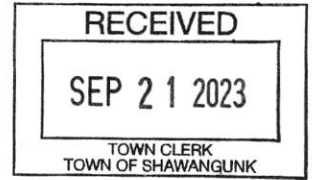


**Town of Shawangunk
Zoning Board of Appeals
August 16, 2023**



Minutes of a Public Hearing held by the Town of Shawangunk Zoning Board of Appeals on August 16, 2023, at 7:00 PM at the Town Hall, 14 Central Avenue, Wallkill, New York, County of Ulster for the following:

Present Were: Mr. Dennis Arluck, Chairman, Mrs. Susan Wiand and Mr. Ryan Reid as Members, Alex Danon – Town Councilman and members of the public. Mr. John Russo – Absent.

The meeting was called to order at 7:00 PM. Mr. Arluck led the Zoning Board in the pledge to the flag.

Approval of Minutes: A motion was made by Mrs. Wiand and seconded by Mr. Reid to postpone the approval of the July 19, 2023, minutes to the September 20, 2023, meeting due to unforeseen circumstances. **Vote:** Mrs. Wiand – Aye, Mr. Reid – Aye, Mr. Arluck - Aye, Mr. Russo - Absent.

All Public Hearings remain open for one hour.

Public Hearing Continuations:

Debra and Stephen DeEntremont – TM #98.1-1-9 (RS-1) 123 Clark Road, Pine Bush, NY 12566 - §177-23.2c.(2) and 117-10 – Variances for Lot Area of 5.448 Acres, Lot Width of 42.52' and Rear Yard Setback of 53':

Mr. and Mrs. DeEntremont did not appear.

A motion was made by Ms. Wiand and seconded by Mr. Reid to continue this public hearing to September 20, 2023, pending withdrawal by the applicant. **Vote: Mrs. Wiand – Aye, Mr. Reid – Aye, Mr. Arluck - Aye, Mr. Russo - Absent.**

Darla Hall – TM #106.50-1-35 (HWG) 1460 Route 208, Wallkill, NY 12589 - §177-23.2 – Variance for Accessory Dwelling Unit:

Mrs. Hall and Mr. Richard Spoto presented this application. Mr. Spoto submitted a revised survey showing the side setback and an outline explaining the four criteria for a Special Use Permit. First, show that you cannot not realize reasonable return – rental value a lot higher than commercial rent – Mrs. Hall provided copies of available rentals in the neighborhood, 10 vacant commercial rentals, also presented costs to build an addition vs. an accessory dwelling unit; there is a substantial difference. Mrs. Hall is disabled and stated that all permitted uses in that zone are commercial, there is an abundance of open rentals.

Alleged hardship – the property is unique – the property is non-conforming and has road frontage on three sides. She cannot open a business as she is disabled. Mrs. Hall stated her son will be renting the accessory dwelling unit and it would not change the footprint. Mr. Arluck stated the Gateway does not permit residential. She says there is a housing shortage, and it will not alter the essential character_of the neighborhood. A neighboring property has a two-story detached garage, and the parking will be off Baumer Road which is not an issue. There are six multi-family homes, including her home, out of the 27 properties within the Gateway. The house directly across the street is a three-family home. Mrs. Hall submitted photos of those properties.

Darla Hall – TM #106.50-1-35 (HWG) 1460 Route 208, Wallkill, NY 12589 - §177-23.2 – Variance for Accessory Dwelling Unit continued:

Mrs. Hall stated this was not self-created, she inherited the property from her grandmother in 1994 and it was already a two-family home. Mrs. Hall submitted documentation regarding the American Disabilities Act, Title II, making reasonable accommodations (20x20 addition) in the zoning law. Mrs. Hall stated that Local Law No. 1 of 2023 states under permitted uses – living quarters of owner or caretaker of structure is a permitted use. Mr. Spoto stated that her son will be her caretaker due to her disability. Mrs. Hall stated that Mr. Calaca, the Building Inspector, was going to submit his recommendation. The Board did not receive a letter. Mr. Reid stated we are dealing with a use variance for an accessory use there are certain criteria for a use variance. Mr. Reid stated that there is already a two-family house, if an accessory dwelling unit were there, the two-family house must be converted into a one-family house. Mr. Spoto states the American Disabilities Act trumps zoning. Mr. Reid stated a determination could not be made until this application was sent to the Ulster County Planning Board for referral and the application is incomplete. Mr. Arluck stated the Zoning Board cannot issue a variance regarding the ADA law until the Town Attorney reviews the matter.

