

Town of East Fishkill

**ZONING BOARD OF APPEALS**

February 22, 2022

Chairperson Drummond called the Zoning Board of Appeals to order with a roll call via a Zoom meeting. Those present were Rocco Limitone, Aziz Ahsan, James Meier, and Norma Drummond. Michael Cunningham, Esq., Town Attorney; Matt Rickett, Zoning Administrator; and Jackie Keenan, Clerk, were also present.

Chairperson Drummond led the meeting with the Pledge of Allegiance.

**CHAIRPERSON’S COMMENTS:**

Chairwoman Drummond stated they are acting in accordance with the Governor’s Executive Order for meeting in a Zoom format that has been extended due to the COVID-19 Pandemic. The meeting was properly noticed and is being recorded. Chairperson Drummond went through the procedure of the meeting. There will be no in person public participation. There are two Public Hearings. These are applications that the Board has reviewed and now the neighbors will have a chance to speak regarding these, as the Board acknowledges that they will know the property better than the Board members. They will be given instructions on how to participate at the appropriate time. There are a few reviews, which generally are the first time the Board is seeing these applications. She also reviewed the rules for how to speak during the public speaking sections. She stated this also aids in that regardless of the weather or snow closings, the meeting can continue. She thanked everyone in advance for their cooperation.

Chairperson Drummond stated the Governor's order allows the Board to continue virtual meetings until March 16<sup>th</sup>, but assuming the executive order is extended, as it doesn't seem the pandemic emergency is over, she asked if it was the Board's pleasure to continue the March meeting virtually. The Board was in agreement with this. Chairperson Drummond stated that the next meetings would be Tuesday, March 22, 2022 and Tuesday, April 26, 2022.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to approve the minutes of the meeting held January 25, 2022 as amended. Voted and carried unanimously.

**PUBLIC HEARINGS:**

**PUBLIC HEARING – Appeal 4023 – Mohammad Rahman (6356-01-358852)**

Mohammad Rahman, 81 Broadway, Hopewell Junction, is requesting a 9’ sideline variance to allow an existing 12’x20’ (240 sq. ft.) rear deck, pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Mr. Rahman was present.**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to open this Public Hearing. Voted and carried unanimously.

Chairperson Drummond stated the Board reviewed this application last month. The applicant just purchased this house approximately 2 months ago. They're looking to replace an existing deck. The Building Inspector came out and gave them some direction. This is not visible to the neighbors or the roadway. This is in the Lomala community. This property backs up against land owned by the HOA.

Chairperson Drummond asked if there were any comments or questions from Board members. There were none.

Chairperson Drummond asked if there was anyone from the public to speak for or against this application. There was no one.

**MOTION** made by James Meier, seconded by Aziz Ahsan, to close this Public Hearing. Voted and carried unanimously.

APPEAL NUMBER: 4023

APPLICANT: Mohammad Rahman

NAME OF PROJECT: Request for a 9 sideline Variance from the requirements of the Schedule of Bulk Regulations for a 12’x 20’ (240 sf) rear deck

LOCATION: 81 Broadway, Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6356-01-358852

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Aziz Ahsan

**WHEREAS**, the Applicant purchased the house recently and the existing deck was built prior to the Applicant's purchase; and

**WHEREAS**, the Property is narrow and long; and

**WHEREAS**, there are pre-existing nonconforming accessory structures located on the Property, which will not require variances, but would not be permitted to be rebuilt as-of-right where they were constructed; and

**WHEREAS**, this is a Type II Action under SEQRA; and

**WHEREAS**, the Legal Notice was published in the Southern Dutchess News on February 16, 2022; and

**WHEREAS**, the Zoning Board of Appeals held a Public Hearing on February 22, 2022; and

**WHEREAS**, the Zoning Board of Appeals finds that:

The granting of the Variances will not produce an undesirable change in the character of the neighborhood as the Property will remain residential in nature;

The desired result cannot be achieved by some other means due to the layout of the Property;

The Variance is not substantial;

The 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 of Mohammad Rahman for a 9 sideline Variance from the requirements of the Schedule of Bulk Regulations for a 12'x 20' (240 sf) rear deck.

**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 James Meier

The votes were as follows:

Board Member James Meier	Aye
Board Member Aziz Ahsan	Aye
Board Member Rocco Limitone	Aye
Board Member Brandon Rodas	Absent
Chairperson Norma Drummond	Aye

**PUBLIC HEARING – Appeal 4024 – Cindy & Ahmed Elgheur (6356-01-434926)**

Cindy and Ahmed Elgheur, 122 Broadway, Hopewell Junction, are requesting a 32’ rear line variance to allow a proposed 20’x30’ (600 sq. ft.) addition, pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Cindy Elgheur was present.**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to open this Public Hearing. Voted and carried unanimously.

