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**UNION VALE ZONING BOARD OF APPEALS
Minutes of the Regular Meeting**

**May 7, 2019
7:30 pm**

Members Present: Chairperson Jane Smith, Board members Dennis Dunning, John Hughes, Ilana Nilsen and Jeffrey Wimmer

Member Absent: none

CALL TO ORDER / DETERMINATION OF QUORUM

Chairperson Jane Smith determined that there was a quorum to conduct business and called the meeting to order.

BUSINESS SESSION

- Review the Agenda
- Minutes

Chairperson Jane Smith made the motion to accept the revised minutes of April 2, 2019, that were, distributed via email, seconded by Board member Dennis Dunning, approved unanimously by Board members present.

CORRESPONDENCE

One email dated April 22, 2019 letter received from John Hines, Toolbox construction regarding Albert Behler application.

PUBLIC HEARING:

Orifici, Michael 2643 Wingdale Mountain Road, Poughquag, NY 12570, requesting two area variances:

- 1.) 6.5' side yard area variance to construct a detached garage within the side yard 35' setback;
- 2.) 7' side yard area variance to construct/install an in-ground pool within the side yard 35' setback in the RD 10 zoning district.

Chairperson Jane Smith opened the public hearing and the clerk read the notice into the record.

Chairperson Jane Smith welcomed Mr. Orifici and asked him to briefly explain his project to the board and public.

Mr. Orifici explained that he is proposing to install an in ground pool and construct a detached garage on the side of his existing house and the location of both of these projects require area variances due to encroachment into the setbacks.

Mr. Orifici explained that he may not need a variance for the pool, but wanted to apply for one, for when they start digging in the yard, he may need to move the pool location slightly due to the rocky terrain.

Chairperson Jane Smith asked if there is any clearing of trees for these proposed projects. Mr. Orifici explained that he cut two trees down, and will be removing numerous stumps from previous trees that were cut and or fell over the winter.

Board member Ilana Nilsen asked why this couldn't be placed on the other side of the property. Mr. Orifici explained that his septic tank is in the front yard of his house and the septic is pumped around to the back to the fields, so that eliminates three side of the property. Mr. Orifici stated he could not drive over the septic to access the detached garage.

With no further questions or concerns from the Board members present and public, Chairperson Jane Smith made the motion to close the public hearing, seconded by Board member Ilana Nilsen; unanimously approved.

REGULAR SESSION / OLD BUSINESS / DECISION ON PUBLIC HEARING:

Orifici, Michael 2643 Wingdale Mountain Road, Poughquag, NY 12570, requesting two area variances:

- 3.) 6.5' side yard area variance to construct a detached garage within the side yard 35' setback;
- 4.) 7' side yard area variance to construct/install an in-ground pool within the side yard 35' setback in the RD 10 zoning district.

Chairperson Jane Smith read and the Board considered the following standards for interpretation and accepting/denying the area/use variance application:

In making its determination, the ZBA shall take into consideration the benefit to the applicant if the Area Variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider:

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the Area Variance. Comments?***

Chairperson Jane Smith stated the adjoining houses are not close, doesn't change the character of the neighborhood. Board member Jeff Wimmer stated no further disturbance is being created.

- 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an Area Variance. Comments?***

Chairperson Jane Smith stated "no" the septic is in the fronting, side and rear lawn, Board members John Hughes and Ilana Nilsen agree, "no"

3. Whether the requested variance is substantial. Comments?

Chairperson Jane Smith stated not numerically substantial, Board member Jeff Wimmer agreed, especially if more property maybe acquired from the adjoining landowner, next to where the project is being proposed.

4. Whether the proposed Area Variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Comments?

Chairperson Jane Smith stated “no” only a couple of trees were removed, and considering the rock situation of the site.

5. 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. Comments?

Chairperson Jane Smith stated “yes”, Board member Ilana Nilsen stated “yes” he wants to put a pool and garage in. Board member John Hughes agreed.

The Town of Union Vale Zoning Board of Appeals GRANTS the two area variances for Michael Orifici, 2643 Wingdale Mountain Road, Poughquag, NY 12570:

- 1.) 6.5' side yard area variance to construct a detached garage within the side yard 35' setback;
- 2.) 7' side yard area variance to construct/install an in ground pool within the side yard 35' setback in the RD 10 zoning district.

Conditions: None

Motion: Board member Ilana Nilsen

Second: Board member Jeff Wimmer

Motion carried unanimously by the Board members present.

REGULAR SESSION / OLD BUSINESS - DISCUSSION OLD BUSINESS:

Albert Behler, 1-111 Pheasant Ridge Farm Lane, Lagrangeville, NY 12540.

Fence material to be used and installation with contractor, John Hines for Albert Behler, 1-111 Pheasant Ridge Farm Lane, Lagrangeville, NY 12540.

