

**TOWN OF ARIETTA
ZONING BOARD OF APPEALS
Old Piseco Road
Piseco, NY 12139**

Public Meeting Dated:
Monday June 10, 2019 - 6:00 P.M.
Piseco Community Hall

Minutes - Town of Arietta Zoning Board of Appeals was called to order by Chairman Frank Sczerzenie at 6:00 PM.

Members present: Frank Sczerzenie, Chairman Barry Baker Kevin Dorr Bill Hotaling Doug Stobo
Secretary Marie Buanno Zoning Officer Mel LaScola

Others present: Brad & Amy Ball and son Zack, S. Michael Steiger (Ball Architect), Michael Harvey (Ball Builder), Doug Phelps & Lorilyn Cooley & young girl, Dennis Salvatore, Bill Edwards, Vickie Orr, Barry Perkins, Terry Dowd, Diane Holiat plus a man unknown to the Secretary.

Chairman Sczerzenie went over regulations for a quorum vote and the criteria by which the ZBA makes its determination on variances.

Chairman Sczerzenie asked for a motion to accept the minutes of the May 22, 2019 special meeting. Kevin Dorr made a motion to accept as written. Seconded by Doug Stobo. All were in favor (4 – 0). Frank Sczerzenie did not vote as he was absent from that meeting.

Case #1904 – Doug Phelps and Lorilyn Cooley wish to totally demolish their house at 130 Higgins Bay Road and rebuild a slightly larger, four season house. They also plan on the addition of a 2-car garage. The old septic system will be removed and replaced on the east side of the property. A new well is proposed at the southwest corner of the property. All requirements have been met with the exception of the road setback which is not in compliance with Section #4.010 for SR1, SR2, MR1, MR2, TAC and STR which states “Setback from Lot Line is 15 ft.” and Setback from Road states “A building shall at a minimum be set back 75 feet from near edge of the pavement of a state highway and 50 feet from near edge of the pavement of a public highway other than a state highway, provided that no building shall be within a public highway right of way.” Doug Phelps spoke recapping that his variance plans last time were denied and what they have done to remedy the situation with new building plans. They have now met all criteria except the distance from the road and are seeking a variance. Chairman Sczerzenie asked the ZBA members if they had any comments. Doug Stobo said he liked the fact that they had taken the suggestions of the ZBA to move the septic and liked the plans for the garage. Kevin Dorr had no questions or comments. Barry Baker said he appreciates as did Doug that that the plans were changed for the septic. Bill Hotaling asked if they were keeping the building that used to be a bunkhouse. Mr. Phelps said yes as it is being used for a boathouse. Frank Sczerzenie asked how many bedrooms the new house would have in it. Mr. Phelps replied three and a TV room. He also asked about the setback measurement. Mr. Phelps said it was difficult to determine and that is why they are seeking a variance. The Chairman read two letters in favor of the project from Richard Sherman and James Sherman. He also read an e-mail received from Neil Woodruff stating he really was not able to support or not as he could not get electronic files of the project. Mr. Phelps said he increased the setback concerning that side of the project.

A list of neighbors within 500 ft. who were notified is attached. It is unknown to the Secretary if any were returned undeliverable. There were no other comments from the ZBA members.

The Chairman wanted the ZBA to consider stipulations to approving the variance, and proposed that this will never become a rental house. Bill Hotaling asked him to explain. The Chairman stated that he sees nice big houses are being constructed on small lots. This project is described as a three bedroom house and could easily be made into a four bedroom house. The Chairman wanted to open the meeting to public comment. Mel LaScola reminded the Chairman that the members of the ZBA needed to vote on this proposed stipulation first.

There was not a second on the proposed stipulation so the motion was denied. The floor was opened up to public comment. Neighbor Dennis Salvatore said he felt no stipulation should be put on the Cooley/Phelps property concerning it being a rental. Neighbor Bill Edwards spoke next and has no objection to the replacement of the old building. He did not understand why the subject of whether or not it can be a rental was even brought up. There was already a lawsuit that the Town lost regarding this so why revisit it? The ZBA went on to vote on the variance criteria.

(1) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. 4 voted No, 1 voted Yes.

(2) Whether an undesirable change in the character of the neighborhood will be produced or a detriment to nearby properties will be created by the granting of the area variance. All 5 voted No.

