

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
February 9, 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
Daniel Hogle
Craig Crist, Esq.

MEMBERS ABSENT: Nancy Perry

OTHERS PRESENT: William Macey, Marianne Macey, Megan Macey, Josh Macey, Kyle Zeh, Joe Venditti, Erika Venditti, Dan Collopy, William Glasser, Daniel Rounds, Claude Rounds, Michael Wager

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

Melissa Toni (MT) explained the area variance process for all present.

Area Variance Application & Public Hearing

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. Macey and Mr. Wager summarized the project which was initially presented at the January 12, 2023 Zoning Board Appeals (ZBA) meeting. MT stated that trying to place a new dwelling further back on the lot was constrained by the stream. Daniel Hogle (DH) clarified that the stream was set down in thus, no flood issues to which Mr. Wager agreed.

With no further questions, MT motioned to open the Public Hearing at 7:07pm; seconded by DH and all approved. With no written or in-person public comments, MT motioned to close the Public Hearing at 7:08pm; seconded by Amy Lent (AL) and all approved. MT stated that with no public comments received, it is more than likely that nearby residents were already used to the structure that had existed previously.

MT motioned to declare the Town of Sand Lake ZBA as Lead Agency; seconded by Scott Blair (SB) and all approved. MT motioned to classify the project as a Type 2 action under SEQR; seconded by AL and all approved. For the reasons discussed at this meeting and the initial presentation, MT motioned to approve

the Area Variance Application for a 52' front yard setback versus the Zoning Code's requirement of 75'. This motion was seconded by AL and all approved.

Area Variance Application and Public Hearing

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 Office/Building Inspector Michael Wager were present. Mr. Zeh and Mr. Wager summarized the project which was initially presented at the January 12, 2023 Zoning Board Appeals (ZBA) meeting.

MT asked Mr. Zeh if the 113' front yard setback was still being sought. Mr. Zeh responded yes.

It was noted by SB that when the fire did happen, a fire truck could not be fit in between this building and the one next to it which caused the loss of the previous dwelling and damaged the home next door. MT asked what existed on the property previously. Mr. Zeh stated that there were two barns in the back and the apartment building in the front. He added that the barns had been removed. Mr. Wager indicated that if the applicant were to rebuild everything back onto the site, it would be way over the maximum coverage for impervious surface; thus, only the new apartment building would be built and no ancillary buildings. Mr. Zeh added that a garage would not be built. It was noted that a new well would be done and hookup to the Town sewer was required.

MT motioned to open the Public Hearing at 7:16pm seconded by AL and all approved. Daniel Round stated he resided at 3054 NY 43 which is the property behind the parcel being discussed. Mr. Rounds stated that at this point he was not willing to support the variance until he had more information than was available on the website from the last agenda. He added that there was no site plan showing the locations of any of the proposed features such as the driveway or parking lot or what they would look like. He stated that there was no plan to show the drainage and it was a wet area to start with and did not up until almost May. He added that he would like to see the plan for drainage and where it would run. He explained that his residence was downhill from the property under discussion. He indicated that he would like to see the location and type of lighting proposed for the rear of the building as he was concerned about light pollution on his property. He questioned why an Area Variance was not required regarding lot size as a 1-acre lot was required in that Zoning District. He added that should the request be approved; he would like to see the conditions imposed concerning fencing and light glare as related to his property. MT asked Mr. Zeh to address the concerns of Mr. Rounds, if feasible. Mr. Zeh stated that the retaining wall would be right on the property line and a fence could be installed on top it. MT asked if that area was vegetative currently to which Mr. Zeh responded that it was just sloped. Mr. Wager stated the property did drop off in the back and asked how the drainage would be addressed. Mr. Zeh stated that a catch basin would need to be located at the front so runoff would be directed back out to the street. MT stated that the project should not impact other residents' property. Mr. Rounds stated that the previous barn was much further up on the property than 36'. Mr. Wager explained that the parcel was a pre-existing non-conforming lot of record and upon the building being removed the applicant decided, due to the layout of the lot, to replace the building further back on the lot instead of in the same footprint. MT stated she understood that Mr. Rounds did not wish to look at a large wall with lights shining into the backyard of his property. Mr. Zeh stated that a privacy fence could be added to the top of the retaining wall. Mr.

