

**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.