Chairperson Drummond stated the Board reviewed this application last month. They are neighbors to the first application. This is currently a three-bedroom house and with this addition it will continue to be a three-bedroom house. They are not doing anything to the septic and not adding any bathrooms or bedrooms. It is a 1 1/2 story addition. There is also a garage in the front yard. Mrs. Elgheur stated that structure was already there when they purchased the property. Chairperson Drummond stated this is an existing structure that is not being changed or moved in any way. The finish of the addition will be similar to what is on the existing house. It is 18 1/2 feet from the rear property line. She asked the applicant what is next to their property. Mrs. Elgheur stated they are surrounded by community property, and it is very dense vegetation. Chairperson Drummond stated this will likely not be seen by the neighbors or the roadway.

Chairperson Drummond asked if there were any comments or questions from Board members. There were none.

Chairperson Drummond asked if there was anyone from the public to speak for or against this application. There was no one.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to close this Public Hearing. Voted and carried unanimously.

APPEAL NUMBER: 4024

APPLICANT: Cindy & Ahmed Elgheur

NAME OF PROJECT: Request for a 36' rear line Variance from the requirements of the Schedule of Bulk Regulations of the Town Code and for a Variance from the requirements of Section 194-107(C) of the Town Code for a detached garage (the "Variances")

LOCATION: 122 Broadway, Hopewell Junction (the "Property")

TAX MAP NUMBER: 6356-01-434926

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Rocco Limitone

**WHEREAS**, the Applicants' house is located very close to the rear lot line; and

**WHEREAS**, the house and the proposed extension are screened from all neighboring properties by dense tree cover; and

**WHEREAS**, the proposed extension is the only workable location due to the siting of the house; and

**WHEREAS**, the proposed extension will not increase the number of bedrooms or bathrooms; and

**WHEREAS**, there is also a detached garage, which is located in front of the frontline of the house; and

**WHEREAS**, this detached garage existed prior to the Applicants' purchase of the Property; and

**WHEREAS**, this is a Type II Action under SEQRA; and

**WHEREAS**, the Legal Notice was published in the Southern Dutchess News on February 16, 2022; and

**WHEREAS**, the Zoning Board of Appeals held a Public Hearing on February 22, 2022; and

**WHEREAS**, the Zoning Board of Appeals finds that:

The granting of the Variances will not produce an undesirable change in the character of the neighborhood as the Property will remain residential in nature;

The desired result cannot be achieved by some other means due to the layout of the Property;

The rear line Variance is substantial, but will be screened from other neighbors by the existing tree cover;

The Variances 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 of Cindy & Ahmed Elgheur for a 36’ rear line Variance from the requirements of the Schedule of Bulk Regulations of the Town Code and for a Variance from the requirements of Section 194-107(C) of the Town Code for an existing detached garage.

**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 Aziz Ahsan

The votes were as follows:

Board Member James Meier                      Aye

Board Member Aziz Ahsan                      Aye

Board Member Rocco Limitone              Aye

Board Member Brandon Rodas              Absent

Chairperson Norma Drummond              Aye

**REVIEWS:**

**REVIEW - Appeal 4025 – Anthony Ferrante (6355-00-922744)**

Anthony Ferrante, 61 Rainbow Crest, Hopewell Junction, is requesting a 33’ rear line variance for an existing dwelling and a proposed 20’X16’ (320 sf) addition, pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Anthony Ferrante and Brian Stokosa were present.**

Mr. Stokosa stated there are two additions on this application. The one that they are seeking a variance for is on the northwest side of the structure. The applicant would like to increase their living space on that corner of the house. There are some restrictions, as they have septic components in the front of the house. Toward the rear of the house will be an office area. It is a 12 x 14 foot addition. He meant to forward a plan showing additional information such as the offset from the rear elevation to the cul-de-sac. It is 50.2 feet. He stated it is very close but they do make it. Chairperson Drummond stated their plans do not show any measurements. She stated the new corner will be closer than the existing corner of the house. Mr. Stokosa stated he will send updated plans that shows that offset and that they do not need the variance in the location. Chairperson Drummond was clear that there could not be any shifting of this during construction as they do not have the space.



Chairperson Drummond asked what the use of this additional living space would be. Mr. Stokosa stated they would just like to expand the area. Currently the parents lived there as well as the daughter and family. They're looking to give everyone a little bit more space, especially with Covid still around. They have not been able to find house on the market set up with this configuration so they would like to invest into their existing dwelling to expand their livable footprint.