Wager stated that a stockade fence could go as high as 6'. Mr. Rounds asked where the snow would be plowed to. Mr. Zeh responded that the snow would be removed. Mr. Rounds stated that he did not feel that 36' was not a lot for separation and continued to feel that he did not have enough information. MT explained that the request before the ZBA was strictly for the request to have a front yard setback of 113' versus the 10' required by the Zoning Code. MT asked if a Recommendation from the Planning Board (PB) could be requested. Craig Crist (CC) responded that an advisory Recommendation from the PB could be requested as it may help to alleviate some of the concerns. He also recommended that if such a Recommendation was requested of the PB, the ZBA Public Hearing should remain open until the next ZBA meeting. Mr. Rounds reiterated that his major concerns were the drainage and any negative light impacting his property as he has lived there for 20+ years. Mr. Zeh stated that the reason for the retaining wall was to get the elevation up for parking to be located there. Mr. Rounds stated he understood but the elevation with asphalt would be above his land. MT stated that if the applicant were to move further forward from Mr. Rounds would mean that he would be only 20' away from the front neighbor and she did not see it feasible to shift towards the property line on the other side as there was a kids play area. Mr. Zeh stated that a survey was being done for the property lines and it would reflect how it would not affect anything on Mr. Rounds property. Mr. Wager explained that the elevation of the building with the gravity for the sewer line had to be a certain level. Options for catching and redirecting rainwater runoff were discussed. Mr. Zeh stated that lighting would not go above the fence and be pointed downward. Mr. Rounds continued to want to see the details discussed on a site plan. DH stated that the work proposed by Mr. Zeh may alleviate and/or help to dry out the wet areas sooner.

MT stated that the options were to condition the application or send it to the PB for a Recommendation. CC read the provisions from the Zoning Code Section 250-146 as it related to the ZBA seeking a Recommendation from the PB. MT stated that in the past the ZBA had sent very similar requests to the PB; thus, should not deviate from that process. MT motioned to seek a Recommendation from the PB at their March 1, 2023 meeting; seconded by SB and all approved. MT made a motion to continue the Public Hearing until the March 9, 2023 ZBA meeting; seconded by AL and all approved.

Area Variance Application

Andrew Bulmer (Applicant/Property Owner)
24 Stone Camp Way
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 170.2-1-4
Original Lot Size: 1.84 acres
New Lot: 1.0 Acres
Parent Lot: 0.84 acres

An area variance application for insufficient lot size and insufficient lot width associated with a proposed minor subdivision to create one new lot.

Michael Wager and Andrew Bulmer were present. Mr. Bulmer stated that they wished to subdivide their 1.84-acre parcel into a .84-acre lot and a 1-acre lot. Mr. Bulmer explained that the 1 acre lot would be for his daughter and referred to the survey done by surveyor Daniel Peeters. Michael Wager stated that the proposed .84-acre lot would consist of the Bulmer's existing home along with an area directly across Stone Camp Way. He explained that Lot 1 would meet the zoning code however Lot 2 would be shy of the 1-acre zoning requirement and as such would be a non-conforming lot. Mr. Wager added that many of the nearby lots on the lake were non-conforming which was characteristic of the neighborhood. MT asked if the proposed 1-acre lot would be accessed via Methodist Farm Road to which Mr. Bulmer responded yes and noted that all setback lines were marked on the survey. Mr. Wager added that the proposed 1-acre lot would be required to hookup to Town sewer. Mr. Bulmer stated a detached garage was planned in the future for the area across Stone Camp Way on proposed Lot 2. Mr. Wager noted that area consisted of a Town sewer line; thus, there would need to be a 15' setback on each side of it.

