

Town of East Fishkill  
ZONING BOARD OF APPEAL

February 27, 2018

Chairwoman Drummond started the meeting with the roll call. Those present were Mary Seminara, James Meier, Norma Drummond, and Tara Franco. Tom Wood, Town Attorney, and Pam Baier, Clerk were also present.

The Pledge of Allegiance was done at this time.

**CHAIRPERSON'S COMMENTS:**

Chairwoman Drummond stated that there is no Decision for the first item on the agenda and there is only one public hearing. She stated that if there is anyone present that would like to comment on this application, they would have an opportunity to do that. The Board was able to review that application already. The rest of the items on the agenda are reviews that the Board is seeing for the first time. There will be no public comments on the reviews. The next two meetings of the Zoning Board of Appeals are March 27<sup>th</sup> and April 24<sup>th</sup>.

**APPROVAL OF MINUTES:**

Chairwoman Drummond asked for a motion to approve the minutes of January 23<sup>rd</sup>, 2018 as amended.

**MOTION** to approve the January 23, 2018 minutes as amended was made by Tara Franco, seconded by James Meier. Voted and carried unanimously.

**DECISION:**

**DECISION – Appeal 3804 – DiPaolo (6557-04-999431)**

Steven DiPaolo is requesting an 80' frontline variance for a proposed 7200 square foot building at 237 Route 216 Stormville, pursuant to Section 194-123 of the Zoning Ordinance.

Chairwoman Drummond explained that there is no new update on this appeal. This is the one where the Planning Board and Zoning Board made a joint request to the New York State D.E.C. and are awaiting the results of their decision.

**PUBLIC HEARINGS:****PUBLIC HEARING – Appeal 3860 – Morgan/Pena (6655-01-208607)**

Joanna Morgan and Fred Pena, 2 Kane Drive, Stormville, are requesting an interpretation of what is considered a front yard for a corner lot, pursuant to Section 194-100 of the Zoning Ordinance.

**MOTION** to open the public hearing was made by James Meier, seconded by Mary Seminara. Voted and carried unanimously.

No one was present. Chairwoman Drummond said that the applicants weren't here last month for the review either. The Board decided to have a little discussion anyway and open this up for a public hearing. This is a household that has a house on a corner lot that was probably subdivided back in 70s. The subdivision map, itself, directs where in that subdivision certain lots have to have driveways off of the inner road, Ritter Road and Kane, as opposed to on the main road. The map was trying to minimize how many driveways were on the main road. The Board's interpretation regarding corner lots has always been that there are two front yards when the property is on a corner. The application is not specific to what they want to do here. The applicants are not asking for a variance so that is not before the Board. Mr. Meier stated that he had no further discussion. He just wanted to make sure that no one was here on the issue. Chairwoman Drummond wanted to make sure that there were no discussions from Board Members. The Board has had this issue before and there was even one where there was 4 front yards. The Board was very careful to make sure that the builder, first, and the owners understood they had 4 front yards.

Chairwoman Drummond asked if there was any who wished to give any addition testimony to the Board's interpretation of what is the front yard. No one came forward.

**MOTION** to close and reserve decision was made by James Meier, seconded by Tara Franco. Voted and carried unanimously.

**REVIEWS:****REVIEW – Appeal 3859 – Adusei (6657-03248461)**

Christa and Kwami Adusei, 41 Brothers Road, Stormville, are requesting a 10' sideline variance for a proposed 10'x10' shed and a 7' sideline variance for proposed pool equipment pursuant to Sections 194-107B(2) and 194-95 of the Zoning Ordinance.

