

## ZBA Agenda 08/10/2023

**TOWN OF SAND LAKE  
ZONING BOARD OF APPEALS  
THURSDAY, August 10, 2023 - 7:00 PM  
SAND LAKE TOWN HALL**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ATTENDANCE**

**Area Variance Application**

Michael Ernest (Applicant/Property Owner)  
785-789 Taborton Rd.  
Sand Lake, NY 12153  
AR – Agricultural Residential Zoning District

**Tax Map #s:** 149.-2-47.12  
**Original Lot Size:** 30.04 acres  
**Proposed Lot B1:** 14.76 acres  
**Proposed Lot B2:** 14.73 acres

Part 1 Area variance application regarding Lot B2 for insufficient side yard setback, Lot width and exceeding the 3:1 lot depth to width ratio.

Part 2 Area variance application regarding lot B1 for exceeding the 3:1 lot depth to width ratio.

Associated with a minor subdivision application.

**DRAFT MINUTES FOR APPROVAL**

July 20, 2023

**DRAFT RESOLUTIONS FOR APPROVAL**

Area Variance for Frank Maier

Application approved at the July 20, 2023, ZBA meeting.

Area Variance for Michael and Dina Addario

Application approved at the July 20, 2023, ZBA meeting.

**ADJOURNMENT**



**TOWN OF SAND LAKE**  
**ZONING / BUILDING DEPARTMENT**  
 PO Box 273  
 Sand Lake NY 12153  
 (518) 674-2026 Ext 116 / [mwager@sand-lake.us](mailto:mwager@sand-lake.us)

## Record of Zoning Determination

**Date of Determination:** 08/01/2023

**Name of Inquirer:** Michael Ernest      **Inquiry Method:** Drop off

**Property Owner(s):** Michael Ernest

**Property Address:** 785-789 Taborton Rd. Sand Lake, NY 12153      **Tax Parcel #:** 149.-2-47.12

**Brief description of proposed land use/project:**

**Donor Parcel #:**

Applicant wishes to subdivide his property via a minor subdivision application.

**Proposed land use category per Town Code Chapter 250 Use Table:** Residential

**Is the project compliant with Town Code Chapter 250, Zoning?**       Yes       No

**If NO above, section(s) of the Code for which a variance is needed:** 250-20/250-21B

**Summary explanation:**

Appliant is seeking a side yard setback, a lot width variance and depth to width ratio variance for proposed lot B-2.

Proposed lot B-1 will also need a depth to width ratio variance.

**Zoning Approvals Needed (Check all that apply):**

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Special Use Permit           | <input type="checkbox"/> Site Plan Review         | <input type="checkbox"/> Scenic Preservation |
| <input type="checkbox"/> Sign Placement               | <input checked="" type="checkbox"/> Area Variance | <input type="checkbox"/> Use Variance        |
| <input checked="" type="checkbox"/> Minor Subdivision | <input type="checkbox"/> Boundry Line Adj         | <input type="checkbox"/> Subdivision         |

**ZEO Signature:** *Michael J. Dyer*

**Date:** 08/01/2023



TOWN OF SAND LAKE  
 Zoning Board of Appeals  
 PO Box 273, 8428 NY Route 66  
 Sand Lake, NY 12153  
 (518) 674-2026 ext.117 ~ www.townofsandlake.us

**AREA VARIANCE APPLICATION**

**Please note:**

- The applicant and property owner (if different) must sign and date the application.
- Area variance requests related to a boundary line adjustment or subdivision must include a Survey Plat of the proposed boundaries. Please include 1 large format, and 5 11 x 17 copies.
- Area variance requests involving the construction or expansion of buildings are encouraged to include sketch or site plans, and renderings or photographs as available.