Chairperson Jane Smith opened the discussion up with reviewing the chronologic events of the above stated application. After reviewing an email from Mr. John Hines, Toolbox Construction, received on April 22, 2019, stating he would agree to install the new fence with said conditions that the Zoning Board of Appeals voted on and emailed to the Mr. Hines, from the April 2, 2019 meeting.

With no further discussion from the Board members, Chairperson Jane Smith made the motion to find that the fence reconstruction is “grandfathered” pursuant to § 210-69 of the Town Code provided it comports with the below stated conditions; seconded by Board member Ilana Nilsen, and unanimously approved by the Board members present:

Fence material to be used and installation with contractor, John Hines for Albert Behler, 1-111 Pheasant Ridge Farm Lane, Lagrangeville, NY 12540.

1. Use of rough-sawn look pressure treated lumber for the pickets.
2. Use of pickets of varying widths – including 1” x3”, 1” x 4”, and 1” x 6”
3. Insure that each section of the fence -- that is, each section between each 6” x 6” post-- contains a combination of the three (or more) sized pickets, assembled in a random order.
5. Insure that there is a gap of about ½” between pickets.
6. Install the new fence along the same contour as the existing fence.
7. If there is an existing tree in the path of the fence, either (a) run the fence up to one edge of the tree, break for the tree, and then continue the fence from the opposite edge of the tree; or (b) place the fence on the side of the tree that is closer to the house than the road so that the tree acts as visual break in the fence when viewed from the road.

REGULAR SESSION / NEW BUSINESS

Lent, Mary 71 Eddy Road, Verbank, NY 12585, requesting a .4 acre area variance to meet the minimum lot requirement for an accessory apartment in the R1.5 Zoning District. (Minimum required: 1.5 acres, owners parcel consists of 1.1 acres)

Chairperson Jane Smith welcomed Mary Lent and asked for her to briefly explain her project.

The clerk noted that Ms. Lent is before the Planning Board as well for a special use permit to have an accessory permit.

Ms. Lent explained that she has a house that was constructed in 1987 and finished the basement approximately fifteen years ago, in which she received a C/O by the Building inspector at the time. She would like to utilize this space as an accessory apartment, but after consulting with the Town of Union Vale Building Inspector, George Kolb, she was told that for her zoning district she needed a .4 lot area variance, for her property was 1.1 acres and the zoning district requires her to have 1.5 acre minimum.

Board member Dennis Dunning explained that there were some differences on the EAF that was filled out by the applicant and the DC EAF mapper, specific to questions 13 and 15. There were some delineated wetlands and endangered species that were picked up by the EAF mapper and asked Ms. Lent to initial those questions be marked “yes”, not

“no”. Ms. Lent was not aware of these, and made the changes to her original application EAF.

Board member Ilana Nilsen asked if there were going to be any changes to the property, interior or exterior for this proposed project. Ms. Lent stated there were going to be no changes to either the interior or exterior, this is an existing finished basement that she would like to utilize as an accessory apartment.

Chairperson Jane Smith asked where is the parking going to be. Ms. Lent stated she submitted pictures to the Planning Board for this, there is a gravel turn of, of her existing driveway that is going to be used for parking of tenant vehicles.

Chairperson Jane Smith encouraged the applicant to submit supporting documentation to the Board before the next regular scheduled Zoning Board of Appeals meeting, so that we may review the parking, etc. prior.

With no further questions or comments Chairperson Jane Smith offered the below resolution:

“The Town of Union Vale Zoning Board of Appeals hereby acts as follows on the Application of **Mary Lent, 71 Eddy Road, Verbank, NY 12585:**

Accepts/Denies the Application for a .4 acre lot area variance to meet the minimum lot requirement in the R1.5 zoning district for the utilization of a finished basement into an accessory apartment;

- 1. Classifies the application as “Type II Action” under NYCRR Part 617.5 and as such, is precluded from environmental review under SEQRA.*
- 2. Schedules a Public Hearing on the Application for **Tuesday, June 4, 2019 at 7:35 pm** and directs the secretary to provide timely notice thereof.*
- 3. Advises the Applicant that all costs involved in notifying the Public shall be reimbursed to the Town of Union Vale.*
- 4. Advises the Applicant that a visit to the premises may -or- may not be scheduled.*

OTHER BUSINESS

None.

ADJOURNMENT

As there was no further business, a motion was made by Chairperson Jane Smith seconded by Board member Jeff Wimmer, and unanimously accepted by the Board, to adjourn the meeting at 8:45 p.m.

The next regular meeting of the Zoning Board of Appeals is scheduled for **Tuesday, June 4, 2019 at 7:30 PM.**

The agenda will close on **May 21, 2019 at 12:00 Noon.** Items for consideration at the **June** meeting must be received by that date.

Respectfully submitted,

Jean E. Miller

ZONING BOARD OF APPEALS CLERK

Annexed documents:

Tool Box construction letter dated April 22, 2019