

PRESENT: Margaux Miller, Chairwoman, Helen Grosso, Allison G.S. Knox and John F. Harnes.

EXCUSED: Fredrik Palm.

CONTENT: Sabrina Cordani Brown (Area Variance), Lawrence and Pamela Kalkstein (area Variance) and Minutes.

Chairwoman Miller opened the meeting at 7:00 p.m. and then led the salute to the flag.

SABRINA CORDANI-BROWN Area Variance ZBA 2023-005
17 Miller Road
Pawling, NY 12564
Grid Number: 134089-6957-03-172176

Mrs. Sabrina Cordani Brown is the landowner, Mr. Curt Johnson JPL Engineering Group. Chairwoman Miller said the property is located at 17 Miller Road in a Residential -1 (R-1) Zoning district, consisting of 0.36± acres. Chairwoman Miller read the Dutchess County Planning 239 GML response, which indicated this application is exempt from review. This application is a Type II action, according to SEQRA; therefore, no action is necessary by the Board. A site inspection was held on August 12, 2023, with Chairwoman Miller, John Harnes Esq. and Helen Grosso. On August 25, 2023, Fredrik Palm and Allison Knox performed an inspection.

Mr. Johnson said the applicant site consists of two lots (per online Dutchess County Parcel Access) known as 15 and 17 Miller Road. The two lots have been merged into one lot. The total site consists of 14,986 sf/ or 0.344± acres. The lot, along with several adjacent lots, is accessed via a travelled roadway known as Miller Road, but the site itself has no frontage on the right of way which ends northerly of the site. He presented a colored illustrated drawing of the lot. Historically, there was a dwelling on the 15 Miller Road site that has been demolished. 17 Miller Road is a vacant lot. Due to the current zoning non-conformity of the lot in terms of size, variances will be required. The proposed single family residence is a permitted use, but construction of a new dwelling solely within the allowable building envelope is extremely limited, therefore setback variances are necessary in order to build the proposed one bedroom residence. The existing well and subsurface septic disposal system shall be utilized for the new dwelling. The variance requested are as follows:

§ 215-16 Bulk Regulation in an R-1 Zoning district.

For a side yard setback, where 50 feet on both sides is required, 20 feet is available on the west side, a variance of 11 feet is requested, and on the east side, 13 feet is available, a variance of 37 feet is requested.

§215-16 Schedule of Bulk Regulations: minimum acreage requirement is 1.0±_acre, 0.344± is available, and a variance of 0.656± acres is requested.

§215.33.B (3) Nonconforming uses with dimensionally conforming buildings.

If any nonconforming use of a building ceases for any reason for a continuous period of more than one year or is changed to a conforming use or if the building in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, then any future use of such building shall be in conformity with the standards specified by this chapter for the district in which building is located.

§215-52. F., The required Code of the Town of Pawling Expiration of an Appeal, unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the applicant fails to commence and substantially complete work related to the decisions within two (2) year of the date of such decision.

Mrs. Grosso asked what is the configuration of the lots between Nia Cordani and Sabrina Cordani Brown adjacent parcel.

Mr. Johnson said Nia Cordani residence is set further back from her sister's parcel.

Mrs. Grosso asked what the proposed new dwelling dimensions are.

Mr. Johnson said the applicant plans are to build a log cabin 26' x 42' with a covered porch, approximately 1092 square feet.

Chairwoman Miller asked if the two landowners have an existing right of way for both the parcels

Mr. Johnson said a shared driveway has been pre-existing for many years that both parcels have access to.

Chairwoman Miller opened the meeting to the Public.

Chairwoman Miller read into the records Ms. Nia Cordani letter dated August 25, 2023 in support of Sabrina Cordani Brown area variance.

There were no further comments from the audience.

Chairwoman Miller closed the meeting to the Public.

Chairperson Miller said the Zoning Board of Appeals, in making its determination, shall take into consideration the five factors the Board must weigh against the detriment to the health, safety, and welfare of the neighborhood or community.