Chairperson Drummond asked if they would be adding a bathroom or bedroom. Mr. Stokosa stated there would be no bedroom addition on this application. Ms. Drummond asked for a clearer location as to where the septic is. Mr. Stokosa stated the septic box is closer to the house and the expansion area is just past.

Chairperson Drummond stated this application has two front yards, one on Sunshine Lane and one on Rainbow Crest. She stated there is no measurement from Sunshine Lane but it is clear that it is more than 50 feet.

Chairperson Drummond asked if there were any questions or comments from Board members.

Mr. Ahsan stated that the applicant barely makes the measurements on the cul-de-sac side. Maybe they should give him a 1-foot variance. Chairperson Drummond stated they should not be giving variances that are not needed. Mr. Ahsan stated that the applicant knows that they need to keep this in the buildable envelope.

Chairperson Drummond asked what was on the other side of the larger addition they are asking for. Mr. Stokosa stated all the houses are in line with each other fronting towards Sunshine Lane. This cul-de-sac was meant to extend into the Morgenthau property. Chairperson Drummond asked how close is the house next door to the property line. She wanted to know if this was visible to the house next door. Mr. Stokosa stated he believes there is some screening between the two houses. He believes the house is probably between 30 and 35 feet from the property line.

Mr. Ferrante's daughter Laura stated there are definitely trees between their house and the neighbor's house. She does not know the distance between homes. Chairperson Drummond asked if they had any conversations with the neighbors regarding this. The applicant's daughter said no. There are no windows on the neighbor's side of the house. Chairperson Drummond stated she did encourage them to talk with their neighbors prior to the Public Hearing. She asked how many stories this addition would be, and Mr. Stokosa stated it would be a one-story addition. He stated there is a significant tree-line between the two residences. The driveway for the house on the west is on that side so the addition would not be directly next to the neighbor's home.

Chairperson Drummond asked if there were any questions or comments from Board members. There were none.

**MOTION** made by Aziz Ahsan, seconded by James Meier, to advertise and set this for Public Hearing for the March 22, 2022 meeting. Voted and carried unanimously.

**REVIEW - Appeal 4026 – Jeffery Argow (6458-04-931174)**

Jeffery Argow, 3 Brusk Dr. Hopewell Junction, is requesting a 21' side line variance to allow a proposed 25'X30' (750 sf) detached garage, pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Jeffery Argow and Brian Stokosa were present.**

Mr. Stokosa stated this is a detached garage. The house is configured with the driveway in a way that it will be a sideload garage to the existing house. The positioning of the house in relation to the buildable area to install the garage basically puts it right in line with a side of the house with the front entry. That leaves basically a 4-foot separation between the property line and the proposed detached structure.

Chairperson Drummond stated that an 80% variance is a substantial variance. Mr. Stokosa stated it is tight to the line. They did submit separate renderings, but Chairperson Drummond stated she did not have those. Mr. Stokosa stated it is a story and a half high so from finished grade to top of the ridge will be 24 feet. The second story will be storage. He stated people typically like to have storage up above on a detached garage. Chairperson Drummond asked if there would be pull down stairs or a separate entrance to it. Mr. Stokosa stated it would be a full set of stairs going up. Chairperson Drummond asked if there would be electric. Mr. Stokosa stated there would be electric but no plumbing. The intention is not to have living space up there. Chairperson Drummond stated they do need to be very clear that living space is not allowed in a detached garage.

Chairperson Drummond asked why this could not be moved closer to the house. This is a very substantial variance. Mr. Stokosa stated there is an existing walkway that traverses from the sideload garage of the existing house around back to the deck area. They tried to maintain that walkway in place and place the detached garage around that. If there is flexibility to move the garage, they would have to look at an alternate walkway. He stated they could do some realignment of that walkway if necessary.

Chairperson Drummond asked what the distance between the house and the proposed corner of the garage was. Mr. Stokosa stated it is probably about 8 feet off of the garage to the current location of the detached garage. Chairperson Drummond asked how wide the walkway was. Mr. Stokosa stated he believes it is 3 1/2 to 4 feet wide.

Mr. Meier asked if they could bump it back 3 to 4 feet and over 3 to 4 feet and then they could still keep the walkway. Mr. Stokosa stated they could do that. He stated the position of the existing driveway does make it tight to the line. They do have flexibility to move it back and over and still have accessibility to the front of the garage.

Chairperson Drummond asked if they have had any conversations with the neighbors. Mr. Argow stated he has spoken to the neighbors, and no one had an issue with it in concept. He had a longer conversation with the neighbor directly impacted by the construction of this and she seemed fine with it. Chairperson Drummond asked how close her house was to this. Mr. Stokosa stated these houses run parallel and their driveways run parallel. Mr. Stokosa stated the homes are almost mirror images.

