TOWN OF PAWLING January 27, 2025

ZONING BOARD OF APPEALS Page 1

PRESENT: Margaux Miller Chairwoman, Helen Grosso, Allison Knox, John F. Harnes Esq. and Terrance Wansley

CONTENTS: Killian Zavalla Area Variances, Blake and Sally McGrath Area Variances Minutes and New Business.

Chairwoman Miller opened the meeting at 7:00p.m. and then led the salute to the flag. Chairwoman Miller changed the order of the agenda, Blake and Sally McGrath were placed as the first applicants of the evening. Chairwoman recused herself from this application due to a conflict of interest. Vice Chairwoman Knox assumed the duties of the Chair for the Blake and sally McGrath area variance application.

BLAKE & SALLY MCGRATH Area Variance ZBA 2024-006

54-56 Quaker Hill Road

Pawling, NY 12564

Grid Number: 134089-7056-01-401708

Mr. Jeff Moore from the firm of JPL Design Group and Mr. and Mrs. Blake McGrath and Mr. Reid McGrath landowners were present.

Vice Chairwoman Knox said the property is located at 54-56 Quaker Hill Road in an R-1 Zoning district. Vice Chairwoman Knox 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 November 16, 2024 with Chairwoman Miller, Helen Grosso, Allison Knox and John Harnes Esq. A second site inspection was held on January 18, 2025, in attendance were Helen Grosso, Allison Knox, Terrance Wansley and John Harnes Esq.

Vice Chairman Knox said the applicant is seeking the following area variances:

* *§215-16 Bulk Regulation in a R-1 Zoning District for a side yard setback, where 20 feet on one side and 50 feet on the other side is required.*
* *For the deck, 20 feet is required, 8 feet is available, and a variance of 12 feet is required.*
* *For the proposed addition, where 20 feet is required, 15.8 feet is available, a variance of 4.2 feet is required.*
* *For street frontage, 200 feet is required, 126 feet is available, and a variance of 74 feet is required.*
* *§ 215-33 D Conforming uses with dimensionally nonconforming buildings. A nonconforming building with a conforming use shall not be enlarged, reconstructed or structurally altered or moved, unless such structure alterations cause the building to become conforming.*

**The code section listed below is for information purposes:**

* *§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.*

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

Mr. Moore presented an illustrated site plan of the proposed addition renovations. Since they appeared before the Board last month, the landowners have included on the site plan, a dry well to be installed 10 feet from the rear of the main house to collect stormwater runoff. They are seeking to construct a family room addition and deck, as well as adding second dormer and bathroom to be located on the second floor. The outside stairs entering the house will be relocated.

Vice Chairwoman Knox asked if the Board members had any further questions for Mr. Moore.

Mr. Harnes Esq. explained for the record, that the Board has held two site inspections and that this applicant is appearing before the Board for the second time. During the first meeting, along with the site inspections many questions were asked by members of the Board. Subsequently, the applicant or their consultant have answered the Boards questions.

Vice Chairwoman Knox opened the meeting to the public.

**Mr. Robert Smith, 60 Quaker Hill Road neighbor spoke.**

Mr. Smith said his parcel of land consists of one acre. He has lived next door for many years. He has a few questions for the landowners. He asked how many bedrooms are located in the main house and accessory apartment. He went to the Town of Pawling building department to find out this information. The building department could not provide any information on the sanitary sewer disposal systems for either the main house or accessory apartment.

Mr. Blake McGrath responded that the numbers of bedroom has no bearing on the area variance application before the Zoning Board of Appeals.

Mr. Smith continued, by explaining a deck /addition was built years ago, the structure was constructed in the side yard. At that time there was no area variance granted for a side yard setback. The side yard setbacks were not according to Town code, the landowner should have applied for an area variance at that time. He wanted to understand why no area variances were granted by the Town. In his opinion someone is to blame. It does appear that this is the Town of Pawling fault. He had previously stated that if the current porch is removed, the side yard setback should be rebuilt according to the Code of the Town of Pawling bulk regulation of a 20 foot side yard setback.

Mrs. Grosso asked what was the time period that the building permit was issued for the deck/addition. The construction of a porch was never before the members of the Board sitting here this evening.

Mr. Smith continued, by playing a video tape of smoke from the McGraths wood stove chimney flowing directly into his attic. He explained that the smoke is ruining their possessions stored in the attic. Once again, he has made a complaint to the building department with no resolution.

Mrs. Grosso confirmed that this is smoke from a wood stove chimney.

Mr. Smith clarified that the smoke is coming from the McGraths chimney. He reiterated that the building department is not responsive to his video or complaint.

Mr. Smith knows that property well as he used to play over at that house when Mr. McGrath’s grandfather owned the property. He used to haul in coal for Mr. McGrath’s grandfather that was used to heat the house. He can verify that when Mr. McGrath grandfather owned the property, there were only two bedrooms in the main house.

Mr. Reid McGrath asked Mr. Smith if he thought coal gave off as much smoke as wood. He asked Mr. Smith why he removed all the pine trees that blocked the view between the two houses.