Mrs. Knox read the first factor, whether an undesirable change will be produced to the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Mrs. Knox said the proposed area variance will not change the character of the neighborhood, thereby, not creating a detriment to the neighborhood. Additionally, Ms. Knox said the new dwelling enhances the character of the neighborhood.

Mrs. Grosso said this is a modest structure with a fairly large distance between current and proposed neighbor's structures.

The Board members concurred.

Mrs. Knox read the second factor, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance?

Mrs. Knox there is no other feasible methods, the placement of the house location enhances the layout of the property.

The Board members concurred.

Mrs. Knox read the third factor, is the variance substantial

Mrs. Knox said the variance is not substantial.

Mrs. Grosso said once again the structure is modest. The neighborhood has benefited by removal of two structures, which will be replaced by one new dwelling.

Chairperson Miller said the one new residence will improve the neighborhood. The Board members concurred.

Mrs. Knox read the fourth factor, will there be an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

Mr. Harnes Esq said the newly constructed residence would be a positive impact to the neighborhood.

Ms. Knox said the proposed new constructed dwelling is an improvement to the character of the neighborhood.

The Board members concurred

Mrs. Knox read the fifth factor, whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance?

Mrs. Knox said the difficulty wasn't self-created.

Chairperson Miller said the landowner merge two parcels to address the acreage required for the zoning district, at its best. The difficulty was not self-created.

The Board members concurred.

Motion by Mrs. Knox to grant an area variance to Sabrina Cordani Brown in a Residential -1 (R-1) Zoning district located at 17 Miller Road, Grid Number 134089-6957-03-172176 for:

§ 215-16 Bulk Regulation in an R-1 Zoning district.

For a side yard setback, where 50 feet on both sides is required, 20 feet is available on the west side, a variance of 11 feet is requested, and on the east side, 13 feet is available, a variance of 37 feet was granted.

§215-16 Schedule of Bulk Regulations: minimum acreage requirement is 1.0±_acre, 0.344± is available, and a variance of 0.656± acres was granted.

§215-16 Schedule of Bulk Regulations: minimum requirement is 125 feet, 0 feet is available a variance of 125 feet was granted.

§215.33.B (3) Nonconforming uses with dimensionally conforming buildings.

If any nonconforming use of a building ceases for any reason for a continuous period of more than one year or is changed to a conforming use or if the building in or on which such use is conducted or maintained is moved for any distance whatever, for any reason, then any future use of such building shall be in conformity with the standards specified by this chapter for the district in which building is located.

§215-52. F., The required Code of the Town of Pawling Expiration of an Appeal, unless otherwise specified by the Zoning Board of Appeals, a decision on any appeal shall expire if the applicant fails to commence and substantially complete work related to the decisions within two (2) year of the date of the decision.

Second by Mrs. Grosso. Chairperson Miller asked for discussion.

All were in favor and the Motion carried.

Chairwoman Miller stated for the record that during construction if any unforeseen circumstances arise during construction, such as hitting ledge to call the building department updating the Inspector and the Board on any proposed changes that could relate to the variance approved.

LAWRENCE AND PAMELA KALKSTEIN

Area Variance ZBA 2023-004

738 North Quaker Hill Road

Pawling, NY 12564

Grid Number: 134089-7157-00-715697

Lawrence and Pamela Kalkstein the; landowners, Mr. Keith Staudohar P.E. were present.

Chairwomen Miller introduced the Kalstein’s area variance located at 738 North Quaker Hill Road in a CD-5 Zoning district consisting of 1028 ± acres. . Chairwoman Miller read the Dutchess County Planning 239 GML response, which indicated this application is exempt from review. This application is a Type II action, according to SEQRA; therefore, no action is necessary by the Board. A site inspection was held on August 12, 2023, with Chairwoman Miller, John Harnes Esq., Helen Grosso On August 25, 2023 Fredrik Palm and Allison Knox drove by the parcel for an inspection.