**SECTION 1: APPLICANT/PROPERTY OWNER INFORMATION**

**APPLICANT**

Name: Michael W. Ernest  
 Address: 789 Taborton Rd Sand Lake 12153  
 Home Phone: [REDACTED] Work/Cell Phone: [REDACTED] Email: [REDACTED]

**PROPERTY OWNER (if not applicant)**

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**SIGNATURES (see also Section 5)**

Applicant: Michael W Ernest Date: 7/30/23  
 Property Owner(s) (if not applicant): \_\_\_\_\_ Date: \_\_\_\_\_

OFFICIAL USE ONLY:  
 Date Application Received: 8/11/23 Amount Received: 100<sup>00</sup> Received By: JT  
 APPROVED  CONDITIONALLY APPROVED  DENIED Date \_\_\_\_\_



**SECTION 2: PROPERTY INFORMATION**

Property Address/Location: 789 Taborton Road

Tax Map Number: 149.-2-47.12 Lot size: \_\_\_\_\_

Zoning District where the property is located: RR-Rural Residential

Present Land Use Residential (2 houses)

Does the site have public sewerage:  Yes  No

**SECTION 3: PROJECT INFORMATION**

a. Indicate the Town Zoning Chapter Section from which this variance application is being requested.

Article V Section 250 Subsection 20

Additional code citations: \_\_\_\_\_

b. Describe the project requiring the area variance(s):

c. Please complete the following table indicating all area variances needed. If a variance is not needed for an element (ex. rear setback), you may leave it blank.

	Required per Code	Requested Dimensions
Front Setback		
Side Setback(s)	100' Min. Total Sides	83.0' for Lot B-2 (37.2' & 45.8')
Rear Setback		
Lot width/frontage	250' Min.	169.1' for Lot B-1, 149.6' for Lot B-2
Height		
Other:		



#### **SECTION 4: JUSTIFICATION FOR AREA VARIANCE REQUESTED**

**Please read this section carefully before completing the questions that follow.**

In making its determination on this variance application, in accordance with the Laws of New York State, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to health, safety and welfare of the neighborhood or community by such grant. The Zoning Board of Appeals in the granting of a variance shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. In making such determination the Board shall also consider:

- a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance;
- b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than by an area variance;
- c) Whether the requested area variance is substantial;
- d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- e) Whether the alleged difficult was self-created; which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the grant of an area variance.

- a. Explain why it would not cause an undesirable change to the neighborhood or detriment to the nearby properties if the variance is granted:**

Where we not be any changes to the property. The structures have been there for 20 plus years.

- b. Explain if it is possible to satisfy your needs through any means other than a variance.**

I do not believe there are any other options.



- c. **Will the proposed variance have an adverse effect on the physical or environmental conditions in the neighborhood? Explain your reasoning.**

No, the property is being divided as is, the structures are already on the property.

- d. **Was the alleged hardship self-created? Detail how and when the property was acquired.**

We purchased the property in 1987. In 1990 we build our house. In 1999-2000 we meet the qualifications/variance in place at that time to build a 2nd house on the property knowing that at some point we would be able sub-divide the property.

#### **SECTION 5: SITE INSPECTION AUTHORIZATION**

I hereby give permission for the Town of Sand Lake Municipal Agencies and their agents to come upon and inspect these premises with respect to this application for an area variance for the property identified by the address and tax map number provided in SECTION 2 above.

\_\_\_\_\_  
(Signature of applicant)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature of property owner if different than applicant)

\_\_\_\_\_  
Date



**SECTION 6: STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) SHORT ASSESSMENT FORM**

Please complete the attached SEQR Short EAF Part 1 ONLY as required by New York State. This form may also be downloaded and much of the information completed for you using the NYS Department of Environmental Conservation EAF Mapper Application program located at: <http://www.dec.ny.gov/permits/6191.html>.





TOWN OF SAND LAKE PLANNING BOARD  
PO Box 273, 8428 NY Route 66  
Sand Lake, NY 12153  
(518) 674-2026 x111 or x117

**MINOR SUBDIVISION APPLICATION  
(1-4 Lots Only)**

*Please refer to Section 225 of the Code of the Town of Sand Lake  
(<http://www.ecode360.com/12326443>) for detailed information.*

**APPLICANT:**

Name: Michael Ernest  
Address: 785-789 Taborton Road, Sand Lake, NY 12153  
Home Phone: [REDACTED] Work/Cell Phone: [REDACTED] Email: [REDACTED]

**PROPERTY OWNER (if not applicant):**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Work/Cell Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**PLOT ENGINEER/SURVEYOR:**

Name: William Darling Jr., Land Surveyor  
Address: 34 Cooper Avenue, Troy, NY 12180  
Work/Cell Phone: 518-279-6151 Email: surveyor@darlingsurvey.com

**SIGNATURES:**

Applicant: Michael Ernest Date: 7/21/2023  
Owner (if not applicant): \_\_\_\_\_ Date: \_\_\_\_\_