(3) Whether the requested variance is substantial. All 5 voted Yes.

(4) Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood. All 5 voted No.

(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the ZBA, but shall not necessarily preclude the granting of the area variance. 2 voted No, 3 voted Yes.

The vote whether to approve the variance: All 5 voted Yes.

Nothing can be done until the APA responds and they have 30 days to do so.

Case closed.

Case #1905 – Brad and Amy Ball wish to expand their building by means of a lateral expansion at 68 East Shore Road that is already encroaching on the 100 ft. shoreline setback to make the building a year round home. This is not in compliance with Code #5.030 Shoreline Structure Setback that states “A minimum setback of one hundred (100) feet from the shoreline is required for all structures in excess of one hundred (100) square feet except docks. One accessory structure one hundred (100) square feet or less and within one hundred (100) feet of the shoreline is allowable per lot. A. The shoreline building setback restrictions apply to all principal buildings and to all accessory structures exceeding 100 square feet in size, including garages, sheds, porches, decks, barns, gazebos, guest cottages, tennis courts and permanent swimming pools, but not including boathouses or docks. B. Porches, decks and other structures attached to single family dwellings or to other structures subject to the building setback restrictions shall be considered part of the structure for purposes of applying the setback restriction. C. Decks or patios which are not attached to another structure, are subject to the structure setback restrictions if they exceed one hundred (100) square feet, unless flush with natural ground level without raised elements such as railings or walls.” They will also need a height variance as they plan on going from 21 feet to 25 feet in height which is not in compliance with Code #11.010 A (3) “Shoreline setback and cutting. In no case shall any increase or expansion of any building or structure, or any shoreline cutting, increase non-conformance, in any direction including height, with the minimum setbacks from shorelines and shoreline cutting restrictions without obtaining an area variance. Expansion of an existing non-conforming structure not meeting the shoreline setback requirements of 100 feet must also comply with the following standards: (a) Expansion of structure cannot increase the present setback non-conformance. (b) Expansion does not increase the height of the existing structure. (c) Setback will be no less than 25 feet from sideline and finished structure will not exceed 50% of lot width. (d) There must be enough area to upgrade and accommodate septic system expansion as may be required by the NYS Department of Health.”

Brad Ball spoke about the project showing formal site plans. They are keeping the whole existing structure expanding laterally and raising the height 4 feet. At the lowest grade the height will not exceed 38 feet including the chimney. It will not go any closer to the lake. There will be four or five bedrooms. The existing 2002 septic system (2 – 1,000 gallon tanks) will be used. Doug Stobo had no comments. Kevin Dorr asked what would be over the garage. Mr. Ball said only storage. Barry Baker asked for an explanation of the extra square footage. It was due to the square footage of the second floor and the knee wall. Bill Hotaling had no comment as long as the original building was being added to. Frank Sczerzenie had no comment. There was no public comment.

A list of neighbors within 500 ft. who were notified is attached. It is unknown to the Secretary if any were returned undeliverable. There were no other comments from the ZBA members.

The ZBA went on to vote on the variance criteria.

(1) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. All 5 voted Yes.

(2) Whether an undesirable change in the character of the neighborhood will be produced or a detriment to nearby properties will be created by the granting of the area variance. All 5 voted No.

(3) Whether the requested variance is substantial. All 5 voted Yes.

(4) Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood. All 5 voted No.

(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the ZBA, but shall not necessarily preclude the granting of the area variance. 3 voted No, 2 voted Yes.

The vote whether to approve the variance: All 5 voted Yes.

Nothing can be done until the APA responds and they have 30 days to do so.

Case closed.

A motion to adjourn was made at 6:50 PM by Bill Hotaling and Seconded by Kevin Dorr. All were in favor (5 -0).

Attachments: Chairman Sczerzenies agenda.

- Phelps/Cooley Building plans (5 pages)
- Phelps/Cooley Project plans (2 pages)
- Phelps/Cooley building permit denial (2 pages)
- Phelps/Cooley neighbors contacted (2 pages)
- Phelps/Cooley for/against letters from neighbors (3)
- Ball Building plans (7 pages)
- Ball Application and site plans (4 pages)
- Ball Site plan and property maps (3 pages)
- Ball building permit denial (2 pages)
- Ball neighbors contacted (2 pages)
- Ball survey map

Respectfully Submitted
Marie C. Buanno