Mr. Staudohar said the property consists of a main residence detached garage, greenhouse and cottage. This project involves the replacement of an existing residential one (1) bedroom cottage with a new one (1) bedroom cottage. The proposed cottage has 1,195 square feet of livable space. The main house square footage is 3,304. The new cottage represents an area of 36% of the main house. Pursuant to Code of the Town of Pawling section §215-17.1 a maximum of 30% is permitted for an accessory apartment. On July 17, 2023 they appeared before the Town’s Planning Board for an Accessory Apartment Special Use Permit. The Planning Board referred the applicant to the Zoning Board of Appeals for §215-16 Bulk Regulations and §215-17.1 Accessory Apartment on one family single residence area variances.

The square footage and area percentages numbers are as follows:

Main House	3,304 sq. ft.
Code maximum	30%
Code Maximum	991 sq. ft. for the new cottage
New cottage proposed	1,195 sq. ft.
New Cottage cover	36% 6.17% over code
New cottage sq. ft. cover	204 sq. ft.

Mr. Staudohar explained the front yard setback requires 100 feet, 38.2 feet is proposed and a variance requested is 61.8 feet for the proposed cottage.

Mrs. Grosso asked what the building height of the proposed cottage is. The roof line base elevation is 13 feet with the additional angles above the roofline, these dimension increase the building height closer to a two story building. Furthermore, the proposed cottage is close to the road. The presentation interior design shows cathedral ceilings, which increases the building height. The proposal for the new cottage is three times the square footage of the current cottage.

Mr. Staudohar said the height increase is not for a two stories dwelling.

Mrs. Grosso went over the visual aspect of the building designs based on the proposed exterior elevation, roof angles, and cathedral ceilings. Furthermore, the cottage width expands quite a distance along North Quaker Hill Road. She asked what the proposed width of the new dwelling is.

Mr. Staudohar responded that it is 15 to 20 feet wider width of the proposed new dwelling, an increase to 45 feet.

Mrs. Grosso said the point of an accessory apartment structure along North Quaker Hill Road is not to impose the visual appearance that resembles a second residence on a one family residential lot. The building is large enough to be a two (2) bedroom residence. The current cottage is modest in size and design, which blends in with the character of the neighborhood. She asked where are the parking spaces and what number of parking spaces located for the couple living in the new dwelling. The building plans include an office, which could be a second bedroom as there is a second full bath in design. She asked if the proposed office will be used for professional services.

Mr. Staudohar said the office is for the Kalkstein use only.

Mrs. Grosso said the sanitary sewer disposal systems (SSDS) opens questions as to the overall connection. The plans illustrate a connection to two buildings on the site. The piping is shown from a pre-existing one story building and the proposed cottage.

Mr. Staudohar said the new Sanitary Sewer Disposal System (SSDS) will be connected to the pre-existing garage and the proposed new cottage. The usage in the garage is for a half bath that consist of a sink and toilet. The Septic Sewer Disposal System (SSDS) has not been installed.

Mrs. Grosso said the proposed cottage location was chosen, as stated by the applicant, that this is a nice place for the new cottage? She asked if there is any potential to relocate the proposed new cottage further back on the parcel.

Mr. Staudohar said one option is the proposed new cottage could be moved to 45 feet back on the property. If the Board feels the house is not modest, they could shift the house location further back.

Mrs. Grosso said the site map illustrates a greenhouse further back on the parcel. Would the relocation of the proposed new cottage interfere with the greenhouse?

Chairwoman Miller said the total properties acreage is 10.28 ±, why can't the applicant reconfigure the proposed cottage to another location on the parcel.

Mr. Harnes Esq., said on the ZBA area variance application the applicant must answer the five criteria questions. On the second question, the applicant must consider, the question as it reads: *whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance? The answer is not responded that the benefit sought by the applicant exceeds any detriment to the community.* He explained that the applicant's response does not answer the question, whether there is another feasible alternative. The property layout consist of fields, paddocks and barns etc. The new proposed cottage could be relocated elsewhere within the parcel.