OFFICIAL USE ONLY:			
Date Application Received:	<u>7/25/23</u>	Amount Received:	<u>300<sup>00</sup></u>
		Received By:	<u>JS</u>
<input type="checkbox"/> APPROVED	<input type="checkbox"/> CONDITIONALLY APPROVED	<input type="checkbox"/> DENIED	Date: _____



**PROPERTY INFORMATION**

Tax Map Number(s): 149.-2-47.12

Location of Property/911 Address: 789 Taborton Road

Zoning District where property is located: RR - Rural Residential

Is the property in a sewer district? No

If in subdivision: Subdivision Name: Ruth M. Carr Candler & Helen M. Carr Woods Lot Number: B

Present Use of Property: Residential (2 existing houses)

Date property was acquired: 4/20/1987

Any previous of the following? Select all that apply.

Subdivisions:

Special Use Permits:

Area Variances:

If yes, please explain:

**PROPOSED SUBDIVISION INFORMATION:** (4)

Total Acreage of Parcel to be Subdivided: 30.06 Number of Lots: 2

Please complete the following regarding the proposed lots:

Lot Number	Proposed Lot Size	Proposed Lot Frontage
B-1	14.76 Ac.	151.95'
(West Side of Road)	0.57 Ac.	293.75'
	15.33 Ac. (Total Lot B-1)	
B-2	14.73 Ac.	151.79'

- Lots will be:
- Sold with improvements
  - Sold with buildings erected ready for occupancy
  - Not selling



## Short Environmental Assessment Form

### Part 1 - Project Information

#### Instructions for Completing

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project: 2 Lot Minor Subdivision - Lands of Michael W. & Julie A. Ernest			
Project Location (describe, and attach a location map): 785-789 Taborton Road, Sand Lake, NY 12153			
Brief Description of Proposed Action: Subdivide 30.06 Acre property containing two existing houses into two lots with one house on each lot.			
Name of Applicant or Sponsor: Michael Ernest		Telephone: [REDACTED]	
		E-Mail: [REDACTED]	
Address: 89 Taborton Road			
City/PO: Sand Lake		State: NY	Zip Code: 12153
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Town of Sand Lake Planning Board Subdivision Approval			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
3.a. Total acreage of the site of the proposed action?		30.06 acres	
b. Total acreage to be physically disturbed?		0 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		30.06 acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

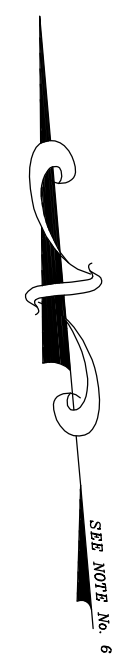
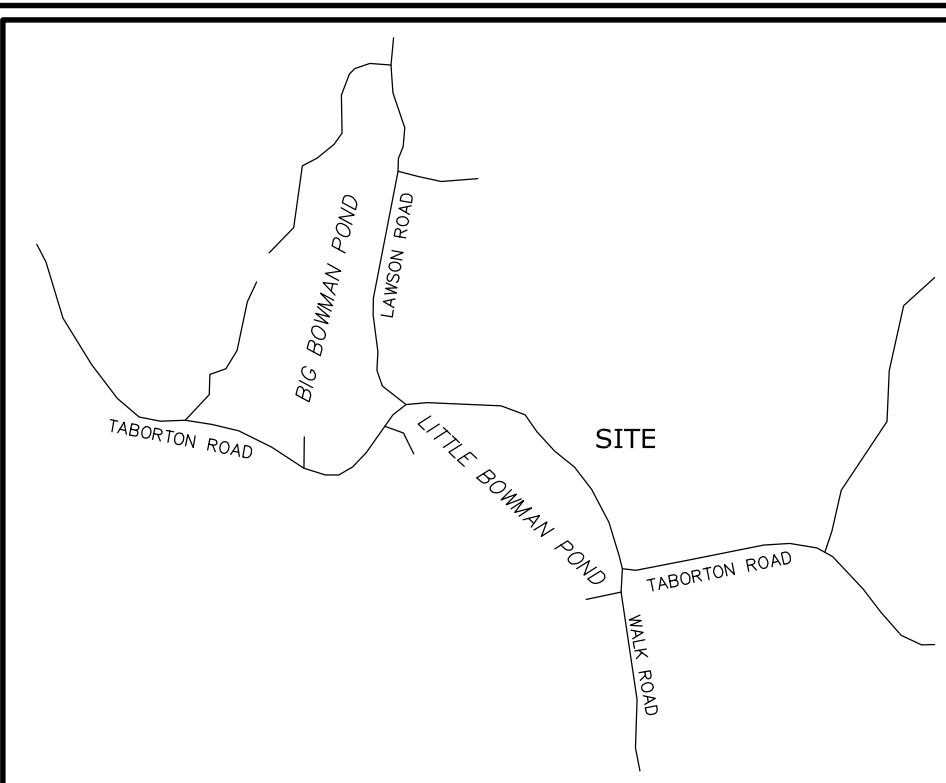






