from the Building Inspector and Highway Superintendent dated 1/8/07 which is now part of the record and indicates a driveway permit cannot be issued due to the lack of proper site distances.

Mr. Lonegran stated he was not notified of an rejection of the curb cut/driveway. During the Planning Board review, the Planning Board asked the Applicant to submit an application to the ZBA concerning the curb cut. Since Biddle Lane is across the road, the Applicant felt she was not burdening the Town because of her single family driveway request. Mr. Padalino asked if other alternatives were reviewed.

Mr. Lonegran stated they hoped to clear the vegetation on both sides of the maintained road and adjacent property owners but the Highway Department rejected the plan. There is an area between the road and the deeded property owners called a strip. This strip varies according to the topography at various points. The map submitted by North Engineers was reviewed. It would appear that particular distance at that point (northerly direction)is 20 feet from the edge of the road. That strip ownership has not been determined. But the site line is the problem. Using the adjacent Germaine property as an access right of way would cause the building of a new driveway off of Glasco Turnpike which would mean the removal of many trees and the lowering the value of the access lot.

Ms. Anthony stated she also visited the property and a discussion followed about the access to the road being flat or steep: it was determined it is not a flat area. Chairman Harris stated his opinion is if proper ingress and egress is determined, the lot size doesn't appear to be a problem. The concern is the possibility of an accident occurring at the curb. Mr. Padalino said he has no concern about the size of the lot being it is a pre-existing lot; just the ingress and egress to the lot.

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. Lonegran stated no as it has been an existing lot since the 70's.

2. Whether the benefit sought by the applicant could be achieved by some feasible method other than variances.
Mr. Lonegran responded no because the lot is as it was created in the 70's, the district has now changed to R3. Even though the owner owns property next to this lot, the required 3 acres cannot be gleaned from that lot.

3. Whether the requested variances would be substantial.
The requested variances are substantial because of the lot sizes of this lot and the adjacent lot.

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 area variances 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. Chairman Harris stated a pre-existing, non-conforming lot has to be 60 feet wide; this lot is not.

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

The Chairman asked if there were any other questions or comments from the Board or Public. Ms. Schwartzberg interjected her opinion on the lot width as she understands it in the present Zoning Law and suggested the ZBA review that portion of the law for updating..

The Applicant's Representative was sent a written statement attesting to the time frame for a decision. The statement has not been returned to this office as of this date.

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 #06-1503 is now recessed to the call of the Chairman.

01/2/07: Draft e-mailed to ZBA Members
01/29/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono

MINUTES OF THE TOWN OF WOODSTOCK ZONING BOARD OF APPEALS PUBLIC HEARING on the APPLICATION of MIRIAM COOPER as REPRESENTED by KEVIN CONKLIN, NORTH ENGINEERS
ZBA #06-1508 **January 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.

7:43 pm. ZBA #06-1508. The Application of MIRIAM COOPER as REPRESENTED by KEVIN CONKLIN, NORTH ENGINEERS, for property located at 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-3g, for a 16.6 foot infringement into a minimum required 50 foot rear yard and Section 4A-3f for a 26.3 foot infringement into a minimum required 50 foot side yard in order to construct a 279 s.f. wood frame addition to the present 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, Miriam Cooper, and her Representative, Kevin Conklin of North Engineers, were present for the meeting. Mr. Conklin stated there is an existing, two-story, wood frame structure in the rear corner of the property which does not meet the existing rear or side yard setbacks. Ms. Cooper is an artist who wants to use the proposed structure as a studio. This building would be a studio but they are limited to the usable areas of that side of the property. She has under 3.25 acres but half of it is on the other side of the creek. Her side has the floodplain, beyond that is the well and septic; therefore, she is limited to potential buildable sites. She wants to add a bathroom and staircase to get up to an area for storage. The structure is entirely in the setbacks but will be functional.

Ms. Tiano visited the site and stated the building is pre-existing, the owner wants to "pretty it up" and add an addition. The addition will be located nearer the house rather than the property line as Ms. Cooper is constrained by the Sawkill Creek. The well is

located 100 feet northwest of the residence. The septic is located toward the Sawkill Creek just outside the floodplain. There is also a six foot fence along the property line of the Ramsey property.

Mr. Padalino asked if the existing structure is presently an art studio and Mr. Conklin responded it is empty, has electricity but otherwise, is an empty structure. The footprint is presently 200+/- s.f. and the proposed addition footprint of 100 s.f. equaling a 300 s.f. footprint. Mr. Padalino asked what each floor of the proposed addition will be used for and the answer given was the first floor will be a bathroom and an enclosed staircase; the second floor will be a sitting area will be open to the lower floor. There is already an existing deck at that level. The roof will have to be raised 2 feet to allow head room on the upper level and the new roof will be extended over the porch to give it a covered porch on the second floor. The new addition will be 8 ½ x 14. The current size footprint of the structure is 300 s.f. and with the proposed addition, the building will measure 579 s.f. in total size when finished. The existing structure and addition will be stained green pine.

Ms. Anthony asked about Ms. Cooper's lack of building permits since part of the addition was put up before permits were issued. Mr. Carberry clarified the setbacks, size of lot, and minimum coverage of lot.

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. Conklin responded no as the existing and proposed structure are already in the required setbacks.

2. Whether the benefit sought by the applicant could be achieved by some feasible method other than variances.
Mr. Conklin responded no as the building they want to make bigger is already in the setback and variances are required.

3. Whether the requested variances would be substantial.
The requested variances are both substantial and not substantial based on the distances from the property lines.

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, Sue Ramsey, was present and stated Ms. Cooper originally stated the proposed structure was for family and friends, not an art studio. However, Ms. Ramsey, using the criteria for granting variances expressed her opinion as follows and included a letter and photos to that effect which are part of the record. If Ms. Cooper would try to build a back deck on her property, it would not have as much bulk as has been proposed for upgrading the other structure. Ms. Ramsey produced an old set of plans which were drawn up for the structure but not approved. Chairman Harris asked about the wood presently installed and the response was 2x4, no installation, no heating, etc. and will not be a habitable structure. It will be stained green to match the surroundings and 22 evergreens have already been planted.

Mr. Padalino stated there are other structures on Cooper's property as well as Ms. Ramsey's property; the property appears to be heavily wooded. Ms. Ramsey again stated the second story will have a very high impact and concerns her the most.

The Chairman asked if there were any other questions or comments from the Board or Public. Ms. Schwartzberg asked about an alternative increasing the size of the building but not a second story. Contiguous neighbor, Mr. Kim Ramsey, stated he drew the original plans for Ms. Cooper's studio which included a 10 foot high building, sloping roof enclosing the existing stairs but without the proper credentials, the plan was rejected. Discussion of why the stair size was increased - a head room issue that must conform w/building codes.

The Applicant was sent a written statement attesting to the time frame for a decision. She has not returned the statement.

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 #06-1508 is now recessed to the call of the Chairman.

01/22/07: Draft e-mailed to ZBA Members
01/31/07: Final to ZBA, Building Inspector, Planning Board, Minutes Book, Chrono