Mr. Staudohar said the proposed location is suitable for a new structure. An alternative location does not make sense to the landowners, because of all the existing paddocks. . The proposed location is close to the main house, thereby, replacing a structure in need of repair.

Chairwoman Miller said the plan is to demolish the existing cottage, and the proposed new cottage build out is not being proposed within the existing footprint. The proposed new cottage is being enlarged approximately three time the size of the pre-existing cottage. She asked why the landowner is condensing all structures to one area on the property. The landowners state this is horse property. Nonetheless, the landowner's have no horses or animals on this property. Why not place the new cottage within the front paddock. It makes no sense to combine all structures in one area, close to the main house squished together in one corner. This property consist of over 10.28± acres. Currently the sanitary sewer disposal system has not been installed, thus, allowing for alternatives for relocation of the proposed new cottage.

Mr. Staudohar said they seek to locate the proposed new cottage in the location of the pre-existing cottage. It makes sense to the landowner's, as there is an internal road system that traverse the property including the paddocks. There are 11 paddocks.

Chairwoman Miller said the Zoning Board of Appeals has to take into consideration the five criteria. There are alternatives for relocation of the proposed new cottage.

Mr. Harnes Esq said the ZBA must weigh the five factors, which are required by law to be answered. The Board must question the five factors. First question is this self-created. The second is, if there is a feasible alternative. He understands what the landowner's seeks as a proposal, nonetheless, it is what the law states. The landowner does not meet specific criteria of the five factors.

Mr. Kalkstein began by saying they are moving in slowly. For a short time period of time they had a tenant renting the barn stalls for horses. The horses had gotten out and were running around the neighborhood. This resulted in currently, no horses living on the farm. It

is easier to rent the barn out if you are living on the property. As far as a detriment to the neighborhood, in his opinion a detriment does not exist, as a neighboring pre-existing dwelling is 10 feet from North Quaker Hill Road. Their intent is to rent the farm, keep the property as a horse farm. Another concern of the Board was a two story building, which would be at a 24 foot high elevations, but does not compare to the building across the road that is 10 feet from the road.

Mrs. Grosso said the proposed one story building illustrates at least a 13.5 height, plus one (1) foot beam and above that two roof angles, which increase height another five (5) to six (6). The Code of the Town of Pawling Zoning Code section §215-17.1 reads the appearance of the property should remain as a one family residence. A person driving by will view two (2) residential buildings on one parcel, one dwelling is proposed close to the road, along with parking within the 38 foot setback, facing the street. This property will look like a two family residential lot. Furthermore, the Code of the Town of Pawling also requires appropriate parking and screening of the entry areas. One option is to offer the Board parking behind the building. As far as the neighbor dwelling, it is a pre-existing residence close to the road. They constructed fencing along the road, which enhances the neighborhoods character. North Quaker Hill Road does not have a lot of houses. Any new construction is 100 feet back from the road.

Mr. Staudohar suggested to the Board an addition of planting evergreen trees for landscape screening.

Mrs. Grosso said the proposed new cottage will be at least twice the size, in height and width, along with front yard parking. That is new.

Mr. Staudohar suggested a few mitigation ideas, landscape screening, fencing and or a combination thereof. He said there is an existing gravel driveway to remain, and they could possibly push the dwelling back possibly 10 feet or to 50 feet back.

Mrs. Knox asked if the new cottage was moved back, how far back the cottage could be placed backed. If new electric lines are installed, would the layout allow for relocation of the cottage? Also, could the proposed new cottage be placed behind the main residence, so that an area variance would not be required.

Mr. Kalkstein said they intend to build a trench for underground power lines.

Mr. Staudohar reviewed the plans with the Board. There is limited area for construction behind the main house. Additionally, a sanitary sewer disposal system for the main house is there that limits buildable areas behind the house. A few suggestion, are to relocate the proposed cottage further back, along with parking behind the cottage. The proposed landscape plantings can be substantial size trees, not proposed to be 3 feet in height. The roof line can be decreased.

