

ZONING BOARD OF APPEALS MINUTES  
April 15, 2024

A regular meeting of the Town of Union Zoning Board of Appeals was held on the 15<sup>th</sup> day of April, 2024 in the Town Board Room, Town Office Building, 3111 East Main Street, Endwell, New York. Chairman Woodruff called the meeting to order at 7:00 pm.

MEMBERS PRESENT: R. Mark Woodruff, James Kinne, Giuseppe Roberto, Jim Morris, Dawne Perfetti, Paul Dolphin and Lee Kruczkowski (alternate)

MEMBERS ABSENT: Norm Davis

ALSO PRESENT: Tom Dellapenna, Aaron Alweis, Brian Lucas, Tina Atkinson, Susan Schwing, Vincent Moore and Joann Moore

PUBLIC HEARING

Vincent Moore, Joann Moore

3725 HOOVER AVENUE

ZBA2024-004

Area Variance – To construct an accessory building three-feet from the principal building where eight-feet is the minimum distance.

Chairman Woodruff called the public hearing to order at 7:02 pm. Vincent Moore, property owner, was present to request an area variance for a distance between a principal building and an accessory building located at 3725 Hoover Ave.

Letters mailed to the adjacent property owners advising them of the hearing were read into record. All exhibits were marked for identification.

Chairman Woodruff stated that the variance requested is to build the accessory building 3-feet from the primary residence where an 8-foot setback is required. The property layout consists of tearing down an existing garage, putting in a new concrete pad and garage built. It will be used to store lawn equipment, bikes, etc. No electricity will be needed in the garage.

The Review Submission Form from Broome County was submitted on March 14. Chairman Woodruff stated that the Planning Department has reviewed the case and has not identified any significant countywide or inter-community impacts associated with the proposed project.

Chairman Woodruff started off the meeting by asking Mr. Moore if he could explain to the Zoning Board what the request is.

Mr. Moore stated that his current garage is in poor shape and is falling down. The existing garage is 12 by 20 and the new one they are looking at is, a little smaller, 12 by 16.

Chairman Woofruff asked, what the reason is that Mr. Moore, is seeking a setback that is less than what's required.

Mr. Moore explained that the distance from the house to the current garage is 3-feet and they are close to the neighbor in the back. Chairman Woodruff asked if there is currently a concrete foundation and Mr. Moore stated yes. Mr. Moore also stated that the garage is falling down and is a safety hazard. So they want to get rid of it.

Member Morris stated that there's some grading of the back property because there is a hill. And explained that they are on an inside corner and the lot is short as you go farther back on the property and that the property line comes in behind Mr. Moore's property at an angle. Mr. Moore explained that the garage is 6-feet from the neighbor's line in the back where as the front of the garage is about 150-feet. Member Morris asked if there is a hill up to the neighbor's house. Mr. Moore stated yes. Joann Moore said there is a grade. Mr. Moore then went on to explain that the neighbor's house is up a little bit. That their intention is to tear down the current dilapidated garage and to put the new structure on the same footprint. Member Morris stated that the previous footprint was obviously grandfathered.

Member Dolphin stated that it would be difficult because of the current pad to actually move the building back far enough for it to meet the 8-foot setback required. Mr. Moore stated that if it was in the same spot in the back it would come right to the edge of the house. Mr. Moore explained that you would have to dig into the hill to move the garage back. Mr. Roberto said that it would not be doable. That it is a good idea to replace it and that Mr. Moore is doing the right thing.

Chairman Woodruff asked if anyone from the audience has any comments or questions. There was no response.

Attorney Dellapenna opened up discussion for the five questions in regards to considering an area Variance:

1. "The requested variance will or will not produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties?" Member Roberto said it will not. Chairman Woodruff agreed. Member Morris agreed. Member Kinne stated it will not.
2. "The benefit sought by the applicant can or cannot be achieved by another method other than the grant of an area variance?" Member Morris stated it can, but with substantial excavation on the back corner. Member Roberto agreed. Member Kinne said is not. Member Perfetti agreed.
3. "The requested variance would or would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?" Member Morris and Member Roberto stated is not.
4. "The hardship giving rise to the variance request is or is not self-created?" Member Morris and Member Roberto both stated is not.

Chairman Woodruff asks all in favor? The variance was granted with a unanimous vote of 7-0.

#### PUBLIC HEARING

Susan Schwing and Tom Shelp (contractor)

732 Valley View Drive

ZBA2024-005

Area Variance- To construct an accessory structure zero-feet from the principal building where eight-feet is the minimum distance.

Chairman Woodruff called the public hearing to order at 7:18 pm. Mrs. Susan Schwing, property owner, was present to request an area variances for an accessory structure to be built zero-feet from the principal building where eight-feet is the minimum distance at 732 Valley View Drive.

