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

**April 2, 2019
7:30 pm**

Members Present: Chairperson Jane Smith, Board members Dennis Dunning, and Ilana Nilsen

Member Absent: Board member John Hughes and Jeffrey Wimmer

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

Chairperson Jane Smith stated that she was going to change the order of the agenda to move New Business application before Old Business discussion.

- Minutes

Chairperson Jane Smith made the motion to accept the February 5, 2019 regular meeting minutes, seconded by Board member Dennis Dunning, approved unanimously by Board members present.

CORRESPONDENCE

One letter and pictures received from John Hines, Toolbox construction regarding Albert Behler application.

PUBLIC HEARING:

None.

REGULAR SESSION / NEW BUSINESS

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 welcomed Mr. Orifici and asked him to explain the proposed project to the Board.

Mr. Orifici explained that he would like to install an in-ground pool and a two car detached garage on the side of his property. Mr. Orifici stated that his property is three acres, it was grandfathered in Zoning when the Zoning changed to Residential 10-acre zoning in 2002. The RD 10 zoning setbacks are numerically larger (35 feet side yard) than the (25 feet side yard) in RA3 zoning setbacks.

Mr. Orifici displayed a survey of his lot and noted the odd configuration of the side line that sharply “jags” inward; this has contributed to the need for two area variances for the proposed project.

Mr. Orifici expressed interest in acquiring property from the adjacent landowner, but it became complicated, so he has not pursued that further, but may in the future.

Chairperson Jane Smith asked if any trees needed to be cut, Mr. Orifici stated maybe one that was dead. Board member Ilana Nilsen asked about the intended uses for the garage. Mr. Orifici stated it will be used as the pump storage for the pool, lawn equipment, bicycles, and that no cars would be stored in it.

Board member Ilana Nilsen asked would there be a loft, would it be heated or finished off in the future. Mr. Orifici stated it would not be heated, and the loft would be used for storage of the pool equipment, there are no future plans to finish the loft area.

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 **Michael Orifici, 2643 Wingdale Mountain Road, Poughquag, NY 12570:**

Accepts/Denies the Application for a **two side yard area variances, a 6.5 ‘ side yard area variance to construct a detached garage and a 7’ side yard area variance to construct/install an in ground pool;**

- 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, May 7, 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.*

Motion by Chairperson Jane Smith seconded by Board member Ilana Nilsen and approved by unanimous vote of the Board members present.

REGULAR SESSION / OLD BUSINESS

Behler, Albert 1-111 Pheasant Ridge Farm Lane, Lagrangeville, NY 12540, requesting a 4-foot fence height area variance to replace an existing 8 foot tall wooden fence with the same size and material in the side yard, in the RD10 district.

After noting that neither the applicant nor his agent Mr. Hines was present at the meeting, Chairperson Jane Smith opened the discussion by reading the February 5, 2019 meeting minutes that pertained to this application, as well as applicant's February 11, 2019 submission to the Board setting forth plans for the proposed fence.

Chairperson Jane Smith and Board member Dennis Dunning expressed regret that the Board could not engage in a discussion with the applicant as to whether the proposed fence was consistent with the existing fence (in terms of dimensions and materials) and, therefore, whether or not it could be construed as a "reconstruction" of the old fence so as to fall with the "grandfather clause" of Code Section 210-69.

Board members identified several issues with the proposed use of pressure treated wood for the new fence and a lack of specificity in the way in which it would be constructed. They expressed concern that, despite the applicant's assurances, the new fence might not maintain the rustic character of the old fence. The Board identified several ways that the proposed fence could better comport with the character of the old fence, namely:

1. Use of rough-sawn lumber for the pickets.
2. Apply a gray-tinted penetrating stain to the boards within six months after erecting the new fence.
3. Use of pickets of varying widths – including 1" x3", 1" x 4", and 1" x 6"
4. 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 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.

However, since the applicant was not present, the Board was reluctant to impose these as firm conditions. The Board discussed – and several members favored -- postponing any decision until the next meeting. However, recognizing the applicant’s desire to proceed with the project expeditiously, Chairperson Jane Smith proposed giving the applicant the option to either: (a) accept the above listed conditions and begin the work of reconstructing the fence; or (b) defer reconstruction so that the applicant would have the opportunity for further discussion; if this latter option were chosen, then discussion of the matter would be put on the agenda of the May meeting of the Board.

A motion to this effect was made by Chairperson Jane Smith, seconded by Board member Ilana Nilsen, and approved by unanimous vote of the Board members present.

OTHER BUSINESS

None.

ADJOURNMENT

As there was no further business, a motion was made by Chairperson Jane Smith, seconded by Board member Dennis Dunning, and unanimously accepted by the Board, to adjourn the meeting at 9:00 p.m.

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

The agenda will close on **April 23, 2019 at 12:00 Noon.** Items for consideration at the **May** meeting must be received by that date.

Respectfully submitted,

Jean E. Miller

ZONING BOARD OF APPEALS CLERK

Annexed documents:

Tool Box construction letter dated February 21, 2019