Mrs. Grosso said the proposed new cottage should be 100 feet back from North Quaker Hill Road. As proposed the appearance of the new cottage results in the property looking like two residences on one lot. The proposed cottage is twice as wide and high. The applicant should move the proposed new cottage further back or relocated within the parcel.

Mr. Staudohar said the cottage can be moved back on the parcel, along with parking spaces located on the side of the new cottage.

Mrs. Knox said the pre-existing cottage is adorable. She understands it needs to be removed. If the applicant could rebuild within the same footprint, that would fit into the character of the neighborhood. The proposed new cottage size is a concern due to the fact it is close to North Quaker Hill Road. The new cottage should be relocated further back on the parcel. She asked if the gazebo was included in the square footage.

Mr. Staudohar said the gazebo is not included in livable space per the Town Code Enforcement Officer.

Mrs. Knox asked if any neighbors called or written letters for or against this application.

Mrs. Daley responded, no calls or letters were received by the neighbors.

Chairwoman Miller opened the meeting to the Public.

There were no further comments from the audience.

Chairwoman Miller closed the meeting to the Public.

Chairwoman Miller said if the proposed new cottage was moved back, it would be placed closer to the main house and crowd the area even more.

Chairwoman Miller said the Zoning Board of Appeals, in making its determination, shall take into consideration the five factors the Board must weigh against the detriment to the health, safety, and welfare of the neighborhood or community.

Mrs. Knox read the first factor, whether an undesirable change will be produced to the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance?

Mrs. Knox said the pre-existing cottage is adorable. If the proposed new cottage was being reconstructed in the same footprint, it would not raise the same questions for her as the relocation within the parcel. The proposed new cottage is larger in height and width, which raises concerns to the character to the neighborhood.

Mrs. Grosso said the residence across the road was built in 1820. North Quaker Hill Road visual view while driving is the road way consists of trees, in a very rural setting. The 1820 house has a high fence that blocks the view. It does not look like a new residence and no one is parking between the house and road.

Mrs. Knox said there are two house across the road that both contain white picket fences, creating the character of a rural neighborhood.

Mrs. Grosso said the proposed new cottage creates an undesirable change to the neighborhood.

Mr. Harnes Esq. said the proposed new cottage is not a desirable change to the neighborhood. The resident across the road is not a mitigating factor in this application.

Mr. Staudohar asked if the Board is basing their response on the submission or the mitigation offered.

Chairwoman Miller said it is the opinion based on the overall project. If this was a single family residence proposed on the parcel, and not an accessory apartment application, the Board would be considering other feasible factors. Therefore, this changes possibilities that the Board could consider, as it is a detriment to the neighborhood, by the configuration of the accessory apartment cottage and additional building resulting in a clustered build out area within the parcel.

Mrs. Knox read the second factor, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance?

Mrs. Knox said yes and no, the location of the main house sanitary sewer disposal system reduces possibly alternative locations behind the main house and then the paddocks/fields are not a viable option. The 50 feet setback sounds appealing, nevertheless, goes against the required 100 foot setback.

Mrs. Grosso said the landowner can maximize the gorgeousness of the property by other feasible methods to relocate the proposed new cottage. If the Board looks at this area variance objectively, the applicant could consider a paddock location. The landowner could achieve the proposed new cottage location by another feasible method, if the property was looked at objectively.

Mr. Harnes Esq. said there is other feasible methods to achieve building the proposed new cottage.

Chairwoman Miller said there are other feasible options, the landowner can deliberate to think and propose an alternative outside of the box.

Mrs. Knox read the third factor, is the variance substantial?

Mrs. Knox responded yes.

Mrs. Grosso said the variance is sustainable, based upon the building height and width, along with the gazebo covered area in the back with a real roof on top of that structure.