<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input checked="" type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p><b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor name: <u>Michael W Ernest</u> Date: <u>7/21/2023</u></p> <p>Signature: <u>Michael W Ernest</u></p>		

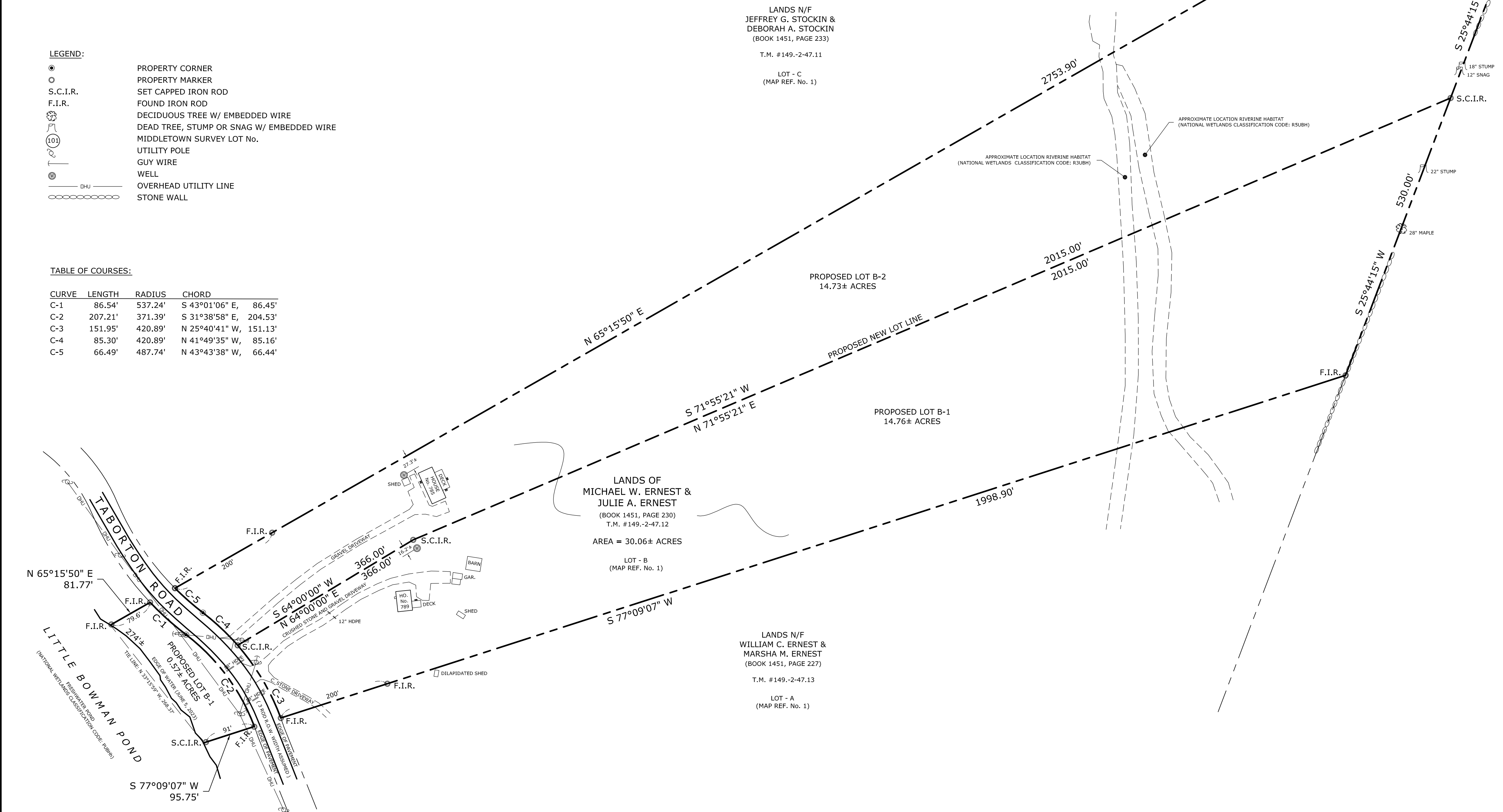




- LEGEND:**
- PROPERTY CORNER
  - PROPERTY MARKER
  - S.C.I.R. SET CAPPED IRON ROD
  - F.I.R. FOUND IRON ROD
  - DECIDUOUS TREE W/ EMBEDDED WIRE
  - DEAD TREE, STUMP OR SNAG W/ EMBEDDED WIRE
  - MIDDLETOWN SURVEY LOT No.
  - UTILITY POLE
  - GUY WIRE
  - WELL
  - DHJ OVERHEAD UTILITY LINE
  - STONE WALL

**TABLE OF COURSES:**

CURVE	LENGTH	RADIUS	CHORD
C-1	86.54'	537.24'	S 43°01'06" E, 86.45'
C-2	207.21'	371.39'	S 31°38'58" E, 204.53'
C-3	151.95'	420.89'	N 25°40'41" W, 151.13'
C-4	85.30'	420.89'	N 41°49'35" W, 85.16'
C-5	66.49'	487.74'	N 43°43'38" W, 66.44'



OWNER AND SUBDIVIDER:  
 MICHAEL W. & JULIE A. ERNEST  
 789 TABORTON ROAD  
 SAND LAKE, NY 12153

LANDS N/F  
 JEFFREY G. STOCKIN &  
 DEBORAH A. STOCKIN  
 (BOOK 1451, PAGE 233)  
 T.M. #149.-2-47.11  
 LOT - C  
 (MAP REF. No. 1)

LANDS OF  
 MICHAEL W. ERNEST &  
 JULIE A. ERNEST  
 (BOOK 1451, PAGE 230)  
 T.M. #149.-2-47.12  
 AREA = 30.06± ACRES  
 LOT - B  
 (MAP REF. No. 1)

LANDS N/F  
 WILLIAM C. ERNEST &  
 MARSHA M. ERNEST  
 (BOOK 1451, PAGE 227)  
 T.M. #149.-2-47.13  
 LOT - A  
 (MAP REF. No. 1)

LANDS N/F  
