

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

CONTENT: Andres Bigilall & Ashmini Chitan (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. She began by wishing everyone a blessed Yon Kippur. Chairwoman Miller gave a brief overview of the Zoning Board of Appeals processing of an application before the Board, the steps include a public hearing and five criteria reviewed by the Board. She explained the New York State Zoning Board laws relating to setbacks, lot size and height to allow a landowner to deviate from the Code of the Town of Pawling.

ANDRES BIGILALL & ASHMINI CHITAN

Area Variance ZBA 2023-006

35 Birch Lane

Holmes, NY 12531

Grid Number: 134089-6755-12-893536

Mr. Steve Miller, Principal from the firm of Badey & Watson surveying and Engineering D.P.C. was present representing the applicant

Chairwoman Miller said the property is located at 35 Birch Lane in a Residential -2 (R-2) Zoning district, consisting of 1.2± 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 September 16, 2023, with Chairwoman Miller, John Harnes Esq. and Helen Grosso, Fredrik Palm and Allison Knox.

Mr. Miller said the former owner of this parcel was granted an area variance in 1994, and then the parcel was never developed. Therefore based on this factor, the area variance is no longer valid pursuant to the Code of the Town Pawling section §215-32 F. After Mr. Bigilall purchased the property, he began construction, a concrete foundation was installed, and then during the as built surveying of the foundation, it was discovered that foundation was placed in an inaccurate location per the site plans. This was a technical error on behalf of Badey and Watson office relating to the as built foundation survey. He explained that many of the surrounding properties are small lots. The only way to correct the foundation constructed in an accurate location is to demolish the foundation and then rebuild. This is a very expensive alternative.

Mr. Harnes Esq. clarified for the records that the applicant owns the rear parcel, behind the residence, that is located in the Town of Beekman.

Mr. Miller said Mr. Bigilall does own the rear lot parcel located behind his residential parcel, which is located in the Town of Beekman. The access to the rear parcel is through Mr. Bigilall's parcel located in the Town of Pawling. The Beekman parcel has no road access from the Town of Beekman.

Mrs. Grosso asked if the parcel in Town of Beekman could be sold.

Mr. Miller said the parcel in the Town of Beekman has no road frontage or road access from the Town of Beekman. It would only make sense to sell to a person that owns the parcel adjoining the Town of Pawling parcel.

Mrs. Grosso asked what had occurred that brought attention to the applicant needing to apply for an area variance.

Mr. Miller said due to a survey technical error by Badey & Watson it was realized the foundation was closer to the rear yard setback. Mr. Bigilall bank required an as built survey for the continuation of the construction loan in order to begin framing the new dwelling. Once the foundation was surveyed, it was determined the foundation was poured in the wrong location. At that point they thought they had an area variance for 30 feet, and found out that area variance did not meet the code defining a timeline for area variances. Following a conversation with the inspector, it was determined an area variance was necessary for the rear yard setback.

Mrs. Daley said the Town Board adopted Code section §215-32. F in 2016. The code reads as follows:

§215-32.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.

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 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 there is no undesirable change or detriment to the neighborhood.

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. Grosso said it appears a mistake was made, with no intent by the landowner. .

Mr. Harnes Esq said this is the second area variance before the Board that the landowner invested in to their property and found out mistakes were made or a permit issued. It is another factor in the mitigation of this area variance.

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

Mrs. Knox said the variance is not substantial.

Mrs. Grosso said the landowner owns the rear parcel, that in the totality of the surrounding land areas it is not substantial.

Mrs. Miller said this parcel is one of the larger parcels, than neighboring parcels. Numerically the variance is substantial nonetheless, by looking over the neighborhood, the variance is not substantial.

Mr. Palm said mathematically the variance is significant, the variance as a whole is not substantial.

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 former landowner was granted a 30 foot rear yard setback area variance. This variance does not create an adverse impact to 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?

Mr. Palm said the alleged difficulty was not self-created.

The Board members concurred.

Motion by Mr. Palm to grant the area variances to Andres Bigilall and Ashmini Chitan located at 35 Birch Lane Holmes, NY. Grid number: 134089-6755-12-893536.

§215-16 Bulk Regulation in an R-2 Residential Zoning District for a rear yard setback.

The rear yard setback for northwest corner of the dwelling requires 60'feet, where 28'3" feet is available, a variance of 31'.7" feet was granted.

For the rear yard setback for southwest corner where 60'feet is required, where 28'5"feet is available, a variance of 31 '9" feet was granted.

§215-10 Yards A.

§215-10 Yards for every building. No part of a yard or other open space provided about any building or on any lot for the purpose of complying with the provisions of this chapter shall be included as any part of the yard or open space for any other building or any other lot.

§215-52. E, 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.

- An as built is required to be submitted to the building department prior to receipt of the Certificate of Occupancy.

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

All were in favor and the Motion carried.