Chairperson Drummond asked if there was screening in between the homes or if the applicant was proposing anything. Mr. Stokosa stated there is some existing canopy trees between the two homes. There is some shrubbery on that the side as well. Chairperson Drummond stated if they are reducing their space down to 4 feet, there will not be any room on their side for anything. Even during construction they would disturb all of the roots. She asked if the applicant was proposing any new plantings. Mr. Stokosa stated they have not had that conversation. He does believe if they take the suggestion of moving the garage slightly closer towards the house, they could add another 4 feet and still have access to the front of the garage. That would give them approximately 8 feet between the property line and the garage. It would further protect the existing tree roots of the mature trees that are there. Chairperson Drummond stated that would also give more privacy for the pool. Mr. Stokosa stated he believes that would be a good alternative option. It would provide a buffer between the two properties and a little bit more room for installing, framing, and siding. Chairperson Drummond stated she believes that makes it a better application.

Mr. Limitone asked if the neighbor had a garage on that side of the house as well. Mr. Stokosa stated no, they do not.

Mr. Ahsan asked if there were any obstructions to keep them from moving it back. Mr. Stokosa stated there are no physical barriers. The applicant stated that moving it further back just increases the cost of the driveway, but it is feasible to move it further away.

Chairperson Drummond stated her suggestion is to move it back as has been discussed. Having it that close to the property line will give the neighbors a large wall to be seeing.

**MOTION** made by Aziz Ahsan, seconded by James Meier, to advertise and set this for Public Hearing for the March 22, 2022 meeting. Voted and carried unanimously.

**REVIEW - Appeal 4027 – Daniel Cabibbo (6457-04-563475)**

Daniel Cabibbo, 191 Creekside Rd. Hopewell Junction, is requesting a 9' side line variance to allow a proposed (510 sf) garage and a 27' rear line variance to allow a proposed (950 sf) addition, pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Daniel Cabibbo was present.**

Mr. Cabibbo stated it is two additions that are connected together so it is basically one structure. It will be a garage that is connected to an accessory unit. He is adding one-bedroom, but taking one away from the existing home that will become a den or office. He is adding one and a half baths.

Chairman Drummond asked how many people are currently living in the house. Mr. Cabibbo stated it is just him. Chairperson Drummond stated that although the applicant has no need for the extra bedroom that he is giving up, if he were to sell his house someone new could see it as a potential bedroom and the septic is sized for what is currently there. She stated they have to be very careful when adding bedrooms and bathrooms because they have to think ahead to the next owners. Mr. Cabibbo stated this will be a one-story addition for his parents to move in with him. One-story is easier for them to get around. They cannot build on the other side of the home because the septic is there. He stated he is one person, so the intention is to remove one of the bedrooms from the main house because he does not need four bedrooms. The intent is to have three people in two somewhat separate dwellings. Mr. Meier asked what he was going to do to actually remove the room. He asked if a wall would be removed. Mr. Cabibbo stated it was going to be a workout room with a TV. He could remove the closet if necessary. Mr. Meier stated one of the things looked at to consider a room a bedroom is the inclusion of the closet. He stated just changing its name to den does not mean it will not be a bedroom when someone else buys the house. Mr. Cabibbo stated that could be said of anybody's house with an addition. His intention is to convert it to something that will work for him, which would be a workout room.

Chairperson Drummond asked how close the neighbor to the right was. Mr. Cabibbo stated the houses are physically far apart. There are a lot of woods between the homes. He cannot see them, and he does not believe they can see him. There are several mature trees and thick brush between the homes.

Chairperson Drummond asked if the finish on the proposed addition will matching the existing house. Mr. Cabibbo said yes. He will need to add landscaping, walkways, and a new roof. The house was not well-maintained prior to his purchase.

Chairperson Drummond asked why the addition is as large as it is. Mr. Cabibbo stated it is 950 sq. ft for his parents to have a comfortable living space. Ms. Drummond stated typically an accessory unit is one-bedroom at 600 to 650 sq. ft.; so 900 sq. ft. is large and is normally a two-bedroom unit. Chairperson

Drummond stated it is a large variance and if he reduces the size of the addition, the variance required will be less. Mr. Cabibbo stated they are adding a bedroom and a den. They did verify that the size of the garage is not included in the 950 sq. ft. for the addition. Chairperson Drummond stated the den could create another bedroom for a new owner somewhere down the road. That is her concern. Mr. Meier stated a floorplan would be helpful. Chairperson Drummond stated a floorplan is included with the paperwork, but it is not professionally drawn and does not include the existing house. She was the only one with that copy. She stated this could be considered going from three bedrooms to five bedrooms. Mr. Cabibbo stated for him it is a net 4 bedrooms. He currently has 4 bedrooms in his home and will now have 3 bedrooms in his side and one in the addition.