 DANIEL L. COITEUX &  
 DANIEL J. COITEUX  
 (BOOK 8679, PAGE 327)  
 T.M. #149.-2-18.12

LANDS N/F  
 L.J. VALENTE, INC.  
 (BOOK 1378, PAGE 56)  
 T.M. #139.-2-9

LANDS N/F  
 HELEN A. MOMROW  
 (BOOK 805, PAGE 141)  
 T.M. #149.-2-30.11

- NOTES:**
- UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED LAND SURVEYOR'S SEAL IS A VIOLATION OF SECTION 7209, SUBDIVISION 2, OF THE NEW YORK STATE EDUCATION LAW.
  - ONLY COPIES OF THIS MAP BEARING THE EMBOSSED SEAL OF A LICENSED LAND SURVEYOR AND SIGNED IN RED INK SHALL BE CONSIDERED TRUE AND VALID COPIES.
  - THERE IS NO CERTIFICATION AS TO THE EXISTENCE NOR TO THE LOCATION OF ANY EASEMENTS WHICH MAY AFFECT THE PARCEL SURVEYED OTHER THAN THOSE SHOWN HEREON.
  - THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF AN UP-TO-DATE ABSTRACT OF TITLE AND IS SUBJECT TO ANY INFORMATION THAT AN UP-TO-DATE ABSTRACT MAY SHOW.
  - TOGETHER WITH ALL RIGHT, TITLE AND INTEREST IN AND TO TABORTON ROAD.
  - BEARINGS ARE REFERENCED TO THE MAGNETIC MERIDIAN OF DECEMBER, 1986 PER MAP REFERENCE No. 1.
  - UNDERGROUND UTILITIES AS SHOWN HEREON LOCATED FROM VISIBLE PHYSICAL FEATURES. OTHER UTILITIES MAY EXIST AND ALL ARE SUBJECT TO VERIFICATION BY OTHERS.
  - TOWN OF SAND LAKE RURAL RESIDENTIAL (RR) ZONE.
  - THE PREMISES WERE CONVEYED SUBJECT TO THE RESTRICTION THAT THE PREMISES SHALL NOT BE SUBDIVIDED, SEE DEED REFERENCE No. 1.
  - FIELD SURVEY COMPLETED JUNE 15, 2023.

