

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

**March 2, 2016**

Members Present: Chairperson Jane Smith, James D. Layton, Dan Tuohy and Jeff Wimmer

Members Absent: none

**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 confirmed the Agenda would stand as published.

**REVIEW / APPROVAL OF MINUTES**

Chairperson Jane Smith moved to defer the acceptance of the January 6, 2016 and February 3, 2016 regular meeting minutes until the end of this meeting. The motion was seconded by Board member Jeff Wimmer, and approved by all.

**OTHER BUSINESS**

None.

**REGULAR SESSION / REHEARING PUBLIC HEARING(S)**

**STRANGE, RAVEN, 448 Camby Road, Verbank, NY 12585.** Requested a 724 square foot area variance (maximum square footage allowed 600) for the new construction of a 1300 square foot Guest Cottage in the RD-10 District, an unlisted action under SEQRA. That variance was initially granted after public hearing on January 6, 2016. On February 3, 2016, the ZBA unanimously voted to reopen the public hearing and reconsider the application in light of additional information received from Art Brod, Town Planning Consultant, that, under the Town Code, a "Guest Cottage" may be used only for "temporary occupancy" of "not more than 30 calendar days."

Chairperson Jane Smith opened the public rehearing and welcomed Elizabeth Noonan, mother of Raven Strange.

Ms. Noonan confirmed that, after meeting and discussing the matter with Code Enforcement Officer George Kolb, the applicant determined it was more appropriate to seek a variance to construct a "Caretakers Cottage" under code Sect. #210-56B(3)(3) rather than a "Guest Cottage." A caretaker's cottage is a specially permitted use in the RD-10 District and may be up to 2000 square feet but requires a minimum of 25 acres for construction. Since the applicant's property is 13.98 acres, an 11.02 acre variance is required. The application for a variance was amended accordingly.

Chairperson Jane Smith questioned whether the notice previously provided to the public and adjoining landowners regarding a variance to construct the 1300 square foot guest cottage and the public notice regarding the reopening and reconsideration of the initial grant sufficed for the Board to grant a variance for the construction of a caretaker's cottage. Pointing to code section 210-79 C. (2)(d), she posited that, given that there was no increase in the proposed size of the structure or its placement, there had been substantial compliance with the notice requirement and that additional notice was not required.

The Zoning clerk noted that no opposition or comment from the public had been received since the initial notice was given, either by phone or mail.

Chairperson Jane Smith reminded the applicant this still needs to go before the Planning Board for a Special Use Permit for approval.

With no further questions or concerns from the public or the board members present, Chairperson Jane Smith closed the public hearing.

### **REGULAR SESSION/OLD BUSINESS/DECISION ON RE REHEARING ON APPLICATION OF RAVEN STRANGE:**

**STRANGE, RAVEN, 448 Camby Road, Verbank, NY 12585.** Requested a 724 square foot area variance (maximum square footage allowed 600) for the new construction of a Guest Cottage in the RD-10 District, an unlisted action under SEQRA. That variance was granted after public hearing on January 6, 2016.

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?***

Chairperson Jane Smith stated “no”, it is not causing a detriment to the property for the same reasons previously considered, i.e., that the property is heavily wooded and proposed construction would not be visible from the road. Board members Dan Touhy and Jeff Wimmer agreed. The clerk confirmed that there was no feedback from adjacent landowners.

**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?***

Board member Jeff Wimmer and Chairperson Jane Smith stated that the benefit the applicant wanted to achieve – a detached accessory dwelling on a 14 acre parcel – could not be achieved other than by a variance.

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

Chairperson Jane Smith stated “yes”, but it is a factor that is diminished in importance because of the particular character of the land that will keep the unit out of public view; Board members Jeff Wimmer and Dan Tuohy 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?***

Chairperson Jane Smith stated “no”, very few trees will be cut down, there are quite a few evergreens that shield the property. Board member Jeff Wimmer stated “no” the property is relatively flat and cleared already.

**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”, but Board member Jeff Wimmer noted it is a sizable lot, Board member James D. Layton agreed.

A Motion was made by Board member Chairperson Jane Smith and seconded by Board member Dan Tuohy to adopt the following resolution:

The Town of Union Vale Zoning Board of Appeals **GRANTS** the **11.02 acre area variance** for **STRANGE, RAVEN, 448 Camby Road, Verbank, NY 12585.**

**Conditions:** Guest cottage not to be rented to any third parties and any Occupant of Guest cottage must be related to Principal dwelling owner.

4 Board members voted to adopt. Motion passed; variance granted.

**REGULAR SESSION/NEW BUSINESS:**

None.

**OTHER BUSINESS**

Chairperson Jane Smith made a motion to accept January 6, 2016 meeting minutes with an addendum to the decision on public hearing section indicating that a motion to reopen the hearing and for rehearing was passed at the February 3, 2016 meeting, and a final determination was made on March 2, 2016. This motion was seconded by Board member Jeff Wimmer and unanimously accepted by the Board members present.

Chairperson Jane Smith made the motion to accept the February 3, 2016 meeting minutes, with an addendum referencing the March 2, 2016 minutes for the final outcome. This motion was seconded by Board member Dan Touhy and accepted by unanimous vote of the Board members present.

**NEXT MEETING**

The next regular meeting of the Zoning Board of Appeals is scheduled for **WEDNESDAY, April 6, 2016 at 7:30 p.m.**

The agenda will close on **March 23, 2016 at 12: 00 NOON.** Items for consideration at the **April meeting** must be received by that date.

**ADJOURNMENT**

As there was no further business to come before the Board, a motion was made by Board member Jeff Wimmer, seconded by Board Member Dan Tuohy and unanimously accepted by the Board Members present to adjourn the meeting at 8:00p.m.

Respectfully submitted,

*Joan E. Miller*  
ZONING BOARD OF APPEALS CLERK

