

Town of East Fishkill
ZONING BOARD OF APPEAL

January 23, 2018

Chairwoman Drummond called the meeting to order with the roll call. Those present were Mary Seminara, James Meier, Aziz Ahsan, Norma Drummond, Tara Franco and Pam Baier, Clerk. Tom Wood, Town Attorney, was absent.

The Pledge of Allegiance was done at this time.

CHAIRPERSON'S COMMENTS:

Chairwoman Drummond wished everyone a happy New Year and announced that the next two meetings of the Zoning Board will be February 27th and March 27th. She stated that in the event of snow and the Town Hall is closed there will be no Zoning Board meeting that night. It will be held on the following month. If someone is scheduled for a public hearing that night, please change the sign to reflect the new date.

APPROVAL OF MINUTES:

Chairwoman Drummond asked for a motion to approve the minutes of November 28, 2017 with amendments.

MOTION to approve the November 28th, 2017 minutes as amended was made by Aziz Ahsan, 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 stated that there is no new information or Decision on this application. There has been no answer to the request that the Zoning Board and Planning Board made to New York State DEC as of yet.

AMENDMENT TO FINAL RESOLUTION:**RESOLUTION – Appeal 3832 – East Fishkill Solar, LLC (6357-04-723104)**

East Fishkill Solar is requesting an amendment to Condition #9 of their Final Approval Resolution, which was approved on September 26, 2017 to state that the decommissioning of the site will be approved by NYSERDA not the PSC as stated in the original resolution.

Chairwoman Drummond explained that a couple of months ago the Board made a Resolution related to East Fishkill Solar. There was a stipulation put in the resolution about the decommissioning of the solar farm in the event that it was no longer needed for use. The Board put in a requirement that it would be subject to the Public Service Commission. The decommissioning plans would need to be approved by NYSERDA. The Chairperson asked for a motion to approve the amendment to the approval resolution to reflect that it is not PSC but NYSERDA. Mr. Ahsan asked if the Board needed to have the Resolution read into the record or just make a motion to amend as proposed. Chairwoman Drummond said that it would just be a motion because only one word is being amended. Nothing else in the resolution is going to change.

MOTION to amend the Resolution as proposed was made by Aziz Ahsan, seconded by Mary Seminara. Voted and carried unanimously.

PUBLIC HEARINGS:**PUBLIC HEARING – Appeal 3858 – Johns (6356-04-534436)**

Monika Johns, representing Elly Fischler, 43 McKeown Terrace, Hopewell Junction, is requesting an additional 4' sideline variance for an existing 24'x24' detached garage and a 6' sideline variance for an existing 8'x10' shed, pursuant to Section 194-107C and B(3). Ms. Fischler was granted a 10' sideline variance for the garage in 1976; however, the garage was built 4' closer to the property line, therefore requiring an additional 4' sideline variance.

MOTION to open the public hearing was made by Aziz Ahsan, seconded by Tara Franco. Voted and carried unanimously.

Ms. Johns was present. Chairwoman Drummond recapped what the Board learned in November when reviewing the application. There was an original survey done. The garage was built with a permit, but the permit was not closed out. Ms. Johns stated that the permit has since been closed out. Chairwoman Drummond explained that it was no fault of Ms. Johns' parents that this happened because they went by the survey at that time. They are looking to sell the house and a new survey was done and it was discovered that the property line is actually 4' closer to the garage. The garage has been there since 1976 and there is the original variance for it. The neighbors did not complain. It is just being cleaned up to have a clean title for the sale. There is also the 8'X10' shed that has been there for almost as many years and also needs a variance. There was a discussion about a smokehouse in the back. Ms. Johns said that it has been

removed. Her father used it to make sausages and her parents have been divorced for 20 years. It has not been used for a long time. Chairwoman Drummond asked if there were any questions or comments from Board Members. Ms. Franco asked about the carport. Ms. Johns said that it was removed. It wasn't really a carport but covered her mother's garbage cans. Chairwoman Drummond thanked Ms. Johns for clearing everything up. Chairwoman Drummond asked Mr. Croniser if the Building Department was okay with everything. Mr. Croniser said that Ms. Johns got a permit for the porch and it was signed off.