A motion was made by Mr. Arluck and seconded by Mr. Reid to continue this public hearing to September 20, 2023, pending submission to the Ulster County Planning Board for Referral. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye, Mr. Arluck - Aye, Mr. Russo - Absent.

Christopher Sparaco/NY USLE Bruynswick Road I LLC – TM #99.2-6-10 (RAG-4) 2319 Bruynswick Road, Wallkill, NY 12589 - §177-23.1.E(3)b) – Solar Energy System – Variances for 7% Lot Coverage, 50' Area for Vegetative Buffer and 13.9 Acres Clearing:

Mike Fingar presented updates in their design to the application. Mr. Arluck inquired if there were any updates regarding the EIS. There will be a joint submission. Mr. Fingar stated that they have spoken with some of the neighboring property owners. They are in discussion with a neighbor to the west of the driveway for a Resource Protection Easement for about 12-1/2 acres. It will add to the uniqueness of the application and will offset the initial tree clearing above what is allowable and will serve as undisturbed vegetative buffer for the participating properties. They have also removed any disturbance proposed from the non-participating properties. They continue to maintain the undisturbed vegetative buffer and exceed that on the residential homes. They have eliminated the variance for the lot coverage and cut the undisturbed vegetative buffer by half and mitigated that with the tree clearing. Mr. Arluck inquired if the property owner involved in the easement is aware that it cannot be used for anything else for the life of the project and yes, they were advised. They will be selective clearing and they will cut to grade. Mr. Reid inquired if Mr. Fingar received the report, he sent him that states the electricity generated from community solar projects do not count towards meeting the goal of the state's renewable energy standards. Mr. Fingar stated he brought some documentation from NYSERTA that it does count towards the goal. There was discussion about the solar farm fire upstate. This system will not have storage batteries. Mrs. Wiand stated that the factories building the solar panels use a tremendous amount of fossil fuel to manufacture these panels and just doesn't see the logic. Mr. Fingar stated we are in a transition period. Chris Koenig stated that this project will provide power to the Galeville substation, will benefit the residents, and will provide upgrades to the

Christopher Sparaco/NY USLE Bruynswick Road I LLC – TM #99.2-6-10 (RAG-4) 2319 Bruynswick Road, Walkill, NY 12589 - §177-23.1.E(3)b – Solar Energy System – Variances for 7% Lot Coverage, 50’ Area for Vegetative Buffer and 13.9 Acres Clearing continued:

existing infrastructure as well. Mr. Reid asked if they spoke with the neighbors regarding a lot-line change. Mr. Fingar stated that would change everything permanently. Mr. Arluck stated that after 20 years couldn't they replace the panels with new ones? Mr. Fingar stated they would have to renegotiate with the landowner for the land use. It is the least intrusive. Mr. Reid asked if the easement runs with the lease, what if the neighboring property wants to sell later and does not want to sign the lease agreement. Mr. Fingar states that would be up to the Board to renew the Special Use Permit. Ms. Trigg stated that there would be language in the easement locking the landowner in for the duration of the project including any renewal period. There was no input from the audience. The applicant spoke with the fire chief and there were no concerns as the access road. There are no batteries. There is nothing combustible. There was no new documentation given to the Board.

A motion was made by Mr. Arluck and seconded by Mr. Reid to continue this public hearing to September 20, 2023. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye, Mr. Arluck - Aye, Mr. Russo - Absent.