Chairwoman Miller said the numbers on paper do not appear substantial by themselves. The physical environment with the main house, garage cluster together creates a larger huge impact to the neighborhood.

Mr. Harnes Esq, concurred.

Mrs. Knox read the fourth factor, will there be an adverse effect or impact on physical or environmental conditions in the neighborhood or district?

Mrs. Knox said the parking spaces in front of the proposed new cottage makes it appear like a separate resident.

Mrs. Grosso said the physical impact does impact the neighborhood, it does not impact the environmental conditions of the property. There is a lovely pine tree that will not be removed. It looks like a separate house.

Mr. Staudohar said he does not understand how Mrs. Grosso says the proposed new cottage would look like two residence on one parcel. They are recommending landscape screening to protect the neighbor's views.

Mrs. Grosso said if the landowner placed the new cottage 100 feet back, then the proposed accessory apartment would meet the zoning district setback. The pre-existing cottage fits into the character of the neighborhood. It has the feel of an old property. Once again the proposed new cottage is a large structure that would be noticeable driving past the property.

Chairwoman Miller said to Mr. Staudohar the landowners have the option to resubmit drawings illustrating relocation of the proposed cottage. The Board needs to review the reconfigured plans illustrating the updated setbacks, proposed cottage location, parking and landscape screening.

Mr. Staudohar said the applicant's preference is not for the Board to vote this evening. It appears the board is not in favor of the area variance as presented.

Mr. Harnes Esq. said the Code of the Town of Pawling section 215.17.1 E reads,

- *The exterior of the structure in which an accessory apartment is located, its entry, stairways, parking and access thereto shall be such that, to the extent practicable, the appearance of the property will remain as a one-family residence. The resulting appearance of the property shall be consistent with the character of a principal one-family dwelling and the surrounding properties. Appropriate screening of access, parking and entry areas may be required.*

Mr. Harnes Esq said the Zoning Board of Appeals upholds the Town Code. The point is that this is what is allowable pursuant to Code and for the Zoning Board of Appeals determination. It will appear as two (2) principal dwellings on one lot.

Mr. Staudohar reviewed the site plans with the Board illustrating the proposed new cottage is 50 feet from the front yard setback. He will revise the drawings and then resubmit to the Board. He asked if the Board would consider a 50 foot setback, decrease in the roof height and then relocate the parking spaces. He is trying to mitigate with members of the Board prior to revising the plans.

Mrs. Knox made a suggestion to relocate the proposed new cottage to one of the paddocks.

Mrs. Grosso said the landowners can decide to place the new cottage 100 feet from the front yard setback. It is difficult to understand specifically what the landowners are discussing, therefore, she cannot advise Mr. Staudohar this evening.

Mr. Harnes Esq. said he cannot make a hypothetical decision this evening.

Mr. Staudohar requested that the Board table their decision this evening, and then resubmit revisions for the board's review. He did not want to finish the five criteria questions and have the Board vote on this application this evening.

Motion by Mrs. Knox to adjourn Lawrence and Pamela Kalkstein area variance application ZBA 2023-004 until the September 25, 2023 Zoning Board of Appeals meeting, subject to:

- The applicant submission of revised drawing on the relocation of the proposed new cottage, parking spaces and landscape screening.

Second by Mr. Harnes Esq. Chairwoman Miller asked for discussion.

All were in favor and the Motion carried.

MINUTES

Motion by Mr. Harnes Esq. to approve the Minutes of July 26, 2023 as read.

Second by Mrs. Knox. Chairwoman Miller asked for discussion.

All were in favor and the Motion carried.

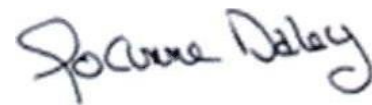
NEW BUSINESS

No new business was discussed this evening.

ADJOURNMENT

On a Motion by Mr. Harnes Esq. and seconded by Mrs. Knox to adjourn the meeting at 8:20p.m. All were in favor, and the meeting was adjourned.

Respectfully submitted



Recording secretary

non-approved minutes