Chairwoman Drummond stated that the Board did get one letter from the next door neighbor Robert Falcone dated January 7, 2018 which was in favor of the variance. Chairwoman Drummond read the letter for the record.

Chairwoman Drummond asked if there was anyone who wished to speak for or against the appeal. No one came forward.

It was noted by the Board that the purchaser of the house was present.

MOTION to close the public hearing was made by Aziz Ahsan, seconded by Mary Seminara. Voted and carried unanimously.

Resolution offered by Board Member James Meier

APPEAL NUMBER: 3858

APPLICANT: Monika Johns representing Elly Fischler

NAME OF PROJECT: Additional 4' sideline variance for an existing 24'x24' detached garage and a 6' sideline variance for an existing 8'x10' shed, pursuant to Sections 194-107C and B(3).

LOCATION: 43 McKeown Terrace, Hopewell Junction

TAX MAP NUMBER: 6356-04-534436

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member James Meier

WHEREAS the Applicant has applied for an additional 4' sideline variance for an existing 24'x24' detached garage which was built in 1976 and had received a 10' sideline variance at that time, however, the property line on the prior survey was not shown in the correct place thus necessitating the additional 4', as well as a 6' sideline variance for an existing 8'x10' shed, pursuant to Sections 194-107C and B(3) of the Zoning Ordinance, and

WHEREAS this action is a Type 2 Action under SEQR and no further action is required, and

WHEREAS the Legal Notice was published in the Southern Dutchess News on January 17, 2018, and

WHEREAS the Zoning Board of Appeals held a Public Hearing on January 23, 2018, and

WHEREAS the Zoning Board of Appeals finds that:

The granting of the variance will not produce an undesirable change in the character of the neighborhood or be a detriment to the community as the garage and shed have been in that location for over 40 years;

The desired result cannot be achieved by some other means;

The variance requested is not substantial;

The proposed area variance will not have an adverse effect or impact on the physical or environmental conditions.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals hereby approves the request by Monika Johns who is representing Elly Fischler for an additional 4’ sideline variance for an existing 24’x24’ detached garage and a 6’ sideline variance for an existing 8’x10’ shed, pursuant to Sections 104-107C and B(3) of the Zoning Ordinance.

BE IT FURTHER RESOLVED that within five (5) business days of the adoption of this Resolution, the Chair or other duly authorized member of the Zoning Board shall cause a copy of the Resolution to be filed with the Town Clerk and a copy sent to the Applicant/Owner.

Resolution Seconded by Zoning Board Member Mary Seminara

The votes were as follows:

Board Member James Meier	Aye
Board Member Aziz Ahsan	Aye
Board Member Tara Franco	Aye
Board Member Mary Seminara	Aye
Chairperson Norma Drummond	Aye

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.

No one was present.

REVIEW – Appeal 3860 – Morgan/Pena (6655-01-208607)

Joanne Morgan and Fred Pena, 2 Kane Drive, Stormville, are requesting an interpretation of what is considered their front yard as they have a corner lot.

No one was present. Chairwoman Drummond felt that a discussion should be had by the Board. Mr. Croniser advised the Board that this situation is before the East Fishkill Court. Chairwoman Drummond stated the issue was that this is a very long and narrow lot. The driveway is on Kane Drive, but the front door is on Leetown Road. This is not the first corner lot that this Board has seen. Mr. Croniser said the filed map has a statement saying that the driveways are to enter from the interior road. Chairwoman Drummond further explained that the filed map has been found that goes back to the subdivision in 1976. This is a whole subdivision of very narrow, long lots. It does specifically say on the map that Lots #1, which is the one in question, Lots #12 and 13 show accesses from the interior streets only. The Planning Board at that time made the determination that there would be no driveways on Leetown Road. That Planning Board had directed that the driveways be on the interior roads, Kane Drive and Ritter Road. With previous applications, the Board has seen some lots with as many as 3 and 4 front yards because they were corner lots. Chairwoman Drummond read the provision in to the record at this time. "Section 194-100 – Corner Lots. On a corner lot in any district there shall be provided a yard on each street equal in depth to the front yard on such street". Front yard setback is 50'. "A rear yard shall be provided on each corner lot and in residential zones the owner shall select which yard is the rear yard. In all other zones the Planning Board, upon recommendation of the Building Inspector, shall determine which yard is the rear yard during site plan review after considering the orientation of the existing and proposed structures and the characteristics of the surrounding properties". Chairwoman Drummond said it is up to the property owner to determine what the rear yard is. They really have two yards to choose from. The one behind the physical front of the house, which given the size of this lot is used under the required area. The reason this comes in to play is the owners began construction on a pool to the right of the front of the house. The patio which is now part of the retaining wall extends in front of the frontline of the house. Ms. Seminara asked if there was a better picture than what was submitted with the package. Mr. Croniser said that it was an above ground pool. Chairwoman Drummond added that the owners have dug around to bring earth to it. They have now put a patio to meet it. Mr. Croniser had pictures of the property. Chairwoman Drummond identified the different seasons that the pictures were taken. She also added that part of the issue is there is a 6' fence. Mr. Croniser informed Chairwoman Drummond that it was taken out. Chairwoman Drummond stated that there is a level patio behind the retaining wall. Pools are allowed in the side yard, but this pool is coming out beyond the front of the house and is in the front yard. Mr. Croniser added that Mr. Pena was calling this his backyard. Discussion held on the problems of having two front yards and what becomes a backyard. Chairwoman Drummond stated that the Board has been