- DEED REFERENCES:**
- DEED FROM RUTH M. CARR CANDLER & HELEN M. CARR WOODS TO MICHAEL W. ERNEST & JULIE A. ERNEST, DATED APRIL 20, 1987 AND RECORDED IN THE RENSSELAER COUNTY CLERK'S OFFICE IN BOOK 1451 OF DEEDS AT PAGE 230.

- MAP REFERENCES:**
- "MAP OF SURVEY SHOWING LANDS OWNED BY RUTH M. CARR CANDLER & HELEN M. CARR WOODS," DATED JAN. 14, 1987 AND LAST REVISED NOV. 19, 1987 AS PREPARED BY WILLIAM C. DARLING, P.L.S. AND FILED IN THE RENSSELAER COUNTY CLERK'S OFFICE IN DRAWER 1987 AS MAP No. 189.

PLANNING BOARD  
 TOWN OF SAND LAKE  
 RENSSELAER COUNTY, NEW YORK

This Plat APPROVED subject to such conditions as are stated in Planning Board Certificate of Approval.

NUMBER \_\_\_\_\_  
 DATED \_\_\_\_\_

TITLE \_\_\_\_\_  
 DATE \_\_\_\_\_

TOWN OF SAND LAKE, RENSSELAER COUNTY, NEW YORK

**MAP OF SURVEY**  
 SHOWING PROPOSED SUBDIVISION OF LANDS OF  
**MICHAEL W. & JULIE A. ERNEST**

DATE: JUNE 27, 2023  
 DRAWN BY: WCD JR.  
 SCALE: 1" = 100'

WILLIAM C. DARLING JR., P.L.S.  
 34 COOPER AVENUE  
 TROY, NEW YORK 12180





# Ernest Pictometry





**RESOLUTION OF ZONING BOARD OF APPEALS  
APPROVING THE AREA VARIANCE FOR FRANK MAIER**

APPLICANT/PROPERTY OWNER NAME AND ADDRESS: Frank Maier, 1313-1315 Burden Lake Rd Averill Park, NY 12018

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

PROJECT LOCATION: 1313-1315 Burden Lake Rd. Averill Park, NY 12018

TAX MAP NO: 169.2-2-14      ZONING DISTRICT: Residential      LOT SIZE: 1.8559 acres

APPLICATION PREPARED BY: Frank Maier

APPLICATION DATED: May 2, 2023

**WHEREAS**, on July 20, 2023, a MOTION was made by Melissa Toni, SECONDED by Scott Blair and unanimously approved identifying this Board as Lead Agency.

**WHEREAS**, on July 20, 2023, a MOTION was made by Melissa Toni, SECONDED by Amy Lent and unanimously approved to classifying the proposed action as a Type II Action under the State Environmental Quality Review Act (SEQRA).

**WHEREAS**, a public hearing was held on the application at the July 20, 2023 meeting of this Board;

**WHEREAS**, on July 20, 2023, a MOTION was made by Melissa Toni, SECONDED by Scott Blair and approved by all to grant approval of Area Variances for insufficient lot size and side yard setback as outlined in the survey dated April 14, 2022 by Fredrick J. Metzger Land Surveyors, P.C..

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Sand Lake Zoning Board of Appeals, after due consideration of said Area Variance Application, and the requirements of the Code of the Town of Sand Lake (Chapter 250, Zoning, Section 250-20.A and 250-144.A) and NYS Town Law 267-b, does hereby grant APPROVAL of the Area Variance Application hereinabove stated and identified as submitted, noting the benefit to the Applicant if the variances are granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Notably:

- 1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.***

It is the determination of the Board members that no undesirable changes will be produced because of this project. No actual construction will be taking place based on this variance. The Board agreed that the decision was based upon the configuration of the lot along with additional concerns.



