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

July 5, 2017

Members Present: Chairperson Jane Smith, Board member James D. Layton and Alternate Board member Jeffrey Wimmer

Member Absent: Board members Ilana Nilsen, Dan Tuohy and John Hughes

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

By unanimous consent, the minutes for meetings of February 1, 2017 and June 7, 2017 were approved with minor corrections/edits to the June 7, 2017 as follows:

On page 2, (1) first line insert “are the” between the words “they” and “owners”; (2) first word on second line of second paragraph should be “their” not “there”; (3) delete “Chairperson Jane Smith offered the below resolution.”

On page 3, (1) first line, delete “/Denies”; (2) in “NEXT MEETING” section, correct dates to July 5, 2017 and June 22, 2017.

CORRESPONDENCE

None.

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

LAPE, MATTHEW – 835-837 North Clove Road, Millbrook, NY 12545.

Requesting a side yard area variance setback of 31 feet (75 foot side yard setback required) for new construction of a single family house in the RD-10 District.

Mr. Lape explained his family’s plan to construct a new house set back farther on his property than the current house, and then to demolish the existing house. The existing house is in need of remediation and extensive repair, the cost of which is prohibitive. The placement of the new structure offers more privacy and

quiet as it is more distant from the Town Garage across the street. No significant trees will be disturbed. Mr. Lape provided several photographs of the property indicating the views of the neighboring properties from the planned location of the new home and, in particular, the portion within the setback.

Chairperson Jane Smith read correspondence from C.E.O. George Kolb confirming the Town of Union Vale attorney's advice that the legal non-conforming use for an accessory apartment on the property will continue for a period of 18 months after the building permit issued for the new home, and, therefore, no additional approvals for an accessory apartment in the new structure will be required.

Neighbors Betsy Maas and Chris Spitzmiller expressed no objection, and Lisette Hitsman expressed support for the project.

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?***

All agreed that no undesirable change will be produced; the proposed building is set back farther than the existing building, will be an improvement since the existing house is in need of serious repair, and no detriment to nearby properties was identified.

- 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?***

The property is nonconforming, and it is not feasible for applicant to replace the existing house and obtain more distance from the Town Garage without a variance.

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

All Board members agreed that the requested variance was substantial, but not dispositive, given that the house on the adjoining property was not near the new construction.

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?*

All Board members present agreed that no adverse effect or impact was identified.

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?*

Board agreed that the alleged difficulties were in large measure a result of the non-conforming nature of the property, which has been in the Lape family since before town zoning laws went into effect.

Chairperson Jane Smith offered the following resolution to grant the variance with condition; resolution seconded by Board member Jeffrey Wimmer and approved unanimously:

The Town of Union Vale Zoning Board of Appeal **GRANTS MATTHEW LAPE – 835-837 North Clove Road, Millbrook, NY 12545, a 31' sideyard variance with the condition that applicant obtain the necessary building and BOH permits as set forth in the correspondence from Mr. Kolb, dated June 20, 2017.**

REGULAR SESSION/ NEW BUSINESS

KINIRY, SCOTT-3389 Route 82, Verbank NY 12585.

Requesting a 7-foot front yard area variance to construct a canopy to cover gas pumps in the Neighborhood Center District.

Ms. Tanna Jones, wife of Scott Kiniry, presented the application. She explained that she and her husband purchased the “Hitsman Garage” property, which was formerly a gas station, car repair shop. They repaired the roof of the building, and removed the gas tanks as part of plan to reopen the property as a gas station/convenience store. The proposal is before the Planning Board; a public meeting before that Board was held and closed, and they are awaiting decision on their application for a special use permit.

The variance is requested in order to construct a 24' wide canopy over the proposed gas pumps, that would serve to protect customers from the elements.

The placement of the pumps was designed in order insure adequate space for cars to maneuver between the pumps and the existing building.

Ms. Jones also described the signage they desired, and advised that additional variances might be needed for them. Board members explained that they could not address that issue because there was no application before the Board regarding signs.

Chairperson Jane Smith offered the following procedural resolution:

“The Town of Union Vale Zoning Board of Appeals hereby acts as follows on the Application of: Scott Kiniry:

- 1. *Accepts the Application for An Area Variance***
- 2. *Classify the application as “Type II Action” under NYCRR Part 617.5 and as such, is precluded from environmental review under SEQRA.***
- 3. *Schedule a Public Hearing on the Application for WEDNESDAY, August 2, 2017 at 7:35 pm and directs the secretary to provide timely notice thereof.***
- 4. *Advise the Applicant that all costs involved in notifying the Public shall be reimbursed to the Town of Union Vale.***
- 5. *Advise the Applicant that a visit to the premises may -or- may not be scheduled.***

A Motion was made by Jeffrey Wimmer and seconded by James Layton to adopt the above procedural resolution; unanimously approved.

OTHER BUSINESS

James D. Layton advised the Board that this is his last meeting; he resigned from the Board because he has sold his house and is moving to Fishkill.

NEXT MEETING

The next regular meeting of the Zoning Board of Appeals is scheduled for **WEDNESDAY, August 2, 2017 at 7:30 p.m.**

The agenda will close on **July 17, 2017 at 12:00 NOON**. Items for consideration at the **August** 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 James D. Layton, and unanimously accepted by the Board, to adjourn the meeting at 8:50 p.m.

Respectfully submitted,

Joan E. Miller

ZONING BOARD OF APPEALS CLERK

Annexed documents: Poughkeepsie Journal, public hearing notice, Matthew Lape; six photographs of Lape property; email correspondence between George A. Kolb and Devon Lape, dated June 20, 2017.