Mr. Adusei was present. He explained that 2 years ago they went through the process of extending the backyard. They went through the application with the D.E.C. to do so. The D.E.C. allowed them to put a 10'x16' shed on the property. What they are trying to do is put up

a pool, but, in terms of safety, they would like to move the shed. They are thinking of moving the shed to the opposite side of the fence so they could put a playset where the shed is right now. The pool equipment and the shed are going to be within the setbacks of about 5' as opposed of the 25' required. Chairwoman Drummond asked if it was going to be 5' from the property line or 5' into that 25' setback. Mr. Adusei said that it would be 5' in from the property line. It is very close. Mr. Meier asked if Mr. Adusei is going to be 20' away from the property line. Mr. Adusei said that they would 5' in from the property line. Chairwoman Drummond pointed out that Mr. Adusei was asking for a 7' variance. The application would need to be amended. Mr. Adusei said that it would be 5'. Chairwoman Drummond asked Mr. Adusei to explain why it needs to be so close. Mr. Adusei explained that there is not a lot of space in the back yard because the entire front yard is all leach fields. There is not a lot of space. Once the pool is put in, the patio and pool equipment, the entire space is taken up in the back. They are trying to maximize the space as much as possible. Chairwoman Drummond asked where the wetlands were located. Mr. Adusei said that it was about 20' away from the back of the house. Chairwoman Drummond asked if his pool was going to be in the wetlands. Mr. Adusei said that part of it was. Chairwoman Drummond asked if Mr. Adusei has New York State D.E.C.'s approval to do that. Mr. Adusei stated that when they started the application, he had multiple calls and conversations with multiple people in the Zoning Department. He was told that they would check with the D.E.C. and get back to him if anything came up. Chairwoman Drummond said that the Zoning Board does not usually make the phone calls to the D.E.C. Mr. Adusei thought it was the Town Engineer. Ms. Baier confirmed that the Town Engineer did do that. Mr. Adusei said he was told that if something did come up he would get a call. His wife called on Monday and was told they needed a D.E.C. application to move the shed. They are in touch with someone to do so. He spoke with Ms. Baier and was told it was a 2 step process and that he would have to come back. Chairwoman Drummond advised him that any application is a two-step process. There is a review first by the Board and then a public hearing is scheduled. In this case, it is a three-step process because an outside agency has to be dealt with first. The Board should not be considering this application until the Board knows for sure that New York State D.E.C. is going to allow the structures to go where Mr. Adusei is proposing. The Town Planner did have a conversation and sent an email late this afternoon, which Chairwoman Drummond read. Mr. Adusei said that he spoke with a person named Chris from the New Paltz office. The process was started this afternoon. He hopes to hear something back from the D.E.C. as soon as possible. Chairwoman Drummond asked if Mr. Adusei had a sense of timing from the D.E.C. Mr. Adusei did not know. Chairwoman Drummond asked about the topography of the back of Mr. Adusei's lot. She was trying to understand his limitations of why the equipment has to be so close. Mr. Adusei said that it was flat now. Part of the permit received from the D.E.C. in 10/2015 was to extend the back yard from the 20' to another maybe 60'. That was done. They cleared the back yard and added the fence and the shed. They don't have a lot of space. The neighbors are close. Chairwoman Drummond asked how close the closest neighbor's house is. Mr. Adusei said that their fence is 2' in from the property line on the right and about 40' on the left. Mr. Adusei came forward and showed the Board on the survey where everything was located and then showed them on the survey where everything would be going once allowed. Chairwoman Drummond went over the variances that would be needed. Chairwoman Drummond asked Mr. Adusei if he realized that by putting the pool equipment behind the shed that he was screening the noise from himself but is now directing the noise to the neighbor. Mr. Adusei said that they went through an architect to put this together for them. They are trying to

