

**TOWN OF SAND LAKE
ZONING BOARD OF APPEALS
THURSDAY, July 20, 2023 - 7:00 PM
SAND LAKE TOWN HALL**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ATTENDANCE

Area Variance Application – Public Hearing

Frank Maier
1313-1315 Burden Lake Rd
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 158.4-1-8.1
Lot Size: 1.8559 acres

Area Variance Application for insufficient lot size and side yard setback associated with a proposed Minor Subdivision Application

Area Variance Application - Public Hearing

Michael and Dina Addario
46 Harriman EXT
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 158.4-3-35
Lot Size: .13 acres

Area Variance to further reduce the side yard setbacks to add an addition to an existing structure as associated with a Scenic Preservation Application.

DRAFT MINUTES FOR APPROVAL

April 13, 2023
July 15, 2023

ADDITIONAL BUSINESS

Application withdrawn on 06/22/2023

Area Variance Application

Ryan Hodge
25 Mountain View Drive
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 148.-7-37-37
Lot Size: 1.72 acres

An Area Variance Application for insufficient lot size and width to support a second dwelling over 800 sq feet.

ADJOURNMENT

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
April 13, 2023**

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript or the actual proceedings. The transcript of this meeting is on a digital voice recorder and available at the Town Hall.

CALL TO ORDER: Nancy Perry opened the meeting at 7:00PM

MEMBERS PRESENT: Amy Lent
Scott A. Blair
Nancy Perry
Daniel Hogle
Craig Crist, Esq.

MEMBERS ABSENT: Melissa Toni

OTHERS PRESENT: Edward Francis, Angie Francis, William Miller, Maria Martin, Michael Martin

RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

Nancy Perry (NP) ran the meeting the in the absence of Chairperson, Melissa Toni.

Area Variance Application and Public Hearing (con't)

Edward Francis (Applicant/Property Owner)
78 Sheer Road
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 158.-2-50
Lot Size: 9,542 sq +/-

An Area Variance application for insufficient side yard setbacks for construction of a single-family dwelling.

Edward Francis and surveyor William Glasser were present. Mr. Glasser stated that they are looking for Area Variance due to side-yard setbacks of 13.4 ft west side and 13.4' east side. It was purchased as a non-conforming lot.

Mr. Francis stated that he had watched the streamed version of the Zoning Board of Appeals (ZBA) held on March 9, 2023, where this project had been initially presented. He confirmed that he spoke to Rensselaer County Health department and is following their protocol.

NP opened the Public Hearing at 7:04pm; seconded by Dan Hogle (DH) and all approved. It was noted that no public comments had been received in the Planning Office. With no in-person public comments received, NP motioned to close the Public Hearing at 7:05pm; seconded by Amy Lent (AL) and all approved.

NP motioned to classify the project as a Type 2 action under SEQRA and declared the Town of Sand Lake Zoning Board of Appeals as the Lead Agency. This motion was seconded by AL and all approved.

Craig Crist (CC) explained to all present that as a member of the Board was absent the applicant would have the right to ask that the application not be acted upon until the next meeting. Mr. Francis stated that he wished to proceed at this time.

CC read the criteria that the Board considers upon reviewing an Area Variance request.

Scott Blair (SB) stated that while this parcel was a non-conforming lot of record, the applicant was looking to build outside of the 24-month period from when a structure had existed. He added it was for this reason that the applicant lost the status for the lot being non-conforming and the current Zoning Code requires lots to be a minimum of one acre in this Zoning District. Mr. Glasser responded that the parcel was a current lot of record. Mr. Francis stated that he had purchased the lot, via an auction, back in the Fall of 2016. He then explained that immediately after purchase, he had been informed by the NYS Police and DEC that the site/well was contaminated and needed remediation which caused him to lose 2 to 3 years awaiting the completion of that process. NP asked if, at that time of purchase, was the initial intention to build a structure right away on this lot to which Mr. Francis replied yes.

Mr. Francis responded that he had been notified in 2019 that the remediation had been completed. He further added that he had met with a Health Department engineer and was informed that a septic system would be feasible. Mr. Francis then explained that due to the COVID pandemic in 2020, it was not feasible to finance the project due to not being able to work during that period.

