

Town of Milton Zoning Board of Appeals August 27, 2009

Attendance: Mary Lou Festa (Chair), Ken Buhrmaster, Brian Companion, Kim Weaver, Fred Harris, Jim Cook (Alternate), Martin Pozefsky (Attorney), Wayne Howe (Zoning Official), Sue Talmadge (Secretary)

The meeting was opened with the Pledge to the Flag.

Buhrmaster made a motion to approve the July 22nd minutes as submitted by Rebecca Dreher, acting secretary.

Companion made a second.

All members voted in favor.

Public hearing – Leboeuf – 56 Margaret Drive – Area Variance

Mr. Leboeuf reintroduced his application explaining he would like to place a front porch on his home and it would extend 8 feet from the house.

Howe explained it is in an R1 zone and 50 feet is required. An 18 feet variance would be needed.

The home was built in the 1960s and the steps have been unroofed for years. It would blend with the current neighborhood.

He is allowed a 3 feet overhang with current zoning.

Public hearing was opened.

There was no public comment; everyone had an opportunity to speak.

The public hearing was closed.

Buhrmaster made a motion to approve the variance request for a building setback of 18 feet to the front property line.

Weaver made a second.

All members voted in favor.

Public hearing – Hicks – 199 Saratoga Avenue – Area Variance #1

Mr. Hicks reintroduced his application explaining his home is on a corner lot and a 15 feet variance is requested to build a porch addition.

Buhrmaster indicated the Village of Ballston Spa located next door allows a 5 feet setback. There is a lot of property in the front of the home and it gives the appearance of a large setback.

The public hearing was opened.

There were no public comments; everyone had an opportunity to be heard.

The public hearing was closed.

Harris made a motion to approve the variance requested.

Weaver made a second.

All members voted in favor.

Public hearing – Hicks – 199 Saratoga Avenue – Area Variance #2

Mr. Hicks reintroduced his application explaining he would like to build a 3 car garage, remove the existing garage that is one foot to the property line currently. He would like to place the garage 10 feet to the property line with a 40 feet variance required.

The ridge line of the proposed garage is 23.1 feet.

Howe indicated that no height variance is needed.

The setbacks are the same as a principal building due to the size of the garage.

The public hearing was opened. There were no public comments. Everyone had an opportunity to speak. The public hearing was closed.

Weaver made a motion to approve the variance of 40 feet to allow the garage to be as close as 10 feet to the property line. Buhrmaster made a second. *All members voted in favor.*

Review – Companion – 2014 Barrett Rd – Area Variance

Brian Companion was present and represented by Attorney Tom Peterson

Mr. Peterson explained the applicant has a 5 acre parcel that is wetland restricted. In 2007 he poured a cement slab with heating pipes and plumbing adjacent to his garage.

The garage was built without a building permit and court proceedings followed. The court has ordered that a variance be sought and a building permit be obtained for the existing structure.

There is a 100 feet wetland buffer and an additional 50 feet setback required.

A 20 feet side setback variance is being requested.

It is a flag lot and not visible to neighbors.

It is a self created situation but has no negative impact.

Howe - agreed that a 20 feet variance is needed and indicated that the zoning allows a 3 feet overhang,

It is a unique setback as the code says all setbacks are from unconstrained lands.,

He has DEC wetlands, DEC buffer and Town setbacks,

DEC allows building up to the buffer,

The building permit is in the process,

The court decision is if a variance is not granted then the slab will be removed.

Peterson offered the board the opportunity to do a site visit.

Howe indicated the existing garage currently meets the code for setbacks and asked that if a variance is approved that a stipulation be placed on the variance that the garage would only be used for residential purposes.

Cook asked for a copy of the court documents and indicated he would also like to do a site visit.

Pozefsky inquired if the court decision was a court order or an agreement.

A copy of the court order was included in the file.

Pozefsky referred to town zoning code 180.84.

Mr. Companion explained the existing building was discussed at court and this is a way to get relief. 90 days were given to apply for and get a variance.

Pozefsky explained that the town will not consider it a violation in the 90 day period of time so he may continue with the application.

Peterson indicated that he would provide photos for the next meeting.

Talmadge would mail the public notices and the legal notice for the paper.

Public hearing was scheduled for September 24th at 7:00 PM.