Public Hearings:

JRKB Properties LLC/Kellen Barber – TM #104.42-4-9 and 104.42-4-9 (RAG-2) Lakewood Road, Pine Bush, NY 12566 - §177-6E – Lot Line Change for Single-Family Dwelling – Variances for Lot Size of 1.57 Acres, Lot Width of 75’ and Lot Depth of 50’:

Kellen Barber presented this application with Darren Clegg. They are looking to build a single-family residence by merging two lots. Mr. Reid stated the survey is missing the engineer's comments on one survey and that this application must be submitted to the Planning Board. Mr. Barber was informed by the Assessor that a lot line change could be completed in house without going to the Planning Board for site plan review. The applicants were approved by the Ulster County Board of Health and are waiting for their letter. The applicants will be removing 3-4 large trees. There are no wetlands.

A motion was made by Ms. Wiand and seconded by Mr. Reid to continue this public hearing to September 20, 2023, pending submission to the Planning Board. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye, Mr. Arluck - Aye, Mr. Russo - Absent.

Mark and Suzie Halden – TM #100.1-1-9 (RAG-4) 85 Red Mills Road, Wallkill, NY 12589 - §177-6E – Proposed Addition – Variances for Lot Area of 1 Acre, Lot Width of 155.05', Side Yard Variance of 40.3' and Both Side Yards of 43.7':

Mr. Halden presented this application. The existing house sits only one acre. The property was subdivided back in 2007 and they added onto the house in 2016. They are looking to construct an addition. Mr. Reid stated that this property is in the flood zone, the Building Department will have to go through certain criteria with regards to putting an addition on. Mr. Halden stated aesthetically the addition needs to be on the side. Mr. Reid stated that it is a pre-existing flag lot, but it would need to meet flag lot requirements and there is a right-of-way. Mr. Reid notes the gross and net area is not referenced in the survey. Mr. Reid stated the application needs to go to the County Planning Board before a decision can be made. Mr. Halden stated that the addition there will be a bathroom, kitchenette, and bedroom. There will be a single entrance at the front. He has gotten approval from the Health Department. There was discussion regarding septic. The Board will need septic. Mr. Halden stated he applied for a building permit but that has been put on hold while waiting for the variance decision. Mr. Arluck inquired if the Building Department thought it was an accessory dwelling unit. Mr. Halden stated the kitchenette will basically be a wet bar, just a sink and a refrigerator. Mr. Arluck stated it is essentially just a bathroom and a bedroom. There was no one from the public for this application. Mr. Arluck would not classify this as an accessory dwelling unit. Mr. Arluck stated elevations would not be required on a survey but the septic needs to be shown. Mrs. Wiand stated there is no separate entrance.

A motion was made by Mr. Arluck and seconded by Ms. Wiand to close this public hearing. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye, Mr. Arluck - Aye, Mr. Russo - Absent.

A motion was made by Mr. Arluck and seconded by Ms. Wiand to grant the following variances – Lot Area of 1 acre (2 acres required, 1 acre existing, 1 acre requested), Lot Width of 155.06' (250' required, 94.91' existing, 155.06' requested), Side Yard of 40.3' (50' required, 9.7' existing, 40.3' requested) and Both Side Yards of 43.7' (100' required, 56.3' existing, 43.7' requested). The Board's findings are this is a pre-existing, non-conforming lot that was created in the 1950's prior to any zoning regulations and this addition does not change any of the characteristics of the neighborhood. Vote: Ms. Wiand – Aye, Mr. Reid – No, it is an incomplete application, Mr. Arluck – Aye, Mr. Russo – Absent.

Appearance:

None

There was discussion on miscellaneous zoning matters.

A motion was made by Ms. Wiand and seconded by Mr. Reid to adjourn this meeting. Vote: Mrs. Wiand – Aye, Mr. Reid – Aye, Mr. Arluck - Aye, Mr. Russo - Absent.

**Meeting Adjourned at 9:53 PM
Respectfully submitted,
Kathy Ebbrell, Zoning Board of Appeals Secretary**