find the best way to maximize the space. This is what the architect came up with. It is furthest away from the property as possible. Chairwoman Drummond asked why the pool equipment be put here. Mr. Meier said the problem was that Mr. Adusei deserves the noise and not the neighbors. Chairwoman Drummond did not think that Mr. Adusei would see it. Mr. Adusei said that they had no problem moving the equipment to the other side of the shed – away from the neighbor. Putting the pool equipment behind the shed allowed them to take care of the lawn. Chairwoman Drummond stated that the pool equipment would need a variance for the far side of the shed and but less than the side that was closest to the property line. Mr. Meier said that Mr. Adusei would have to get the measurements and get them to the Zoning Board. It would be a lot easier for the Board if it is moved away from the neighbor. Chairwoman Drummond said that Mr. Adusei is now looking to put a concrete pad in the wetlands buffer. He is going to need to get signed off on that as well. She felt that it was a little premature for the Board to look at this. It is fine for getting an idea of what he is looking for. The Board's suggestion of moving it over to minimize the sound to the neighbors is needed. Chairwoman Drummond asked how close the neighbor's house was. Mr. Adusei thought it was about 35' away. They were planting some screening as part of the plan. Chairwoman Drummond said they were screening the pool but not the shed. She asked what color was the shed. Mr. Adusei said that it was cream colored. Mr. Adusei said that they would move the pool equipment as suggested by the Board, but if they found equipment that was less impacting on his neighbors would they be able to leave it where it is. Mr. Meier said that Board needs him to move it as far away as much as possible because there are alternatives. Chairwoman Drummond explained that the Board's interest has always been minimizing the impact on the neighbor. If Mr. Adusei would make it less impactful by putting it on the other side of the shed that would be minimize the noise to the neighbor. Chairwoman Drummond said that the Board will let Mr. Adusei deal with the D.E.C. and then he will come back. The Board would go from there. The Board will know what the D.E.C. will allow him to do. Hopefully, there will be answers for the next meeting.

### **REVIEW – Appeal 3861 – Paratore (6356-01-365933)**

Alberto and Mary Paratore, 109 Broadway, Hopewell Junction, are requesting a 2' variance for an existing 6' fence in front of the frontline of the house, pursuant to Section 194-98 of the Zoning Ordinance.

Mr. & Mrs. Paratore were present. Chairwoman Drummond asked them to explain what they would like to do. Mr. Paratore asked for some clarification on the front of the frontline of the house. Chairwoman Drummond asked if their fence runs down the side of the driveway or yard. Mr. Paratore said it does. Chairwoman Drummond recognized that this lot is a flag lot. The question becomes where the front yard is. Mr. Paratore stated that the front of the house is the west side. Chairwoman Drummond explained that the façade of the house is facing the driveway, but the front of the lot is the side of the lot that is closest to the street. That would be the front yard. Any fence that is in front of that side is in the front yard. Mr. Paratore explained that on the south side are the neighbors. He has two neighbors because there are 2 houses on that lot. The 27' area in there slopes down. The fence actually sits down from the neighbors' lot.

Chairwoman Drummond asked why the fence needed to be there. Mr. Paratore said it was for his dogs. Chairwoman Drummond pointed out that there is another area in his yard. Mr. Paratore said he did not. It looks like it is huge, but there is a slope on the north side and drops down into a ravine. Chairwoman Drummond said the map provided with the application does not give a sense of topography. She asked Mr. Paratore if this was the only flat area and he said it was correct. Chairwoman Drummond asked why they were in front of the Board. Did one of the neighbors complain? Mr. Paratore stated that they were told by the Town. Mrs. Paratore said they were trying to enclose their deck and when the Town came to inspect it when he saw the fence was in violation. Mr. Paratore said that they owned 2 Huskies that climb the fence and run away. Chairwoman Drummond stated that the Building Department's assessment of the fence was that it was not in great shape. She asked how old the fence was. Mr. Paratore said that the fence is about 10 years. Chairwoman Drummond felt the intention is that Mr. Paratore would keep it there. Chairwoman Drummond asked if Mr. Paratore was going to take the fence down if he sold the lot. Mr. Paratore said he would probably take it down. Chairwoman Drummond asked how close was the house to the property line that was in front of them. Mr. Paratore thought it was about 40'. Chairwoman Drummond was wondering how impactful were the dogs' barking on the neighbors. Mrs. Paratore said that the dogs don't bark. Ms. Franco asked if there were people in both of the houses on the lot with the 2 houses. Mr. Paratore said yes. Mrs. Paratore said that it was one lot with two separate residences owned by one person. Chairwoman Drummond asked where the septic was located. Mr. Paratore said the septic was located on the other side of the house and it is a cesspool.

**MOTION** to hold a public hearing at the next meeting on March 27<sup>th</sup> was made by James Meier, seconded by Mary Seminara. Voted and carried unanimously.

Chairwoman Drummond suggested that Mr. Paratore talk to his neighbor's ahead of time to make sure they don't have any issues.

