

Town of Milton Zoning Board of Appeals

October 28, 2010

Attendance: Fred Harris, Kim Weaver, Brian Companion, Ken Buhrmaster, Jim Cook (alternate), Martin Pozefsky (attorney), Wayne Howe (zoning officer), Allison Saul (town board liaison), Sue Talmadge (secretary). Mary Lou Festa (chair) was absent.

The meeting was opened with the Pledge to the Flag.

Weaver made a motion to appoint Buhrmaster as acting Chairman in absence of Festa. Companion made a second. All members voted in favor.

Harris made a motion to approve the meeting minutes for September 22, 2010. Weaver made a second. All members voted in favor.

Public hearing Todorovic – area variance – 6 Wiebicke Court

John Todorovic re-introduced his application indicating he would like a variance to install an 8 foot high fence (6 foot allowed) on the right side of his property - his property is located in a newer subdivision on a cul de sac.

Mr. Todorovic explained he would like privacy on the one side and there is no detriment or adverse impacts and he had spoken to some neighbors and they had no objections.

Buhrmaster indicated a letter from the neighbor at 2 Wiebicke had come with objection to an 8 foot fence – the letter indicates that 6 foot would be sufficient (letter attached).

Buhrmaster inquired about the topography of the land.

Todorovic indicated the land is relatively flat; the fence would be located on the left side and would extend to the back corner. The amount of fencing required would be fifteen 8 foot lengths. Mr. Todorovic explained he had done a test for visibility and the neighbors have a trampoline. At 6 foot it is visible and at 8 foot it is not – on the left side of the property there are no objects to screen.

Harris asked for further explanation about the left side preference.

Todorovic explained he would also like to install a pool in future and would want privacy.

Cook asked Mr. Todorovic to explain the inadequacies of a 6 foot fence.

Mr. Todorovic explained that 8 foot was permitted where he lived before and the first floor of his new home is 4 foot above grade and he would like to put a deck on in the future.

Buhrmaster asked about pool setback distance requirements.

Howe explained the pool may be as close as 15 feet to the property line.

Buhrmaster indicated the board is required to grant the smallest variance necessary and 6 foot for a fence is standard. The board must decide if 8 foot is needed and must take into consideration the character of the surrounding neighborhood.

Cook asked if a natural barrier had been considered.

Cook inquired what the hardship is for an 8 foot fence.

Todorovic did not provide an answer.

Todorovic continued he would like instant privacy and shrubbery would not be sufficient.

Buhrmaster indicated this is a Type II SEQR and no action is required.

The public hearing was opened.

David Beals of Ballston Spa opposed the variance request indicating that arborvitaes would immediately screen the property and a fence variance might set a precedent.

Todorovic explained that shrubs are more costly and a precedent would not be set because the zoning is a onetime exception to a particular property.

Pozefsky advised the board that the variance could set a precedent if people came in and had a similar circumstance.

The public hearing was closed.

Board discussion followed.

Buhrmaster indicated there may be other means to achieve privacy on the property that could be considered.

After brief discussion, Companion made a motion to deny the area variance request. Harris made a second to the motion. The vote was as follows:

Weaver – Yes, Companion – Yes, Harris – Yes, Buhrmaster – Yes. Buhrmaster further explained there is a concern that this type of variance could set a precedent and other means such as natural vegetation that would not require a variance could be utilized to meet the purpose.

Mr. Todorovic inquired how to appeal the decision.

Pozefsky advised him to refer to the zoning code and that he could always file a second application.

Review Gaba – area variance – 434 Sodemann Road

Mr. Gaba represented his application explaining he is requesting a variance for front setback to build a carport onto an existing pole barn.

Howe explained that there is an existing pole barn that was built where the old house once stood. The pole barn is 40 feet from the right of way – that is the legal setback for this property. The carport addition would sit on an existing concrete pad and would be as close as 27 feet to the right of way, therefore, a 13 feet variance is needed.

Discussion ensued.

Mr. Gaba indicated he has no objections to zoning members visiting the property to look.

Public hearing was scheduled for November 18th at 6:00 PM.

Review Fulmer – area variance – 3558 Galway Road

Mr. Fulmer represented his application explaining he would like to subdivide his property into two lots. The problem is that 150 foot setback is required and the area for placement of a home is too low of an area and would be too costly to build - 70 to 75 feet is ideal. The lot would have access from White Road.

Howe agreed indicating that the existing home is 6 acres.

Howe explained Fulmer is allowed a onetime single lot exemption of 2 acres for subdivision purposes, the area is wet on the property. If the ZBA grants a variance then he would need to go to the planning board for subdivision approval.

Public hearing was scheduled for November 18, 2010 at 6:00 PM.

There was no other business and no public comment.

Weaver made a motion to adjourn. Companion made a second. All members voted in favor of adjournment.