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

October 5, 2016

Members Present: Chairperson Jane Smith, Ilana Nilsen, and Jeffrey Wimmer

Member Absent: James Layton, Daniel Tuohy and Alternate John Hughes

Others: Michael T. Liguori, Town Attorney

CALL TO ORDER / DETERMINATION OF QUORUM

Chairperson Jane Smith determined that there was a quorum and called the meeting to order at 7:30 p.m.

CONFIRMATION OF THE AGENDA

Chairperson Jane Smith reviewed and stated that the Agenda will stand as published.

REVIEW / APPROVAL OF MINUTES

Chairperson Jane Smith, after advised by Town Counsel that at least three members who were present at the September 7, 2016 were needed to approve the minutes, made a motion to move the acceptance of the September 7, 2016 meeting minutes to the November 2, 2016 meeting; motion seconded by Ilana Nilsen and unanimously approved.

CORRESPONDENCE

None.

PUBLIC HEARING(S)/ DECISION ON PUBLIC HEARING(S)

CLOVE VALLEY STOCK FARM, 528 South Road, Millbrook, NY 12545.

Address for site is 2268 Clove Road, Lagrangeville, NY 12540. Applicant requesting a 55' side yard area variance (75' required setback) and an 80' rear yard area variance (100' required setback) in the RD10 district.

Chairperson Jane Smith opened the public hearing the clerk read the notice into record. Kenneth and Betty Andrews were present and approached the Board to briefly explain what they are proposing. Mr. Andrews stated that the applicant (an entity consisting of the beneficiaries of his father's estate) is selling the property adjacent to his. When they placed the property for sale, the Town of Union Vale Building Inspector, George Kolb was notified and did an interior and

exterior search of the property. Because the original structure had two additions that were in the setbacks, Mr. Kolb sent the applicant to the Zoning Board of Appeals for variances.

Mr. Andrews explained that one addition was constructed around the early 1970's and the second was added to the back of the house somewhere in the late 80's or early 90's. Chairperson Jane Smith asked whether the locations of the two additions were accurately reflected on the survey map, dated 1995, submitted to this board. Mr. Andrews stated that is correct, the map shows the exact distances of the additions to the property line.

Town Attorney Michael Liguori pointed to a section in the Town of Union Vale code, 210-69, providing that any non-complying building in existence on the effective date of this chapter (2002), may be continued indefinitely if maintained in accordance with all the applicable codes, ordinances or regulations and other requirements. Mr. Liguori explained that if the building has not been maintained according to all applicable codes, ordinances or regulations, it is not entitled to be grandfathered in.

Board member Ilana Nilson asked whether any code violations had been identified by the code enforcement officer. Mr. and Mrs. Andrews specified all the problem areas and explained that they are working with Mr. Kolb to comply with each of the areas of noncompliance that he has identified. According to Mr. Liguori, therefore, the applicant must obtain variances to legalize this property.

Chairperson Jane Smith asked about the contours of land, particularly the land near the rear property line of the house. Mr. Andrews stated the land has slight slope upwards and then miles and miles of woods.

Board member Ilana Nilsen asked what is the total number of square feet of the structure. Mr. Andrews stated the approximate total square footage is 1080 square feet.

Chairperson Jane Smith inquired about a shed that is on the survey map that was submitted that appears to be within the sideyard setback. Board member Jeff Wimmer asked if there was a floor in the shed and is there any water or electric to it. Mr. Andrews explained that the floor is concrete, so it is a permanent structure and there is electric to it for a light that shines outside of it. Town attorney Michael Liguori stated that a building permit may not be required because it is only 10' x 10', which is under the threshold of needing a permit, but the shed may also need a variance, for it is a permanent accessory structure, and as such must comply with the setbacks unless "grandfathered."

In response to inquiry from Board member Jeff Wimmer about how to deal with this issue, Mr. Liguori stated that the Zoning Board of Appeals cannot act on a variance unless it has been officially denied by the Zoning Administrator: if Mr.

Kolb determines the shed is pre-existing and in compliance, than the applicant does not have to return to obtain a variance; if Mr. Kolb determines that it is not pre-existing and/or not in compliance, then the applicant would have to obtain a variance for the shed.

After no other discussion, Chairperson Jane Smith directed the clerk to check with the Zoning Administrator regarding the shed to determine if a variance would be required.