Mr. Smith said the trees were removed when the driveway was reconfigured entering into his property. Those pine trees were on his land.

Mr. Blake McGrath said he does not understand why this discussion is transpiring.

Mrs. Grosso said this is a public hearing. Mr. Smith is allowed to make a presentation to the Board. She requested that everyone on both sides stop their debate back and forth. A public hearing is for any or all neighbors to present their opinions for or against an application.

Vice Chairwoman Knox stated that all questions will be directed to the Board. The debating between Mr. Blake McGrath, Mr. Reid McGrath and Mr. Smith will not be allowed to continue.

Mr. Smith said he had his roof redone in 2023. The roofer said he has melt marks on the roof that is coming from the McGrath’s wood stove chimney. He feels the additions should be placed 20 feet from the side yard setback with a fence installed, so he does not have to view the neighbor’s property. Furthermore, he constructed his home where it meet all setbacks. During his home construction he did not cheat on any rules or regulations.

There were no more comments from the audience.

Vice Chairwoman Knox closed the public hearing.

Vice Chairwoman Knox 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.

Mr. Wansley 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?

Mr. Wansley said no undesirable change would occur to the character of this neighborhood.

Mrs. Grosso said the addition is being constructed on a pre-existing deck. No change will occur. The ZBA Board does not oversee faulty chimneys or how Mr. Smith is effected by that. These types of complaints fall under building department Code Enforcement Officer to handle. There is a failure at the Town and County level relating to this property. The buildings were pre-existing since the 1930’s, and the first deck was constructed in the 1980’s. Unfortunately, the tax assessor records are not clear and concise with appropriate descriptions of all dwellings located on the parcel. The tax assessment records have now been updated for the 2025 tax roll. Dutchess County Parcel access online records will be updated in May, and this only happens once a year.

Mr. Harnes Esq said the ZBA is looking at the limited area variances issues for the deck with an enclosed sunroom addition. He concurred with Mrs. Grosso that the woodstove complaint does not fall under the ZBA jurisdiction.

The members of the Board concurred.

Mr. Wansley 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 the granting of an area variance?

Mr. Wansley said there is no other feasible method other than the granting of an area variance.

The members of the Board concurred.

Mr. Wansley read the third factor, is the variance substantial?

Mr. Wansley said the proposed renovation are mirroring the same footprint, with no other adjacent properties involved. The variances are not substantial.

The members of the Board concurred

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

Mr. Wansley said there would be is no change or adverse impact to the neighborhood.

The members of the Board concurred.

Mr. Wansley 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. Wansley said technically the alleged difficulty was self-created, but does not preclude granting of the area variance. This proposed sunroom addition and deck will not create a detriment to the neighborhood.

Motion by Mr. Harnes Esq. to grant an area variance to Blake and Sally McGrath located 54-56 Quaker Hill Road for:

* *§215-16 Bulk Regulation in a R-1 Zoning District for a side yard setback, where 20 feet on one side and 50 feet on the other side was granted.*
* *For the deck, 20 feet is required, 8 feet is available, and a variance of 12 feet was granted.*
* *For the proposed addition, where 20 feet is required, 15.8 feet is available, a variance of 4.2 feet was granted.*
* *For street frontage, 200 feet is required, 126 feet is available, and a variance of 74 feet was granted.*
* *§ 215-33 D Conforming uses with dimensionally nonconforming buildings. A nonconforming building with a conforming use shall not be enlarged, reconstructed or structurally altered or moved, unless such structure alterations cause the building to become conforming.*

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

Second by Mr. Wansley. Vice Chairwoman Knox asked for discussion.

Role call:

Mrs. Grosso, aye. Mr. Harnes Esq aye.

Mr. Wansley, aye. Vice Chairwoman Knox, aye.

Chairwoman Miller, recused.

KILLIAN ZAVALLA Area Variance ZBA 2024-004

Route 292

Holmes, NY 12531

Grid Number: 13409-6856-00-194793

Mr. Killian Zavalla landowner was present.

Chairwoman Miller said the Board is in receipt of a letter from Mr. William Shilling Esq. requesting the application be adjourned until the February 24, 2025 Zoning Board of Appeals meeting.

The Board requested the site maps be cleaned up as they found discrepancies during the site inspection.

Motion by Chairwoman Miller to adjourn Killian Zavalla area variances until the meeting of February 24, 2025.

Second by Mr. Wansley. Chairwoman Miller asked for discussion.

All were in favor and the Motion carried.

MINUTES:

Motion by Mrs. Knox to approve the minutes of November 25, 2024 as read.

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

All were in favor and the Motion carried

NEW BUSINESS

IZBA Applications for February

The Board discussed that two (2) new applications and the adjournment of Mr. Zavalla area variance would be on the February meeting agenda.

ADJOURNMENT

On a Motion by Mrs. Grosso and seconded by Mss. Knox to adjourn the meeting at 7:30 p.m. All were in favor and the Motion carried.

Respectfully submitted,

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JoAnne Daley

Recording Secretary

non-approved minutes