

Zoning Board of Appeals
Town of Claverack
91 Church Street
Mellenville, NY 12544

Minutes of the January 26, 2005 meeting of the Zoning Board of Appeals

Meeting called to order by chairman, Michael Brandon at 7:37 pm. Present were board members, Norma Barnard, Steve Melnyk, Steve Harder, Frank Clegg, Jock Winch, and Paul Gundrum; chairman Michael Brandon; secretary Caren Mahar, Town Attorney, Rob Fitzsimmons; Town Engineer Joe Romano also in attendance.

Chairman Michael Brandon asked everyone to stand for the Pledge of Allegiance. Mr. Brandon introduced himself and board members to audience. He then asked the board to review the December 2004 ZBA meeting minutes. Frank motioned to accept minutes. Norma seconded with change that Jock Winch was not present. All in agreement. Motion to accept minutes with change carried.

Robert Johanson (122.-1-7.200) Applicant made no contact with any board member and did not show. Applicant will be reminded that this constitutes his first no-show in 30 days of the 90-day rule.

Mihail Chemiakin/ John Malasky: (121.3-2-23) 67 NYS Route 23 Request to convert prior non-conforming commercial and business use to private artist's studio and private library. Extensive discussion took place including clarifying whether or not previous violation of a lean-to had been taken down. Letter from attorney Victor Meyers states that temporary structure has been taken down although walls are still there. Albright (counsel for applicant) said he is sure applicant has every intention of taking walls down. Questions of what the final uses of all property would be (as currently there is occupation as residence, accessory garage, playhouse, greenhouse...Board looked at definitions of accessory use to residence, particularly one use per lot.

In the use table regarding non-conforming section, permitted accessory uses were reviewed. The problem with this listing is that there is no control in permitted use. A non-residential structure is subject to site plan review.

For a use variance, there is benefit and detriment. Self-created hardship always being the hardest rule to overcome. Original owner (Malasky) has been applying since 1962 that a financial burden exists uniquely for this property for all permitted uses. It is a large commercial building that will either sit vacant or be put to good use.

Mike Brandon reminds the board that where the old school, currently Chemaikin residence, was will be sculptures and art instead of 12 doublewides.

Truck access was discussed as driveway to Chemaikin residence is steep. (Applicant counsel said trucks would not go that way, rather via flat land across new parcel (67 Route 23). Justifying accessory use?

Would young artists be living there? Jock discussed question of integrity with applicants intentions.

Applicant planning to use property for any commercial business? Albright, "no".

There have been many requests to surrender non-conforming use (Jock sites since 1940-1950) when it was a farm equipment dealership. Board looked at zoning ordinance of a non-conforming use. Goal being to bring properties to a conforming use (or as close as possible). Many offers have been started for commercial operations and have gone to contract only to have contract terminated. Counsel states this is purely a private studio and library and could be fitted into conversion of non-conforming use.

Board looks at assessment and application for use variance. Applicant is unable to derive return of profit, there is no immediate impact on environment, this is not a self-imposed hardship.

Steve H. reminds board that original application for interpretation involved bringing students to live on-site. Board would need a narrative of affidavit on applicants intended use.

Chairman states we must first decide are we dealing with an accessory structure to use of residence or a use variance for private studio.

Jock concerned that for everything the applicant has applied for, when all is said and done, applicant does whatever he wants. Norma asked if Chemaikin had gone back to Russia? Albright, "no, as far as I know he is right there." Jock, there is a credibility problem here.

Attorney says he is not asking for any commercial use here. Rob reminds board that there cannot be covenant or restrictions with deed, but our decision is issued to the owner and goes with the land. Look at variance with condition as it could be stronger in ability to enforce; can specify what can be prohibited. Counsel: The estate and corporation are caught in a hardship. We believe this is a soft use of property compared to many of the permitted commercial uses (such as scrap yard) that have been looked at for this property.

Mike polled board as to what this situation best fits under. All agreed that use variance is what applicant is seeking.

Application carried to next month's meeting.

Stewardship of Millbrook Road:

A draft scope has been submitted, with notice in paper. The scoping is the process of identifying environmental issues to be discussed and covered. Issues must be worked out as part of the SEQR. Andy Gilchrist submitted Draft scope and discussed two written comments received from Deirdre Carson, 366 Millbrook Rd and Steve Sulzer, 48 Millbrook Rd. All comments were either already part of the drafting scope or were added as concerns in the revised scope of project. Public comment period opened for discussion at 9:10 pm Deirdre Carson spoke in support of her written comments. Public comment period ended at 9:37, carried to next month. Rob reviewed revised draft and recommended that board accept. Norma motioned to accept draft revision. Frank seconded, board unanimously accepts draft scope revision. Rob has paperwork on this case and will forward to secretary to share with board members.

Norma motions to adjourn meeting. Frank seconded. Chairman adjourned meeting at 9:34 pm.

Approved 2/23/05

Respectfully submitted,

Caren Mahar, Secretary