Chairperson Jane Smith made a motion to close the public hearing, seconded by Board member Ilana Nilsen and all board members present.

DECISION ON PUBLIC HEARING:

Chairperson Jane Smith read and the Board considered the following standards for determining the 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?*

Noting that the building had been in existence in its current position for more than twenty years, Chairperson Jane Smith stated “no”. Board member Jeff Wimmer stated it has already been there, so “no”.

- 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 other feasible solution, Board member Ilana Nilsen stated maybe could purchase additional property from adjacent landowner, but otherwise no other solution than an area variance.

- 3. Whether the requested variance is substantial. Comments?*

Chairperson Jane Smith stated “yes”, Board member Jeff Wimmer agreed.

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?*

Board member Jeff Wimmer stated it was already there and no changes to the land were contemplated, Chairperson Jane Smith agreed.

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 “no”, Board member Jeff Wimmer stated “no”, not by the applicant.

Chairperson Jane Smith offered the following resolution, which was seconded by Board member Ilana Nilsen: **The Town of Union Vale Zoning Board of Appeals GRANTS the** a 55’ side yard area variance (75’ required setback) and an 80’ rear yard area variance (100’ required setback) in the RD10 district for **CLOVE VALLEY STOCK FARM, 528 South Road, Millbrook, NY 12545.**

Conditions: None

Resolution unanimously approved; variances granted.

THOMAS PLASS, 12 North Smith Road, Lagrangeville, NY 12540.

Applicant is requesting a 23’ side yard area variance (25’ is the setback) to place a 14’ x 24’ pre-fabricated shed to store lawn equipment in the RA3 District.

Chairperson Jane Smith opened the public hearing and the clerk read the legal notice into the record. The clerk noted that a letter from an adjoining landowner, Mr. Isreali wrote in support of Mr. Plass to construct a garage.

Mr. Plass was present and explained that he would like to place this garage directly behind his current shed/garage because it would easily be accessed through his driveway and the garage doors would be laid in such a manner that he could pull right in. Mr. Plass explained that this was the optimal placement for the garage because the rest of the property slopes upward. Chairperson Jane Smith asked if any trees had to be removed, Mr. Plass stated that only a couple of tree limbs would have to be trimmed. Board member Jeff Wimmer asked why do you need this other garage, there are garage doors under the house. Mr. Plass stated that he has two cars and prefers them to be garaged, especially in the inclement weather, he stated he also has a canoe and some other recreational equipment that he would prefer to store inside a structure, and not outside, it would look more presentable to the neighborhood.

Mr. Plass explained that the adjoining property is currently being subdivided and the portion next to the proposed site for the garage is being transferred to an adjoining property owner; there is a chain link fence on the property line.

Board member Ilana Nilsen asked if the building is going to be the color that is depicted on the picture that was submitted to the Board. Mr. Plass stated yes, there are other color options, but the one that was submitted seems “rustic” and would fit into the character of the neighborhood. Board member Ilana Nilsen asked if there was a loft in the top of the building. Mr. Plass replied there was an option, but he declined it, since he needed the height but did not want a ceiling loft. Chairperson Jane Smith asked if the structure is taller than the structure in the front of it, Mr. Plass stated maybe a foot or two at most. Board member Ilana Nilsen asked if the existing garage was pre-existing prior to you purchasing the property, Mr. Plass stated yes. Board member Ilana Nilsen asked if perhaps the applicant would be willing to remove the older pre-existing garage. Mr. Plass stated “no” that would not be an option, it would not be cost effective to demolish the existing garage.

After a discussion as to whether the floor area of the proposed accessory structure exceeded that permitted by the Code, Chairperson Jane Smith proposed continuing the public hearing until the next scheduled meeting on November 2, 2016, and advised the applicant to seek input from the Zoning Administrator regarding the Total Floor area and to determine if an additional area variance is required. Chairperson Jane Smith then moved to continue the public hearing to November 2, 2016; Jeff Wimmer seconded and motion approved by unanimous vote of the Board members present.

CROSSROADS CHURCH, 1807 Clove Road, Lagrangeville, NY 12540.