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 Kalkstein'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 second site inspection was held on September 16, 2023 with Chairwoman Miller, John Harnes Esq., Helen Grosso, Fredrik Palm and Allison Knox. The

applicant has made revisions to the original site plans submitted and are reappearing before the Board.

Mr. Staudohar said the project was discussed at the August 28, 2023 Zoning Board of Appeals meeting. It was the objective of the ZBA that the proposed accessory apartment was too large for the front yard setbacks. Subsequently, the Board requested additional layouts for their review and then a second site inspection was held. The original layout submitted proposed a 1,195 square foot dwelling with a front yard setback of 38 feet. This layout required two variances, one for front yard setbacks and the other for the accessory apartment/dwelling square footage. The latest proposal rearranges the gravel driveway to include a turnaround along the side of the dwelling, with front yard landscape plantings for screening. The accessory apartment/dwelling has been reduced to 988 square feet and the front yard setback at 50 feet. The width of the proposed accessory apartment/dwelling has been decreased. This layout configuration requires one variance for the front yard. The gravel driveway has been rearranged to have a turnaround at the side of the accessory apartment/dwelling with added front yard landscape plantings from screening. The accessory apartment is proposed on a level location, at the 50 foot setback. If they move the dwelling further back, the topography drop offs and the greenhouse would have to be removed, resulting in additional construction for a walk out basement. The property contains a main house, garage, greenhouse, barn with nine (9) paddocks and an accessory apartment. The proposed accessory apartment is to be owner occupied.

Mrs. Knox asked what the current accessory apartment square footage is.

Mr. Staudohar said it is approximately 380 square feet.

Mr. Palm asked if two residences are allowed on one parcel.

The Board review Code of the Town of Pawling section §215-17.1 Accessory Apartment on one family residential properties.

Mrs. Grosso reviewed the drawings illustrating three dwellings submitted by the applicant. She asked what is the width and height of the proposed structure.

Mr. Staudohar said the width has been reduced to 37 feet with a roof peak at 22 feet in height.

Mrs. Grosso said the illustrated drawings shows a gravel driveway along the front of the proposed accessory apartment. This property is large with one primary structure and the accessory apartment comparable to a second primary structure.

Mr. Palm read the Code of the Town of Pawling section §215-17.1 E Accessory Apartment on one family residential lots.

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 principal one-family dwelling and the surrounding properties. Appropriate screening of access, parking and entry areas may be required.

Mrs. Grosso said the entire area along the proposed accessory apartment is black top in the drawings. Mr. Staudohar did not propose a blacktop driveway this evening. .

Mr. Staudohar said in a limited time period, this was the best the architect could come up with to illustrate the latest proposal.

Mr. Palm said the goal is for the Board to abide by the Code of the Town of Pawling in relationship to the practical implementation to the Town. In his opinion the

proposal is more in keeping with two dwellings on one lot, and not a main structure with an accessory apartment. They may be related, nonetheless, it appears the purpose here is to create two primary residences. Given the size of the parcel, the method can be achieved by some other alternative. What his concern is that it is not clear, that the current proposal would be in keeping with the spirit of the Code of the Town of Pawling. He understands it is not desirable from the landowners perspective to choose another location, nonetheless, from the code perspective it is perfectly reasonable on this large parcel. Furthermore, the landowner owns the two adjoining parcels, which clearly shows there are alternatives for an accessory apartment or another dwelling on one of those lots.

Chairwoman Miller asked if the accessory apartment/dwelling could be placed in another location within the parcel, which would not result in requiring an area variance.

Mr. Staudohar responded yes.

Mrs. Grosso said the accessory apartment/dwelling visual impact from North Quaker Hill Road, at the proposed a location is a visual prominent structure. The drawings illustrate a larger dwelling, the end result will look visually like a second dwelling from the main house.

Mr. Staudohar said a second option is to place the accessory apartment /dwelling closer to the main house. He asked if that would satisfy the Board? It's a second dwelling, independent from the main building, and subordinate to the main dwelling.

Mr. Harnes Esq, said how the accessory apartment/dwelling is not subordinate to the main house. A motorist driving by will see a second dwelling, it is not subordinate. It is a second dwelling, with a separate driveway and parking area.

Mr. Staudohar said currently an accessory apartment exists on the site.

Mr. Harnes Esq. said the Board is trying to explain, the end result is it's a separate dwelling with driveway.

Chairwoman Miller opened the meeting to the Public.

There were no further comments from the audience.

Chairwoman Miller closed the meeting to the Public.

Mrs. Knox asked if any letter/comments were received by the neighbors.

Mr. Staudohar said no letter were received. He asked if the Board plans on voting this evening.

Mr. Palm asked if the Board votes this evening, what is the procedural process.

Mr. Staudohar said it is clear they will not be granted three votes this evening.

Chairwoman Miller said the Zoning Board of Appeals could grant a time extension, if the applicant agrees to an extension.