**2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.**

It is the determination of the Board members that there is not an alternative method to achieve the desired outcome based on the current configuration of the lot/ surrounding area. These lots have always been nonconforming.

**3. Whether the requested area variance is substantial.**

It is the determination of the Board members that the requested area variance being sought was substantial however, as noted in #1 above, the parcel had been previously recorded as having a lot size of .26 acres and lot width of 75' prior to a merger of additional property located behind it.

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.**

It is the determination of the Board members that there will not be an adverse effect or impact on the physical or environmental condition of the neighborhood.

**5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.**

As with many Area Variance requests before this Board, the difficulty was self-created as the applicant had merged this parcel with a larger parcel however, had been unaware at that time it would need area variances to subdivide the property.

PLEASE NOTE, the Zoning Board of Appeals has no authority to alter or determine the ownership of property and that the decision of the Board herein is not a determination of the underlying ownership of the subject property/ies. Moreover, the approval of this area variance does not obviate the need for any other Board approvals or permits that may be necessary.

DATED:

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Melissa Toni, Chairwoman of Sand Lake Zoning Board of Appeals

**RESOLUTION OF ZONING BOARD OF APPEALS  
APPROVING THE AREA VARIANCE FOR MICHAEL AND DINA ADDARIO**

APPLICANT/PROPERTY OWNER NAME AND ADDRESS: Michael and Dina Addario, 46 Harriman EXT, Averill Park, NY 12018

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

PROJECT LOCATION: 46 Harriman EXT, Averill Park, NY 12018

TAX MAP NO: 158.4-3-35

ZONING DISTRICT: Residential

LOT SIZE: .13 acres

APPLICATION PREPARED BY: Michael and Dina Addario

APPLICATION DATED: May 16, 2023

**WHEREAS**, on July 20, 2023, a MOTION was made by Melissa Toni, SECONDED by Scott Blair and unanimously approved identifying this Board as Lead Agency.

**WHEREAS**, on July 20, 2023, a MOTION was made by Melissa Toni, SECONDED by Scott Blair and unanimously approved to classify this action as a Type II Action under the State Environmental Quality Review Act (SEQRA) with no further action required by the ZBA.

**WHEREAS**, a public hearing was held on the application at the July 20, 2023 meeting of this Board;

**WHEREAS**, on July 20, 2023, a MOTION was made by Melissa Toni, SECONDED by Scott Blair and approved by all to grant approval of Area Variances for insufficient lot size of and width as presented and outlined on the survey dated April 14, 2022 by Frederick J. Metzger Land Surveyor, P.C..

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Sand Lake Zoning Board of Appeals, after due consideration of said Area Variance Application, and the requirements of the Code of the Town of Sand Lake (Chapter 250, Zoning, Section 250-20.A and 250-144.A) and NYS Town Law 267-b, does hereby grant APPROVAL of the Area Variance Application hereinabove stated and identified as submitted, noting the benefit to the Applicant if the variances are granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Notably:

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.***

It is the determination of the Board members that no undesirable changes will be produced because of this project. MT stated the construction has been well thought out and will maintain the character of the neighborhood and not disturb neighbors.



**2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.**

It is the determination of the Board there is not an alternative method to achieve the desired outcome based on the current configuration of the lot.

**3. Whether the requested area variance is substantial.**

It is the determination of the Board members that the area variance being is below the threshold.

**4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.**

It is the determination of the Board members that the proposed variance would not have an adverse effect or impact on the physical or environmental condition in the neighborhood or district. It was noted that the impervious surface is well below the allotted threshold and the addition is being constructed on techno post which would cause minimum if any disturbance to the ground.

**5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.**

As with many Area Variance requests before this Board, the difficulty was self-created as the applicant was aware of the lot layout at the time of purchase but that does not necessarily preclude approval of the area variance.

PLEASE NOTE, the Zoning Board of Appeals has no authority to alter or determine the ownership of property and that the decision of the Board herein is not a determination of the underlying ownership of the subject property/ies. Moreover, the approval of this area variance does not obviate the need for any other Board approvals or permits that may be necessary.