NP noted a concern regarding the placement of the septic system in correlation to the well without the approval from Rensselaer County. Mr. Francis replied that to receive Rensselaer County's approval prior to knowing if the Area Variances would be approved would be costly.

NP stated that the applicant was not aware of Area Variances being needed.

SB stated that many small size vacant lots existed in the Town for which folks may want to build on; thus, was afraid of setting a precedent should these variances be approved. Mr. Francis replied that the lot had to be cleaned up along the way and then hardships took place. He stated that other lots of this size existed in the area with a structure on them. NP replied that those other lots were not before the ZBA at this time for review. SB asked the applicant if, prior to purchasing the lot at auction, he had explored the Zoning Code requirements. Mr. Francis replied that he had not as the lot had to be cleaned up first to make usable.

NP motioned to deny the Area Variance requests; seconded by SB and approved by DH. AL opposed the motion. CC informed the applicant that the vote was 3:1, the requested Area Variances were denied.

Area Variance Application for Maria Martin and Public Hearing

Michael and Maria Martin (Applicant/Property Owners)
32 Glen Royal Drive
Averill Park, NY 12018
R - Residential Zoning District

Tax Map #: 169.2-2-14
Original Lot Size: 5.29 acres
Proposed Lot Size: .26 acres

An Area Variance application for insufficient lot size and insufficient lot width associated with a proposed boundary line adjustment.

Maria Martin summarized the project which had been initially presented at the March 9, 2023, ZBA meeting. NP motioned to open the Public Hearing at 7:27pm; seconded by DH and all approved.

William Miller presented a question regarding the boundary line movement and water run off. The survey map was viewed for layout and location for where a future home would be built by her daughter. Mr. Miller stated that his lawn was wet all summer due to an underground stream and was not sure of how it ran off in conjunction with placement of a well. SB stated that the Building Department would be the office to advise regarding water runoff and discharge. Mr. Miller stated that if his yard area is filled in, there could be water in his basement. SB agreed that folks had to be careful of those situations. He added that five new houses were on 2nd Dyke Road which had been there for five years and consisted of a catch basin to the sewer line. SB stated that the applicant was looking for one house to be built. Michael Martin commented that a storm drain could be clogged.

With no further public comments, NP motioned to close the Public Hearing at 7:36pm; seconded by SB and all approved. NP motioned to classify the project as a Type 2 action under SEQRA and declared the Town of Sand Lake ZBA as the Lead Agency; seconded by AL and all approved. NP motioned to approve the requested Area Variances for insufficient lot size and lot width as presented, seconded by SB and all approved.

DRAFT RESOLUTION FOR APPROVAL

Area Variance for Kyle Zeh

NP motioned to waive the full reading of the draft Resolution; seconded by DH and all approved.
NP motioned to approve the Resolution in its entirety; seconded by AL and all approved.

Area Variance for Andrew Bulmer

NP motioned to waive the full reading of the draft Resolution; seconded by AL and all approved.
NP motioned to approve the Resolution in its entirety; seconded by AL and all approved.

DRAFT MINUTES FOR APPROVAL

NP motioned to accept the draft minutes for February 9, 2023, as presented; seconded by AL and approved by all.

ADJOURNMENT – NP motioned to adjourn the meeting at 7:41pm; seconded by AL and all approved.

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
January 12, 2023**

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript or the actual proceedings. The transcript of this meeting is on a digital voice recorder and available at the Town Hall.

CALL TO ORDER: Melissa Toni opened the meeting at 7:00PM

MEMBERS PRESENT: Amy Lent
Scott A. Blair
Nancy Perry
Danial Hogle
Craig Crist, Esq.

MEMBERS ABSENT:

OTHERS PRESENT: William Macey, Megan Macey, Josh Macey, Kyle Zeh, Joe Venditti, Erika Venditti, Michael Wager

RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

Melissa Toni (MT) welcomed Danial Hogle to the Board. MT then explained the area variance process.

Area Variance Application

William Macey (Applicant/Property Owner)
296 Taborton Road
Sand Lake, NY 12153
RR – Rural Residential Zoning District

Tax Map #: 148.-3-19

Lot Size: 1.77 acres

An Area Variance Application for insufficient front yard setback for the future build of a single-family home.