Mr. Larry Kalkstein said he drove around the North Quaker Hill Road where dwellings were closer than 50 feet from the road. The North Quaker Hill Road lot numbers are, 603, 658, 667, 707, 715, 747, 775, and 853. Meeting House Road number 8. Byrd Hill Road number 1, Old Quaker Hill Road, 800,744, 721, 711, 263, 216, 139, 85, 96, 902, 908, 997, 687. All closer than 50 feet and the neighborhood looks fine.

Regarding the Board comments about the accessory apartment visual look of two one family homes on one parcel. The Code of the Town of Pawling allows for 30% or 1200 square feet. The Town code allows an accessory apartment, this Board is subjectively saying it is a two family parcel, because of the proposed accessory apartment. This is personal prejudice by the ZBA members. .

Chairwoman Miller responded that many of the Quaker Hill homes on Mr. Kalkstein list are 100 years old.

Mr. Kalkstein said that is totally irrelevant. A person driving by does not say these homes are grandfathered. A motorist does not say oh that house was built 100 years ago, Once again very subjective. A structure is a structure.

Mr. Harnes Esq. said there are a few old barns along Old Quaker Hill Road. A person might choose to change a barn to home, which would be a change to the neighborhood. The conversion of a barn 20 feet from the road to a home is a material change. Currently a 380 square foot cottage exists on this parcel. Mr. Kalkstein is proposing an accessory apartment/dwelling at 988 square feet. The square footage has increased, it is no longer a small cottage.

Mr. Kalkstein responded "loudly" to the Board. He does not feel this synopsis is a material change. He is reading the Code of the Town of Pawling, they are proposing an accessory apartment, not a change from a barn to a dwelling.

Chairwoman Miller intervened, and asked Mr. Kalkstein to listen to the Board.

Mr. Kalkstein said the Code reads to the extent practicable

Chairwoman Miller was trying to speak, and Mr. Kalstein continued to speak over the Board. Mr. Hanes Esq. and Chairwoman Miller both were trying to say to Mr. Kalstein the section of the code reads as follow:

§215-17.1 E read. 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 principal one-family dwelling and the surrounding properties. Appropriate screening of access, parking and entry areas may be required.

Chairwoman Miller said the code states the appearance should be a one family property. The houses along Quaker Hill are historic properties. The Zoning Board of Appeals is reviewing a variance for new construction. The applicant owns 10 acres, along with two (2) adjoining properties. They can easily place the proposed accessory apartment in an alternate location. When the Board begins their review of the five criteria questions, the responses are there are alternative methods for placement of an accessory apartment/dwelling. The Board has tried to move forward with reading the five criteria questions this evening and have been held up by the applicant. The applicant can achieve an accessory apartment without requiring area variances. The entire cottage including the foundation is being demolished. The Board cannot in all practicality meet the five criteria for the granting of an area variance. The applicant has two options, the Board will move forward with reading the five criteria questions, or the applicant can request a time extension.

Mr. Palm asked why the applicant can't enlarge the main house by construction of an accessory apartment to the main residence.

Mrs. Grosso said the Board recently took training. One important fact is a Zoning Board of Appeals must approve a minimum variance applicable. Mrs. Grosso pointed out there are alternatives, the landowner could move the accessory apartment 100 feet back from the road or subdivide the property. There are alternatives.

Mr. Staudohar does not understand why this proposal is being received so gravely.

Chairwoman said the layout of the property does not fit into the code of the Town of Pawling. The plans to demolish the existing cottage, with no intention of the newly proposed cottage being built within the existing footprint. The proposed new cottage is being enlarged approximately three times 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.

Mr. Staudohar said the placement of the proposed accessory apartment is the best location on this parcel. They do not seek to demolish the greenhouse and construct a new structure with an ugly foundation. It makes sense to place the accessory apartment 50 feet from North Quaker Hill Road. The applicant respectfully requests an adjournment until the October 25, 2023 Zoning Board of Appeals meeting.

Motion by Mr. Palm that the Zoning Board of Appeals accepts a verbal request for a time extension from Larry and Pamela Kalstein subject to:

- An official letter from the applicant requesting a time extension by the close of the business day dated October 26, 2023.

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

All were in favor and the Motion carried.

MINUTES:

Motion by Mrs. Knox. To approve the Minutes of August 28, 2023 as read.

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

All were in favor and the Motion carried.

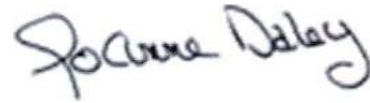
NEW BUSINESS

No new business was discussed this evening.

ADJOURNMENT

On a Motion by Mrs. Knox and seconded by Mr. Palm to adjourn the meeting at 8:30p.m. All were in favor, and the meeting was adjourned.

Respectfully submitted

A handwritten signature in cursive script that reads "Jocune Dalry".

Recording secretary

non-approved minutes