Applicant is requesting five area variances: 1) area height variance of 2’9” for proposed 8’9” height sign (6’ height is code), 2) area square footage variance of 8 square feet for proposed 20 square foot sign (12 square feet is code), 3) 2’ front yard area variance, sign is 18’ from property (20’ is setback from fronting street); 4) variance for internally illuminated signage and 5) area variance to construct the sign using another material (code requires sign to be wood as far as practicable) in the RD10 District.

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

Mr. Kerry Mitras was present to represent the applicant.

Chairperson Jane Smith noted that, at the previous meeting she had identified the need for the the fifth variance as set forth above (for using another material, other than wood) and had erroneously advised the applicant to amend the

application to include this matter. However, Town Counsel had advised that the Zoning Board cannot act on a variance request unless the Zoning Administrator has specifically denied a permit on this ground. This factor can be discussed in connection with the variance requests properly before the Board, but cannot be acted on without a denial.

Mr. Mitras stated one of the main reasons that the applicant does not want the sign to be wood has to do with maintenance: the church congregation is an aging population and they are having a harder and harder time maintaining the sign, scraping old paint off and repainting to maintain the sign. In addition, he explained that the current sign has flood lights mounted below it that shine up on the lettering, but the lights are exposed to the weather elements and blow and frequently need replacing. An enclosed illuminated sign would be protected from the elements and much less maintenance would be required.

Mr. Mitras stated that the biggest problem they have is when people drive by they can't read the small lettering on the sign; they are proposing a larger sign that can have letters on it that feature upcoming events. He pointed to the firehouse next door which has a larger sign. Mr. Mitras stated the sign is 18' from the street now and they would like to keep it there. Again, Mr. Mitras stated that the firehouse sign is closer to the fronting street than the one the applicant is proposing.

Board member Ilana Nilsen asked how the sign is aligned towards the road and is it double sided, Mr. Mitras stated it is perpendicular to the road and double sided.

Board member Jeff Wimmer questioned why he would need a variance if he is just replacing a sign that is within the setbacks. Town Attorney, Michael Liguori responded that if it was being replaced with the exact same material, size, etc. it would not need a variance, but this sign is larger and different material, so therefore it needs multiple variances. Mr. Mitras stated the proposed sign is taller than the original, due to the slope of the property from the road slopes down and the current sign gets hidden from sight when driving by.

Chairperson Jane Smith expressed several concerns that stem from both the sheer number of variances requested from code provisions that specifically place restrictions on sign construction and placement, as well as other more general provisions of the Zoning code designed to preserve and enhance the appearance of the Town and to protect scenic areas and historic resources against visual intrusions. Chairperson Jane Smith noted that the church is located at the entrance to the Clove Valley, one of the most beautiful scenic areas in the Town, and gave her opinion that a large illuminated sign does not comport with the rural character that the code is looking to preserve and protect.

Chairperson Jane Smith and Board member Ilana Nilsen both remarked that the current sign does not represent well that it is a church, and suggested that improving the graphics on the current sign would make it more visible.

Chairperson Jane Smith raised the idea of continuing the public hearing to give Mr. Mitras the opportunity to discuss the proposed sign with the Zoning Administrator and, if it were determined that a variance is needed for the non-wood construction and a denial letter was obtained, then the Board could consider that variance as well. After Mr. Mitras advised that he would like to do that and that he would not be available for the November meeting, and with no further questions or comments from the public, Chairperson Jane Smith made a motion to continue the public hearing until the December 7, 2016 meeting at 7:35 pm, and directed the applicant in the interim to speak with George Kolb, Zoning Administrator regarding the material variance denial; Board member Jeff Wimmer seconded the motion and it was approved by unanimous vote of the Board members present.

REGULAR SESSION/ NEW BUSINESS

None.

OTHER BUSINESS

None.

NEXT MEETING

The next regular meeting of the Zoning Board of Appeals is scheduled for **WEDNESDAY, November 2, 2016 at 7:30 p.m.**

The agenda will close on **October 19, 2016 at 12:00 NOON**. Items for consideration at the **November meeting** must be received by that date.

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 9:05 p.m.

Respectfully submitted,

Jean E. Miller
ZONING BOARD OF APPEALS CLERK

Annexed documents:

Public hearing notices, Clove Valley Stock Farm, Thomas Plass & Crossroads
Church: Poughkeepsie Journal