requested to make an interpretation and the applicant is in court. The Board can proceed with holding a public hearing to make sure that the members of the public agree with the Board's interpretation so the Court is not being held up. Mr. Ahsan pointed out that the applicant was not present. Chairwoman Drummond said that the request is for an interpretation and is not specifically related to this particular lot even though they are asking what the front yard of their lot is. Chairwoman Drummond suggested that a public hearing be scheduled and have Ms. Baier call the applicants to have them come get the signs. Mr. Croniser had a question about the terrace that was built. If that is the front yard and now this is an in-ground pool, would it be considered a pool deck which requires 15' to the property line? The front yard requires 50' to the property line. Chairwoman Drummond pointed out that a pool is not allowed in the front yard. Mr. Croniser pointed out that the pool is on the side, but the deck comes forward. Chairwoman Drummond asked if it was a deck because it is not attached to the pool. Mr. Croniser did not know because he did not see what was done around the pool. Another retaining wall was built to hold the soils back and it came up to it. He did not think the weight of the wall would hold the earth back. Mr. Meier did not think the patio touched the side of the pool. Mr. Croniser said that a 4' barrier is needed around the pool. Something placed on top of the terrace would become 6' or 7' high. Further discussion was held on the retaining wall and fencing. Mr. Croniser felt that the applicant's intent is to put the barrier on top of the terrace to have privacy like before.

Chairwoman Drummond pointed out that this was not the question before the Board. Mr. Croniser said the applicant's appearance in Court is next week. He didn't know if the applicant would be sent directly to the Judge because he didn't appear here tonight. It wouldn't hurt to have an idea of the Board's thoughts. Chairwoman Drummond believed that the Board has recommended in the past that people are allowed to build berms and put a 6' fence on top of the berm. Mr. Meier felt that if the applicant is calling this the front, he is going to need a variance. Mr. Ahsan asked if there was a survey. Mr. Croniser said that one needs to be done. Chairwoman Drummond pointed out that this is a pool application. Did the Building Department ask for a survey or is it asked for when the pool is in. Mr. Croniser believed it all started with a violation by Artie Kaufman because a permit was not applied for and then the applicant did. Mr. Croniser approached the Board and pointed out where certain parts of pool and retaining wall were in relation to the house on a map. Mr. Meier stated that he had no problem with putting this on for a public hearing for an interpretation only. The rest of the Board Members were in agreement. Chairwoman Drummond suggested that the Board advertise for the interpretation to move the application forward. There are other issues that the Building Department needs to deal with. If the applicants have to come back again, they will have to come back.

MOTION to advertise for a public hearing was made by James Meier, seconded by Aziz Ahsan. Voted and carried unanimously.

Chairwoman Drummond directed Ms. Baier to call the applicants and tell them to come in and purchase 2 signs for the 2 front yards and the Board will see them next month.

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 194-96 of the Zoning Ordinance.

No one was present.

ADJOURNMENT:

MOTION to adjourn the Zoning Board meeting was made by Aziz Ahsan, seconded by James Meier. Voted and carried unanimously.

Respectfully submitted,

Lisa Anne Barach
Meeting Secretary