

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
July 20, 2017**

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: Chairwoman Melissa Toni motioned to open the meeting at 7:00 PM. Mary Ellen Trumbull seconded the motion and all approved.

MEMBERS PRESENT: Chairwoman, Melissa Toni
Geraldine Burger
Jeb Bond
Scott Bendett
Mary Ellen Trumbull
Lawrence Howard, Esq.

MEMBERS ABSENT:

OTHERS PRESENT: Scott and Kimberly Quesnel

RECORDING CLERK: Karol O'Sullivan, Clerk for the Planning Board and Zoning Board of Appeals

Area Variance Application and Public Hearing

Scott Quesnel
84 Valley Drive
West Sand Lake, NY 12196
R-1 Residential Zoning District

Tax Map #146.2-1-76

Lot Size: 1 acre

An Area Variance Application to place an accessory structure in the front yard setback.

Scott Quesnel (SQ) presented before the ZBA. Melissa Toni (MT) motioned to open the Public Hearing at 7:01 PM with Mary Ellen Trumbull seconding the motion and all approved. MT asked SQ to explain what they were applying for. SQ explained that he and his wife moved to West Sand Lake last March. He said his wife, Kimberly, has been a teacher in the school district for 16 years which prompted their move from the city to Town. The move required them to purchase equipment such as lawn mowers, etc., to maintain the house which prompted their purchase of a shed to store such equipment. The shed was planned to match their existing home structure in color, brick façade, etc.

While applying for a building permit to install the shed on his property, he learned he is subject to deed restrictions as well as a Town zoning restriction about placing the shed in front of his home. SQ said he has obtained Ed Patanian's deed approval for the shed without giving him placement details. SQ explained he would like to place the shed approximately 35' to 40' in front of his primary dwelling,

stating the shed would still be about 100' from Valley Drive. SQ said his Area Variance Application was to locate the shed structure in the explained location.

SQ stated his request complies with all other areas of the Zoning Code. He explained that he had submitted a comprehensive application as well as an additional addendum. He stated he believed his submission has satisfied all of the area variance criteria. He shared that he and his wife have spoken with most of their neighbors, including adjacent property owners, and no one expressed concern over the placement of the shed in his desired location. He offered that one other neighbor had a similar structure in their front lawn. SQ explained the shed would be set back in the woods and would not be visible from the road in the summer foliage months, while acknowledging in winter months it will be visible. He said in their view it would not be a dramatic change to the neighborhood, with no tree removal or site work required. He said his request was a minor deviation from the Zoning Code and he understands, as an attorney, the precedent his request could set in the Town for future applications. He said the very nature of an area variance gives the ZBA the discretion to deviate their decision on a case-by-case basis and every application and decision is different. SQ said if they were to gain ZBA approval, they could install the shed tomorrow. He offered the ZBA the ability to do a site visit and would return at a later date if the ZBA could not make such a decision at the meeting. He explained that his property is unique in the neighborhood as the house was built on a hill.

Scott Bendett (SB) said the property is almost a reverse corner lot. He said usually a corner lot has a lot of curb frontage, where this property has more back yard. SQ stated that Scott Bendett had visited his property earlier in the day. SQ shared that there was one area on the side lot where modest grading would allow placement of the shed, but he pointed out there is a tree that would make it difficult for a delivery truck to get the shed to the location. He said he was told that the delivery of the shed across a grade of over 45% would not be possible as it would result in major complications.

MT if he had any drawings of the location of the shed (which SQ did not have) and stated she had also done a drive-by site visit. Mary Ellen Trumbull (MET), while confirming she had looked at all pictures provided, asked for clarification of exactly where the shed was proposed in front of the house. SB confirmed the location is about 15' in front of the house on the side yard on the other side of the driveway from the house location. MET asked why the shed couldn't go back further in yard as she was looking at the aerial views of the property, pointing out a location in the back yard past the pool that looked reasonable. SQ again stated the slope issues prevent the delivery truck to place it further back. Jeb Bond (JB) stated the aerial views don't provide the slope. SQ pointed out Attachment I pictures reflect the slope issues he has been explaining. MT stated the Town's Building Inspector, Mike Wager, believes there is a way to put the shed behind the primary structure by taking out one tree and preparing the location appropriately. She asked if all ZBA members had visited the site and was told yes. MET said the proposed location on the side lot also needs to have grading done to place it there anyway and there appears to be an ample area back further. SQ stated the uneven grading in the back compounds when wanting to be able to drive a lawnmower into the shed. JB asked if the shed could be pushed back further. SQ said where the grass stops and the tree line begins there is a very narrow piece of land between he and his neighbor's property and placing the shed in that location would impact his neighbor more, may not be in compliance with Zoning Code and would require tree removal. MET asked if he had written approval from Ed Patanian and was advised yes, he has an email.