#### **REVIEW – Appeal 3862 – Flick (6355-00-427680)**

Joseph Flick, 56 Winter Green Place, Hopewell Junction, is requesting a 1' variance for an existing 5' fence, pursuant To Section 194-98 of the Zoning Ordinance.

Mr. Flick was present. Chairwoman Drummond stated that Mr. Flick had been here before the fence was put up. The Board asked Mr. Flick at that time for a survey of the property. Mr. Flick said that he had a survey before then that he provided. For the next meeting, he stated that he was out of the country. He had an engineer come in. He thinks there were more measurements needed at that time. At that time he was travelling a lot and withdrew the application. It wasn't until recently that Mr. Croniser visited him to close out the file and told him that a variance was needed to close it out. Chairwoman Drummond did not think the fence was up when he first came in but went ahead and put it up anyway. Mr. Flick said that he was travelling a lot and his wife took care of the affairs. The fence was built during that time. Chairwoman Drummond stated that we are now dealing with an existing 5' fence. Mr. Flick said that was correct. Chairwoman Drummond asked if there was a picture of what it looks like. Mr. Flick said there was one provided with the application. Mr. Flick said it was a white 5' board and rail vinyl fence. Chairwoman Drummond stated that his issue is the front yard because the house does not

face the street. Mr. Flick said that the house does face to the front. He is pretty far back from the end of the cul-de-sac. Chairwoman Drummond asked what the length of the fence was. Mr. Flick thought it was over a 1000 linear feet. It is the side and back of the whole yard. Chairwoman Drummond asked if the fence was encroaching on the wetlands and asked if Mr. Flick had a permit from the D.E.C. Mr. Flick said that a copy of the permit from the D.E.C. was provided. Chairwoman Drummond said there is screening on the front of it. There is a lot of vegetation on the lot. Mr. Flick said there was a lot of vegetation. He also has 1 inch welded wire along the top of the fence because they have 2 German shepherds that could easily get through the fence. It is all enclosed. Chairwoman Drummond felt it was important that the animals be kept in the fence.

**MOTION** to hold a public hearing at the next meeting on March 27<sup>th</sup> was made by James Meier, seconded by Mary Seminara. Voted and carried unanimously.

### **REVIEW – Appeal 3863 – Heitmann (6455-01-780665)**

Gregory Heitmann, 17 East Hook Cross Road, Hopewell Junction, is requesting a 13' frontline variance for an existing sunroom and a variance for a pool located in front of the house, pursuant to Sections 194-96 and 194-95 of the Zoning Ordinance.

Mr. Heitmann was present. Chairwoman Drummond stated that Mr. Heitmann was here before. Mr. Heitmann said that it was last year. He was asked to get a survey of the property. There are a number of structures that were constructed on the property without permits. Chairwoman Drummond explained that Mr. Heitmann needs to understand that putting a pool in requires a number of inspections. Since last met, Mr. Heitmann has had the survey done so there is now a better sense of the structures that need attention. Chairwoman Drummond pointed out that this is another lot where the house is not facing the front yard. Chairwoman Drummond asked if there was screening around the sunroom. It appears that there is a retaining wall there. Mr. Heitmann said yes. The house is up from the road. It is about 30' above the road. Chairwoman Drummond asked Mr. Croniser if there was a permit for the sunroom and was told there was not. The issue with the pool is that it is located in the front of the house. The house is on an angle. Mr. Heitmann stated that the front door of the house is on the other side. Mr. Meier said that the Board is trying to figure out legally what the statute says. Chairwoman Drummond asked about the makeup of the lot. Mr. Heitmann said that the lot is very rocky. The house was built by his grandfather 68 years ago. Chairwoman Drummond felt that Mr. Heitmann's ability to put structures or a pool is limited because of the topography of his lot. Chairwoman Drummond asked if he was able to get the pool in the ground. Mr. Heitmann said that he was able to. Ironically, his grandfather had a pool in the front yard which was removed about 15 years ago. Chairwoman Drummond asked if it was in the same location. Mr. Heitmann said that it was in the real front yard. Chairwoman Drummond asked about the hot tub. Mr. Heitmann said that the hot tub was going away. The next question was where the pool equipment was located. Mr. Heitmann said that it was located 30.4' away. Chairwoman Drummond said the pool is 45.8' off the line. It needs to be 50'. The issue is that it is in the front yard. Chairwoman Drummond felt that this is probably the best place for the pool. Further discussion took place on the

location. Chairwoman Drummond asked if the neighbors objected to it. Mr. Heitmann said that he only had one neighbor and that neighbor did not object to it. He was asked if it was functioning already and Mr. Heitmann said that it was.