CC noted that an advisory Recommendation from the PB was required by NY State law as the request was related to a proposed minor subdivision. MT referred to Section 4 (c) of the applicant's application regarding the question on the proposed variance having adverse impact on physical or environmental conditions in the neighborhood. She noted that the written response provided was not helpful in the review of the request for variances. MT stated that noting such things large impervious surfaces were not planned for either of the proposed lots and that a single-family home was planned for Lot 1 which had sufficient room for a septic and/or well would be more helpful. Mr. Bulmer stated that for the proposed .84-acre lot nothing would change, and he talked about the existing treed area. Mr. Wager added that the setbacks for the Town sewer line needed to stay clear of trees and nothing could be built there as it was an easement for the Town to utilize. Mr. Bulmer added that in that easement area there was also a couple of overhead power poles. A discussion ensued regarding whether the applicant was allowed to consider both sides of Stone Camp Way as part of road frontage for the proposed .84-acre lot. It was noted the residents along Stone Camp Way had easements to utilize it and a decision was made that only the measurements for one side of road frontage – which totaled 92.2' - would be used for the area variance request.

MT motioned to consider the application as complete, seconded by Amy Lent (AL) and all approved. MT motioned to seek a Recommendation from the PB at the March 1st meeting, seconded by DH and all approved. MT motioned to schedule the Public Hearing for March 9th at 7:30pm contingent upon the PB's Recommendation and no changes to the proposed project, seconded by AL and all approved.

Area Variance Application

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

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

An area variance application for insufficient side yard setbacks for construction of a single-family dwelling.

Surveyor William Glasser was present and stated that Edward Francis was seeking side yard setbacks for both sides prior to a house being designed. Mr. Glasser explained that the parcel was a pre-existing non-conforming lot of record which had a trailer on it years ago and added that the lot was currently flat gravel. Mr. Glasser stated that the home would be setback 55' from the road and the applicant needed 13.7' on one side and 13.4' on the other side. It was noted that the requested side yard setbacks included the roofline/fascia. Mr. Wager explained that when the house trailer existed on the lot, it had been condemned due to falling into disrepair. He added that the owner at that time had walked away from it and a new owner had taken the building down; however, that had been done over 24 months ago. Mr. Wager stated that gravel had been brought in for a septic system towards the back of the lot and a well proposed up front to provide the required distances between the two.

The parcel layout was viewed, and a discussion ensued regarding the size of the parcel and layout for the septic system and well in relation to the neighbor and requirements of the County Health Department. MT explained that the ZBA did not historically request the applicant to have approval from the County Health Dept. prior to appearing before the Board. She added that the ZBA did however work with information provided by the surveyor in regards to needed measurements. It was noted that the applicant planned to build a small two-bedroom home. Mr. Wager stated that the applicant had reached out to the neighbor to purchase some additional land but was told it was not available.

MT stated that the options were to either have the applicant prove that a septic could be fit in 100' from any well and that a well could be done 100' from any septic and come back before the Board to deem as

complete to schedule the Public Hearing; or, schedule the Public Hearing for next month with the surveyor bringing in that information. Mr. Wager commented that a rough scale could be done to show the feasibility for the septic system. CC pointed out that it is incumbent upon the applicant to ensure that any variance granted is met in addition to gaining the needed outside agency approvals such as the County Health Dept.

MT motioned not to deem the application complete, seconded by SB and all approved. It was agreed that the applicant or representative would return on March 9th with additional information on the distance measurements for septic and well.

DRAFT MINUTES FOR APPROVAL

MT motioned to accept the draft minutes for January 12, 2023 as presented; seconded by DH and approved by all.

ADJOURNMENT - MT motioned to adjourn the meeting at 8:22pm; seconded by AL and all approved.