William Macey and the Town's Code Compliance Office/Building Inspector Michael Wager were present. Mr. Wager explained that Mr. Macey had asked for his help as he was unfamiliar with the process. Mr. Wager stated that a previous structure on the property was in disrepair; thus, had been demolished back in September 2021. He explained that the previous camp was on existing non-conforming lot of record and added that due to unforeseen circumstances Mr. Macey will not be able to replace the home within the required 24-month period. Mr. Wager stated that Horse Haven Creek ran horizontally across the backyard property which split the parcel in half and was the reason for the applicant's request for a front yard setback of 52' versus the 75' required for by code for the zoning district. It was noted that a well existed and the septic plan had been approved by Rensselaer County. It was additionally noted that the driveway would remain the same and the only change would be the location of the future dwelling.

MT stated she was not surprised, due to the current cost of building materials, to hear that it would take longer than the required 24-month period for the rebuild. She added that it was an older lot, and there would be issues no matter what due to the location of the stream. Mr. Wager agreed and stated that the location of the stream would not allow the building to be pushed back to meet the zoning code. Mr.

Wager stated that the proposed request would be a good fit for the area. He added that when the previous building existed, it was hardly noticed. Nancy Perry (NP) asked how big the single-family dwelling would be. Mr. Macey responded that it would be the standard three-bedroom, two-bathroom home. Mr. Macey provided some history and stated that the property had been in his family for a number of years. He explained that he had bought it from his grandmother in 1985 and at that time, he did not have the finances to build. He explained that he and his wife had retired a few years ago and felt it was more feasible to build, so he obtained the septic permit, a survey and had house plans drawn up. He further added that he then was diagnosed with cancer thus, did not foresee his dream coming to fruition. He stated that he would like the property to stay in the family with one of his children and wanted to ensure that they would have the ability to build a home when ready. NP asked what that area was like when it had flooded. Mr. Wager stated the topography of that stream was about 30' lower; thus, no threat to the property as it was above the wetland. Scott Blair (SB) asked the size of the previous structure to which Mr. Wager replied it was approximately 1,000 square feet. Mr. Macey stated that, if anything, only one or two trees would be removed but nothing major. MT stated that considering the configuration of the parcel with the stream, the proposed location was the only option for a home. Mr. Wager stated that if the variance for the 52' front yard setback was granted, the new home could go longer as there was room in that direction and remain within the granted variance across the front.

With no further questions from Board members, MT motioned to schedule the Public Hearing for February 9, 2023 at 7:00pm; seconded by SB and all approved.

Area Variance Application

Kyle Zeh (Applicant/Property Owner)
23 Old Route 66
Averill Park, NY 12018
HMU – Hamlet Mixed Use Zoning District

Tax Map #: 148.-3-1- 10

Lot Size: .32 acres

An Area Variance Application to exceed the maximum front yard setback for the build of a multifamily dwelling.

Kyle Zeh and the Town's Code Compliance Officer/Building Inspector Michael Wager were present. Mr. Wager stated his brother-in-law had previously owned this property which now belonged to Mr. Zeh. Mr. Wager stated that the previous structure had been damaged in a fire and Mr. Zeh had demolished it. He added that Mr. Zeh had notified him that he bought the property to which Mr. Wager replied that he could rebuild within the required 24-month period in the same footprint as to what had existed. Mr. Zeh explained that the problem with staying in the same footprint was that the previous structure had the driveway so close to the neighbor's house that it could not be plowed with a truck nor could a fire truck access it. Mr. Zeh added that to rebuild in the same footprint would not work. MT commented that it had worked previously. MT explained that as this was a Hamlet District with many historic homes; the Zoning Code was written in a manner to retain the feel of that historic neighborhood with the 10' maximum front yard setback to keep all the houses aligned and close to the road.