**MOTION** to hold a public hearing at the next meeting dated March 27 was made by James Meier, seconded by Mary Seminara. Voted and carried unanimously.

**REVIEW – Appeal 3864 – Servay (6457-01-358780)**

Jeffery Servay, 15 Railroad Avenue, Hopewell Junction, is requesting a 29' frontline and a 12' sideline variance for a proposed 18'x20' detached garage, a 9' sideline and 7' rearline variance for an existing 10'x10' shed and a 40' frontline variance for a pre-existing, non-conforming dwelling, pursuant to Sections 194-107C, 194-107B(1)b and 194-121 of the Zoning Ordinance.

Mr. Servay was present. Chairwoman Drummond pointed out that this house is in an I-2 Zone. The lots in this area are small lots. Mr. Servay stated that there is only a small area to put the structure. Chairwoman Drummond stated that the house has been there a lot longer than the Town's code. A 10'x10' shed is not very large. Because of the size of the lot, Mr. Servay's ability to put the shed anywhere is very constrained. The detached garage is not very large. Ms. Franco asked if the garage could go back a little further and over. Mr. Servay said that it would butt up against the driveway. The septic is located on the other side of the property. Mr. Meier asked if Mr. Servay did not want to go back further because he already had a blacktopped parking area. Mr. Servay said that was right. Chairwoman Drummond asked what the garage was going to look like and how tall was it going to be? Mr. Servay said that it would match the house and it would be a single story. The Board had no other questions or comments.

**MOTION** to advertise for a public hearing was made by James Meier, seconded by Tara Franco. Voted and carried unanimously.

**REVIEW – Appeal 3865 – Colella (6655-04-893102)**

Joseph Colella, 247 Ressique Road, Stormville, is requesting an expansion of a pre-existing, non-conforming dwelling in order to build a 28'x24' attached garage, and a 10' frontline variance for a proposed front porch pursuant to Sections 194-121 and 194-17 of the Zoning Ordinance.

Mr. Colella was present. Chairwoman Drummond reminded the Board that Mr. Colella was before the Board previously. He lives in the house next door to this property. These three lots have been in Mr. Colella's family for years. Mr. Colella is looking to clean up the lot next door for his son to use. There are pictures of current conditions. It has been neglected for a little while. Chairwoman Drummond asked if there was a porch there before. Mr. Colella said there was. He said they did the survey and it was so overgrown that the porch was not seen. They went over the revisions and he realized that the new house would have a porch and it would be in

violation. Mr. Colella realized that no matter what he does on the properties he would need variances. There are three lots there that are all the same. Chairwoman Drummond explained that zoning didn't come in until 1963 and this house was not built until 1963 so the pre-existence should not really come in to play. Mr. Colella wants to put a garage on it and make it a house. Chairwoman Drummond thought the porch would add to the house. She asked what would be the size of the porch. Mr. Colella said that it was subject to final drawings, but it is about 8'x15'. It would be about 8 to 10'. Mr. Colella understands that he needs to tell the Board, but he was told that he needs to get the variance before he can get the building permit. He hasn't designed the house yet. Mr. Meier said that Mr. Colella could draw the plan or settle on how much he was going to go out. Mr. Colella said that he would like to come out 10'. Chairwoman Drummond asked what Mr. Colella would like to accomplish with the front porch. Does he plan on putting chairs on the porch? Chairs have a physical dimension. Mr. Colella said that it was an entry way. Mr. Meier asked if it was going to be enclosed. Mr. Colella said that it would just have a roof. There are 4 or 5 houses in the area that look the same way as what he is planning to do. Mr. Meier said that the survey is showing 44' so it looks like Mr. Colella would be coming out 44'. Mr. Colella said the foundation is only 24' wide. They were going to cantilever two feet from the house and put the 8' deck on. That is why the porch would be 10' off the house. Chairwoman Drummond stated that on the survey it shows the garage currently on the property and the shed. Mr. Colella said they both would be going. There is going to be a new one.