MT stated two issues: (1) our Town Building Inspector says there are alternative locations for the shed on the property and (2) our new Zoning Code was written to address several issues within Town and to prevent front yard structures going forward. SQ said in their situation their plans are approximately

100' from the road, so is not in the vicinity of road or view from the road. MT asked SB for more of his site visit feedback. SB said SQ is right that there is a neighbor who has a similar shed located more on his side lot and is well hidden and blends with the property foliage. He empathizes with SQ as his lot is not square. He agreed there are locations on the property where the shed could be located with tree removal. SB did agree that the desired location makes sense based on the functionality of it being near the driveway. SQ added that any tree removal would require Ed Patanian's deed approval.

Geraldine Burger (GB) asked if the proposed shed location was near his current trash location. SQ said almost on top of that area. GB and SQ discussed the functionality of having the shed located there and the possibility of the trash bins being stored behind the shed or in the shed. GB mentioned her site visit drive-by and the fact that she saw several sheds located in questionable locations. SQ said he was aware of those sheds and chose not to bring their locations into his application. GB said she did not walk the property, but looking at the aerial views she could see getting gravel to the back yard may not be an easy task. SQ again referenced Attachment I which shows the sloped grading and again mentioned the delivery truck issue. She sympathized with the costs associated with the installation of such a shed. GB confirmed again that their neighbors are OK with the proposed shed location. SQ said some neighbors expressed surprise that the proposed shed location would be a problem. MT reminded SQ that some neighbors probably pushed for the changes to the Zoning Code.

MET confirmed with SQ that he was before the ZBA for the area variance and his deed restrictions are separate and apart. He agreed, stating there are a lot of deed requirements on his property but Ed Patanian has given his sign off. The ZBA discussed that the need for the area variance was because the proposed shed location is in front of the line of his principle structure. JB asked which direction the shed would be placed in conjunction to the house and SQ said the shed would be perpendicular to the house with the front door of the shed facing the house.

Lawrence Howard (LH) offered to the ZBA that there are two pieces that apply to this issue. There is a setback of 75' from the road and the building line in front of principle structure which applies to this accessory structure. LH asked SQ how far back his house is from the road and was told approximately 150'. LH stated that the primary residence could have been built 75' from the road, but because it is set back 150', it creates this issue with an accessory structure. SQ said the area variance review is a factor test that the ZBA needs to wrestle with. GB agreed with LH's explanation. LH said that if the ZBA wanted to visit property again and saw conditions they wish to incorporate into the decision, that would be appropriate.

MT said Mike Wager, Building Inspector, and Monica Ryan, Town Planner, have both made similar statements that they believe there are other locations to place the shed on the property. They also shared that Mike has recently had complaints about trailers/RVs parked in the front lawns of property in this neighborhood (MT recognizing that is not the case with this application). Mike has people from this neighborhood coming in requesting to place sheds/carports in their front lawns and have been told no or that they need apply for an area variance. These people accept the zoning requirement and are never heard again. MT said that she appears to be the only ZBA member who has spoken with Mike and Monica and that maybe they should hold off on any decision until all members have had a chance to contact Mike and Monica individually to gain additional information. MT asked SQ if they were in a huge hurry for placement of the shed and he said he would understand the delay. He added that "possible" was not a standard of law. The standard of law is set forth in Town Law. Things are always possible and the ZBA was there for more than possible. They need to look at all factors to be weighed under the criteria for an area variance and whether the Quesnel's have satisfied the criteria.

MT laid out the possible actions the ZBA could take at the meeting. She asked if the ZBA wished to talk with Mike and Monica prior to making a decision. GB stated she was ready to make her decision at the meeting. JB stated he wished to talk with Mike and Monica prior to making a decision. August 17 was identified as the next regularly scheduled meeting. SB asked if it would be fair to schedule a Special ZBA meeting to make a decision sooner than August 17. MET also stated she wanted to run things by Mike and Monica. It was decided that Tuesday, August 1st would work for most.

MT motioned to close the Public Hearing at 7:32 PM. JB seconded the motion and all approved. MT motioned to hold a Special ZBA Meeting on August 1st at 7:00 PM. Any interested ZBA members should contact Mike and Monica individually prior to the meeting. It was confirmed that the Special Meeting will not be a Public Hearing but notice should be made of the intent to hold a Special ZBA Meeting on August 1, 2017 at 7:00 PM. JB seconded the motion and all approved.

MINUTES

MT asked ZBA if they wished to approve the minutes. MET motioned to approve the May 4, 2017 minutes. SB seconded and all approved.

ADJOURNMENT

SB motioned to adjourn the meeting at 7:34 PM. MET seconded the motion and all approved.