DATED:

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Melissa Toni, Chairwoman of Sand Lake Zoning Board of Appeals

**Town of Sand Lake  
Zoning Board of Appeals (ZBA)  
July 20, 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 7:03PM**

**MEMBERS PRESENT:**              Amy Lent  
   Scott A. Blair  
   Craig Crist, Esq.

**MEMBERS ABSENT:**                Nancy Perry, Daniel Hogle

**OTHERS PRESENT:**                Mike Addario, Frank Maier, Pam Maier

**RECORDING CLERK:**              Sarah Jones Clerk for Planning Board and ZBA

**Area Variance Application – Public Hearing**

Frank Maier  
1313-1315 Burden Lake Rd  
Burden Lake Rd  
Averill Park, NY 12018

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

R-Residential Zoning District

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

Frank Maier summarized the project which had been initially presented at the June 15, 2023, ZBA meeting. Mr. Maier also advised positive recommendation from the Planning Board of 6-0.

MT motioned to open the Public Hearing at 7:06pm; seconded by AL and all approved.

With no public comments made or received, MT motioned to close the Public Hearing at 7:07pm; seconded by AL and all approved.

MT motioned to under SEQRA and declared the Town of Sand Lake Zoning Board of Appeals as the Lead Agency. This motion was seconded by SB and all approved.

MT motioned to classify the project as a Type 2 action and no further action is required by the ZBA; 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. Maier stated that he wished to proceed at this time.



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

MT then individually covered each criterion:

1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

The Board agreed that no undesirable changes will be produced because of this project. No actual construction will be taking place based on this variance. The Board agreed that the decision was based upon the configuration of the lot along with additional concerns.

2. *Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.*

The Board agreed that there is not an alternative method to achieve the desired outcome based on the current configuration of the lot/surrounding area. These lots have always been nonconforming.

3. *Whether the requested area variance is substantial.*

Board members agreed that the area variance being sought is not unsubstantial but that is due to how the lots were originally built well prior to zoning regulations.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*

Board members agreed that there will not be an adverse effect or impact on the physical or environmental condition of the neighborhood.

5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.*

Board members agreed that, as with many of the requests before the ZBA, the difficulty was self-created as the applicant was aware of the lot layout at the time of purchase but that does not necessarily preclude approval of the area variance.

MT motioned to approve the requested Area Variance for insufficient lot size and lot width as presented, seconded by SB and all approved.

**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.

Michael Addario summarized the project which had been initially presented at the June 15, 2023, ZBA meeting.

MT motioned to open the Public Hearing at 7:18pm; seconded by AL and all approved.

With no public comments made or received, MT motioned to close the Public Hearing at 7:19pm; seconded by SB and all approved.

MT motioned to under SEQRA and declared the Town of Sand Lake Zoning Board of Appeals as the Lead Agency. This motion was seconded by SB and all approved.

MT motioned to classify the project as a Type 2 action and no further action is required by the ZBA; seconded by SB and all approved.

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

MT then individually covered each criterion:

1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

The Board agreed that no undesirable changes will be produced because of this project. MT stated the construction has been well thought out and will maintain the character of the neighborhood and not disturb neighbors.

2. *Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.*

The Board agreed that there is not an alternative method to achieve the desired outcome based on the current configuration of the lot.

3. *Whether the requested area variance is substantial.*

Board members agreed that the area variance being sought is below the threshold.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*

Board members agreed that the proposed variance would not have an adverse effect or impact on the physical or environmental condition in the neighborhood or district. It was noted that the impervious surface is well below the allotted threshold and the addition is being constructed on techno post which would cause minimum if any disturbance to the ground.

5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.*

Board members agreed that, as with many of the requests before the ZBA, the difficulty was self-created as the applicant was aware of the lot layout at the time of ownership.

MT motioned to approve the requested Area Variance as presented, seconded by AL and all approved.

## **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



Minutes 7/20/23 ZBA

An Area Variance Application for insufficient lot size and width to support a second dwelling over 800 sq feet to rectify code violations. Per documentation in the applicant folder Mr. Hodge proposed to the Town Code Enforcement Officer Mike Wager removal of violations.

**DRAFT MINUTES FOR APPROVAL**

April 13, 2023, minutes MT motioned to approve the minutes in its entirety; seconded by SB and all approved.

July 15, 2023, minutes MT motioned to approve the minutes in its entirety; seconded by SB and all approved.

**ADJOURNMENT** – MT motioned to adjourn the meeting at 7:28PM; seconded by AL and all approved.