**MOTION** to advertise for a public hearing on March 27<sup>th</sup> was made by James Meier, seconded by Mary Seminara. Voted and carried unanimously.

#### **REVIEW – Appeal 3866 – Potrzeba (6357-04-691290)**

Bernard Potrzeba, 1 Charles Lane, Rhinebeck, is requesting a 4' frontline and 14' rearline variance for a proposed 6'x8' covered entry way on a pre-existing building at 566 Route 82, Hopewell Junction, pursuant to Section 194-17 of the Zoning Ordinance.

Mr. Potrzeba was present. Chairwoman Drummond stated that Mr. Potrzeba was looking to restore the building that was there and is looking to put a covered entryway to the side. Mr. Potrzeba said that the building was there and the existing entrance faced Route 82. It was far away from the parking area and was dangerous because it was too close to the road. Chairwoman Drummond asked Mr. Potrzeba to describe the accessibility of the entry way. Mr. Potrzeba said there will be a ramp from the parking area to the porch. The grade would be about 16" down. Chairwoman Drummond said that the Board noticed that there was a grade to Route 82. Mr. Potrzeba said that there was no elevation to Route 82. The parking area has about 2 steps up. Chairwoman Drummond felt that since Mr. Potrzeba was going to deal with the accessibility issues, she didn't feel that there would be a problem.

**MOTION** to hold a public hearing on March 27<sup>th</sup> was made by James Meier, seconded by Mary Seminara. Voted and carried unanimously.

**REVIEW – Appeal 3867 – Tucker (6657-04-517325)**

Scott Tucker, 109 Route 216 Stormville, is requesting a Special Permit to bring in 20,000 yards of fill in order to bring his lot on Seaman Road up to grade to prevent flooding as it is used for farming purposes, pursuant to Section 194-75 of the Zoning Ordinance.

Mr. Tucker was present. Chairwoman Drummond explained to the public that there is a limit to how much fill a person can bring to the lot in a year. Three hundred seventy-five cubic yards is allowed. Chairwoman Drummond asked Mr. Tucker what he is planning to do. Mr. Tucker said that the whole surrounding area is used for corn and hay. There is one area in the center that was used for animals. He got rid of the animals in 1991. In the spring time, it cannot be plowed or driven on. He would like to bring it up about 2' to grade with the rest. Chairwoman Drummond said that there are no neighbors near the lot. Mr. Tucker said that there were no neighbors. There is a drainage that comes from the prison on the east end. There also is a culvert that goes across to the back field. Mr. Tucker would like to leave that just as it is. He will have to put in a new pipe. Chairwoman Drummond did not think there was a problem with this. It will keep farming in the Town. Mr. Meier said that the Board would have to learn the conditions. Chairwoman Drummond asked what the hours and days of the week that the fill would be coming in. Mr. Tucker said that it would be daytime hours during the week. The trucks would not be able to come under the trestle and they are not going to go through the development. They are coming from South Green Haven Road. It is only  $\frac{3}{4}$  of a mile from there. The fill is coming from the contractor from a different area, but Mr. Tucker has been worried about people having problems getting contaminated soil. Every load that he is getting will be tested. There is going to be three meters on site and every load will be tested. If it doesn't pass in the driveway, it will be sent back to where it came from. The contractor that has been putting the fill in at the animal rescue place on South Green Haven Road will also be putting the fill in here. Chairwoman Drummond stated that since there are no neighbors there really is no impact to the community.

**MOTION** to advertise for a public hearing on March 27<sup>th</sup> was made by James Meier, seconded by Mary Seminara. Voted and carried unanimously.

**ADJOURNMENT:**

**MOTION** to adjourn the Zoning Board meeting was made by Mary Seminara, seconded by James Meier. Voted and carried unanimously.

Respectfully submitted,

Lisa Anne Barach  
Meeting Secretary