Letters mailed to the adjacent property owners advising them of the hearing were read into record. All exhibits were marked for identification.

Chairman Woodruff asked Ms. Susan Schwing to verify what the request is. Ms. Schwing stated that she had purchased a shed for the piece of property a few years ago. She explained that she had a deck that was rotted out so she opted for a cement deck to be done to make it handicap accessible. The space is limited because of the slope of the yard and there is no other place to put the shed to make it handicapped accessible for her. Tom Shelp, contractor explained that behind the slope is a retaining wall with a bank behind it that causes limitations where the placement of the shed can be. Mr. Shelp stated that Ms. Schwing needs the shed for mowers and things of that nature. It is on a concrete pad, is completely free standing and is not attached to the house. He also stated that they did start the shed as there was an existing ground where the previous shed was and in order to move the shed back, the retaining wall would need to be excavated.

Attorney Dellapenna asked how far between the shed and the retaining wall. Mr. Shelp said probably 4 or 5-feet and that the patio butts up to the retaining wall.

Chairman Woodruff questions that the slope eliminates any other logical placement. Member Morris stated that the backyard slopes and the retaining wall is what holds the backyard in place.

Member Morris then questions the age of the cement patio, stating it is probably five or six years old.

Mr. Shelp then goes on to mention that they are trying to maintain the same distance between the back of the house and the retaining wall, from the back of the shed to the retaining wall.

Member Dolphin asked what the rough dimensions of the shed are. Mr. Shelp stated it is roughly 8-feet by 12-feet. Member Roberto corrected the measurement to 8-feet deep by 16-feet as what was written on the plot plan. Mr. Shelp explained that the shed is tapered, more of a pie-shaped shed. It is not rectangular so the outside dimension is more like 6-feet.

Chairman Woodruff asked if the shed touches the house and how much space is in between. Mr. Shelp responded 8-inches. Chairman Woodruff then asked Brian Lucas if the 8-foot setback requirement is for safety reason. Mr. Lucas confirmed yes. Member Morris stated for firefighters exposure 8-foot is for exposure control.

Chairman Woodruff asks if the shed is already constructed. Mr. Shelp stated that it is partially constructed as code had stopped by.

Attorney Dellapenna stated that his concern is if gasoline will be stored inside of the shed. Mr. Shelp replies that the garage is also attached and that houses gasoline and things of that nature. Attorney Dellapenna stated that he thinks code would have a requirement that the shed be fire rated. Ms. Schwing explained that right now she most often stores the lawn mower and gasoline in the garage right by the door.

Member Morris asked why the shed can't go to the end of the driveway where the shrubs were located in the site plan. Ms. Schwing stated that would be a lot of excavating because of the hill. Mr. Shelp stated that if located at the end of the driveway that it would certainly not be any more pleasant in view. Ms. Schwing mentioned her concerns about the water. That water was coming out front the bushes and going right down the driveway. The rain water is becoming an issue in the whole neighborhood, with the ground shifting and the run off from Skyline Terrace.

Member Roberto asked if the old shed was somewhat in the same location even though it was a smaller dimension. Ms. Schwing confirms.

Chairman Woodruff then opens up the discussion to the public. He hears nothing from the audience. He then opens up to discuss five questions in regards to the requested variance.

1. "The requested variance will or will not produce an undesirable change in the character of the neighborhood or cause a detriment to nearby properties?" Member Roberto stated it will not, it's in the back of the house. Member Perfetti also stated it will not.
2. "The benefit sought by the applicant can or cannot be achieved by another method other than the grant of an area variance?" Member Morris stated it can. Chairman Woodruff and Member Roberto agreed.
3. "The requested area variance is or is not substantial?" Chairman Woodruff stated it is. Member Morris stated that eight feet is substantial.
4. "The requested variance would or would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?" Member Morris and Member Roberto stated would not.
5. "The hardship giving rise to the variance is or is not self-created?" Member Morris stated it is not. There was an existing structure there. They're choosing to put it back in the same location, however, with the new code. Member Kinne and Member Roberto agreed.

Member Dolphin asks about the exterior of the shed, if it will look similar to the house. Mr. Shelp confirms that they are making the house with cedar shake on the back addition. Which on their behalf is much more expensive than the conventional way of doing it.

Chairman Woodruff asks if anyone would like to make a motion for the request. Member Morris stated that he will make a motion to grant the area variance of 8-feet related to the building of a new shed structure at 737 Valley View Drive. Member Kinne seconds that. Chairman Woodruff asks for roll-call. The variance was granted with a unanimous vote of 7-0.

The meeting was adjourned at 7:41pm.

Respectfully submitted,

Susann Miller Secretary