Mr. Zeh questioned then why the house next to the parcel under discussion was 35' back. MT responded that while it was unknown as to why that was, it was not the Zoning Board of Appeals (ZBA) who had written the zoning code. Mr. Zeh explained that he would like to construct the building towards the back where the property opened and referred to the site layout dated December 19, 2022. Danial Hogle (DH) commented that the request made sense as the front part of the lot was only 55' wide and a standard home is 30' wide would leave 12 ½' on each side of it. He added that in the previous fire, the fire department could not get in and the fire took siding off the buildings on the left and right of it. Mr. Wager pointed out that it was a pre-existing non-conforming lot and if the rebuild had to be within the required

front yard setback would make the lot even more non-conforming. He added if the applicant were to try and keep the new building closer to the road could mean safety issues for the tenants as they would have to walk the driveway which could have ice from water shedding off the roof. It was discussed that the plan would be for the new building to be back with the parking behind it and the driveway moved to the middle with grass and landscaping up front. A sample rendering for the new build was viewed. Amy Lent (AL) asked if it would be a four-dwelling unit to which Mr. Zeh responded yes. MT asked how many it was previously to which Mr. Wager responded three. Mr. Wager pointed out that there was a question on one of the jogs in a property line and Mr. Zeh stated that a final survey was being worked on currently however would not increase the amount requested for the variance. SB commented that the proposed parking in the rear made sense and allowed the aesthetics of the beautiful building to be appreciated. Mr. Wager reiterated that the lot was not wide at the front to which MT agreed.

It was noted that the area had public sewer and a new well would be dug as the existing one was too shallow. Mr. Zeh stated that he had spoken to the neighbors and the one to the right may sell this year and, if so, Mr. Zeh may look to buy it. He noted that if that were to happen, he would leave it in the same location and make it look like the one he proposes to build on the lot under discussion. MT noted that the houses in that area were not 10' and stated that that amount was close; however, the reason was to keep the streetscape look. MT stated that she wished to hear from the other residents as to the closeness as well as the neighbors in the back as there would now be residents located closer to their backyard. The area of the property line that became wider was discussed as to whether that could be closer to 20'. MT asked what existed in that area to which Mr. Zeh responded it was a shed. MT stated that one side had a big garage; thus, would not be as worried about it. Mr. Zeh stated he had not spoken with the neighbor in the back. Mr. Wager suggested that a site visit be done by the Board members to see the layout of the lot. AL commented that having parking behind the house would be good; however, there would need to be sufficient space which meant at least 8 spaces would be needed and possibly more. It was noted that, of all the lots in that area, this one was the narrowest and non-conforming. Mr. Zeh agreed and added that to try and rebuild in the original manner was very hard to do when he tried to lay it out. He added that to do so, residents would need to come out the front and back to avoid having them walk in the driveway. He commented that when the fire happened the neighbor to the left had almost \$100,000 in damage due to how close the houses were. An overhead picture for the layout of the surrounding properties was viewed. Mr. Zeh stated that the proposed building would be 40' deep and 60' wide. SB noted that there was at least 100' from the jogged property line to the back of the property which would leave 60' open. MT noted that if the building could be shifted 10' further from the neighboring side property line, that would help. It was discussed that if the applicant was to make any changes, the information would be submitted to the Planning Office in advance of the next meeting.

With no further questions from Board members, MT motioned to schedule the Public Hearing for February 9, 2023 at 7:00pm; seconded by SB and all approved.

DRAFT RESOLUTION FOR APPROVAL

Area Variance Application - Jason Robelotto

MT motioned to waive the full reading of the draft Resolution; seconded by AL and all approved.

MT motioned to approve the Resolution in its entirety; seconded by AL and all approved.

DRAFT MINUTES FOR APPROVAL

MT motioned to accept the draft minutes for November 10, 2022 as presented; seconded by AL and approved by all.

ADJOURNMENT - MT motioned to adjourn the meeting at 7:34pm; seconded by SB and all approved.

Ryan Hodge

25 Mountain View Dr.

Averill Park, NY 12018

Tax Map No. 18.-7-37.31

Phone conference 06/22/23 at 8:33am

Attendees:

Mike Wager (MW)

Tim Lawrence (TL)

Sarah Jones

Ryan Hodge (RH)

RH advised he does not want to move forward with the public hearing related to his Area Variance Application (to remedy Notice of Violation dated 04/20/23) presented to the ZBA on 06/15/23.

He stated he wanted to go back to the original approval with a bathroom however, there is no record found for the approval of a bathroom. MW will further review.

He will be reaching out to provide times and dates he is available to schedule a site review with MW and discuss what must be done to become compliant with the initial Site Plan Review Application.

Written communication of all requirements will be provided to him by MW or TL and RH be ordered to return to the ZBA for Public Hearing and ZBA decision if uncompliant.

Sarah Jones