Mr. Limitone asked the size of the septic. Mr. Cabibbo did not know that answer.

Mr. Ahsan asked when the house was built and Mr. Cabibbo said in 2005. Mr. Ahsan said it could be a 1250 gallon septic tank because about 15 years ago they switched from 1000 gallon to 1250 and higher, but it should be verified.

Chairperson Drummond stated there is something marked WC on the map. That is normally a water closet. Mr. Cabibbo stated that is a walk-in closet.

Chairperson Drummond asked who the architect was. Mr. Cabibbo stated he is not working with an architect yet. He stated he and his father drew the plans.

Mr. Meier asked if there was a door going from the addition to the main house and Mr. Cabibbo said yes.

Chairperson Drummond stated there appears to be stairs on the plans. Mr. Cabibbo stated the stairs are going into the garage. He stated it will be a large garage because he wants room for the car and for storage. There will be a patio outside and he believes there will be a door from the den to the patio. Mr. Ahsan stated the application lists a garage for 510 sq. ft. and an addition at 950 sq. ft. They are two separate additions. Chairperson Drummond asked if the 950 sq. ft. included the garage. Mr. Cabibbo said he will have to find out. Chairperson Drummond stated the measurement for the garage appears to be 12 x 30 which would be 360 sq. ft. Mr. Cabibbo stated he will have to confirm that as he is unsure. Mr. Meier stated the measurements on the survey appeared to be conflicting as well. Mr. Cabibbo stated he is 15 feet from the neighbor on the right. Mr. Meier suggested it might behoove the applicant to have a professional look and verify the location and size of the septic and all of the distances.

Mr. Ahsan stated that since not all the Board members have all of the paperwork, this application should be held over and the applicant should consult with a professional and supply plans with measurements and the actual variances.

Mr. Meier stated the applicant is not looking for an accessory unit for his parents to live in, it is more of an addition to the house. Temporary accessory units are normally removed once they are no longer needed. This is a permanent addition. Chairperson Drummond stated accessory dwelling units are allowed but then it is considered an income producing unit that gets added to the taxes.

Mr. Cabibbo stated part of the reason he wanted to do it this way is because he cannot find a home that's one story like this. He said he did find information that states his septic tank is 1250. He stated he can get an architect to draw up actual plans. Chairperson Drummond stated the main house needs to be labeled. There are too many options allowing this to be expanded by the next person who purchases the home. She asked how many garages are in the existing house. Mr. Cabibbo said there are two. This would include the third.

Chairperson Drummond stated this is a very large addition. She does not believe this application is ready for a Public Hearing yet. The applicant should think about resizing the unit. It is up to the Board to determine if this size of the variance is really necessary. That would be hard to say at this point. She suggested he focus on the floor plan and be very clear as to where the lines of the existing house are. He also may want to consider 36-inch doorways instead of 32 inches. She usually does encourage people to consider universal design sizing, especially when considering use for his parents.

**REVIEW - Appeal 4028 – Anthony Smith (6655-03-187053)**

Anthony Smith, 241 Leetown Rd. Stormville, is requesting variance to allow an existing 18'x14' (252 sf) shed to be located in the front yard, pursuant to Section 194-90 of the Zoning Ordinance.

**Anthony Smith was present.**

Mr. Smith stated he has been at this home for 15 years and the shed was there when he moved in. He did not put it up. He did paint it and put a new roof on it. He learned it did not have a permit when he got a permit for something else. The inspector came out and pointed out it was not in the proper place.

Chairperson Drummond asked if Mr. Smith if he owned both lots and he said yes. She asked if he would be combining them and he said yes. Chairperson Drummond asked if there were any other structures on the property. Mr. Smith stated there is a canopy type structure with a metal roof. It is not fixed to the ground.

Chairperson Drummond stated the shed is in front of the home. It appears to be 172 feet from the roadway. Mr. Smith stated his yard is all wooded. At this time of year someone may be able to see it, but it is the same color of the house.

**MOTION** made by Aziz Ahsan, seconded by James Meier, to advertise and set this for Public Hearing for the March 22, 2022 meeting. Voted and carried unanimously.

**ADJOURNMENT**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to adjourn the Zoning Board meeting at 8:18 PM. Voted and carried unanimously.

Respectfully submitted:

Julie J. Beyer

Meeting Secretary