

WILTON ZONING BOARD OF APPEALS
THURSDAY, October 27, 2022

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, October 27, 2022, at Wilton Town Hall and was called to order by Chairman O'Brien at 6:58 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Chairman O'Brien, Vice Chairman Christopher Ramsdill, Robert Barrett, Jim Deloria, Scott Kingsley, and Dean Kolligian. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, John Herlihy, Building Inspector/Code Enforcer, and Lisa Closson, Zoning Clerk.

ABSENT: Jay Rifenbary.

MINUTES: The minutes of the last meeting, held on September 22, 2022, were approved, as submitted, on a motion made by Mr. Kingsley, seconded by Mr. Barrett. All board members present were in favor. The motion passed.

CORRESPONDENCE: None other than what is presented before the board.

EXTENSIONS: *SPECIAL USE PERMIT EXTENSIONS ARE NOT SUBJECT TO A PUBLIC HEARING*

None

OLD BUSINESS:

None

NEW BUSINESS:

Appeal No. 2022-16 Michael Aquilino, 10 Jessica Trace, Gansevoort, New York, 12831. Request for an Area Variance pursuant to Schedule A, R-1 District, of the Zoning Ordinance; property located at 10 Jessica Trace, Gansevoort, New York 12831, Tax Map No. 127.20-1-4, zoned R-1, in the Town of Wilton.

Mr. O'Brien read correspondence from Amy Laurin, 27 Jessica Trace, and Sheri Sablich, 21 Jessica Trace, opposing the application with concerns of the proposed greenhouse blocking

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traffic view for children riding bikes, decreasing property value in the area, and the removal of trees. Both have been placed into record.

Michael Aquilino, 10 Jessica Trace, was present and explained his project to the Board. Mr. Aquilino made mention that the greenhouse will not block traffic view from children, and that the trees that are to be removed are in front of his children's bedrooms creating a safety hazard. He also stated he would like to create usable space where the trees are.

Mr. Ramsdill confirmed with Mr. Aquilino that the greenhouse structure is 12' x 12'. They discussed the layout of the proposed greenhouse, raised bed garden, and fence.

Mr. Aquilino told the Board that the neighbor directly across the street said to get rid of the trees, and that the garden looks like it is going to be beautiful.

Mr. O'Brien opened the public hearing at 7:07 p.m.

Jennifer Williams, 23 Jessica Trace, expressed concern about all of the trees coming down and how close to the road the proposed structure will be. She gave pictures to the Board from the neighbor's viewpoint, and from coming around the curve.

Mr. Deloria explained that the application in front of the Board is for placing a greenhouse on the property, not about cutting trees down. Mr. Barrett agreed.

Sheri Sablich, 21 Jessica Trace, explained she has talked to a few realtors who have said that when they go to sell, it is very common that greenhouses do force people to reduce the price of their homes.

Mr. Aquilino expressed that not every house in the neighborhood is not surrounded by trees. He also explained that a neighbor down the street had a greenhouse in the front yard and the home sold for a great price.

Mr. Ramsdill questioned the distance from the greenhouse to the house and asked if the greenhouse could be shifted closer to the house? There was discussion between the Board and Mr. Aquilino about the existing structures on the property and placement of the proposed greenhouse.

Amy Laurin, 27 Jessica Trace, stated she lived across from the other greenhouse Mr. Aquilino mentioned. She explained that it was much farther from the street than Mr. Aquilino's proposed placement, and that the greenhouse is no longer there. Mr. O'Brien shared that Mr. Aquilino had stated it was no longer there already.

Mr. Kolligian confirmed with Mr. Aquilino that there would be fence around the greenhouse. Mr. Ramsdill confirmed with Mr. Aquilino that he would be willing to push the project 5 feet further in to the property.

There was discussion about the speed limit between Mr. Kingsley, Ms. Sablich, and Ms. Williams.

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Mr. Deloria explained that he sees a distinction between sheds and greenhouses.

Mr. Barrett shared that he took two laps around the property and found that the trees block the view for traffic, and that they will be removed, which will be an improvement for sight lines.

Mr. Ramsdill spoke of the shape of the property and the unique curve.

Mr. Kolligian and Mr. O'Brien explained to Mr. Aquilino that there is no one present supporting his application.

Mr. Aquilino shared that he met with Mr. Mykins to discuss his project and realized there was no where else to place the greenhouse on the property other than where he is requesting.

Mr. O'Brien asked if the greenhouse could be placed by the garden in the fence by the pool. Mr. Aquilino said he had no idea how he would get it in there with the raised bed gardens, patio, and landscaping.

Ms. Williams asked Mr. Aquilino if the pool fence could be extended further out without a variance. There was discussion between the Board and Mr. Aquilino about placing arborvitaes around the greenhouse.

The Board discussed the variance, the placement of the proposed greenhouse, and the uniqueness of the property.

Mr. O'Brien closed the public hearing at 7:33 p.m.

Mr. Ramsdill made a motion to approve Appeal No. 2022-16, Michael Aquilino, 10 Jessica Trace, Gansevoort, New York, 12831. Request for an Area Variance pursuant to Schedule A, R-1 District, of the Zoning Ordinance; property located at 10 Jessica Trace, Gansevoort, New York 12831, Tax Map No. 127.20-1-4, zoned R-1, in the Town of Wilton, be granted, for 25 ft. southwest front yard setback relief for a proposed 144 sq. ft. garden shed deviating from the original application of 30 ft. southwest front yard setback relief, conditioned on placing a 25 ft. row of arborvitaes equally spaced out to shield the greenhouse, property located at 10 Jessica Trace, Gansevoort, New York 12831, Tax Map No. 127.20-1-4, zoned R-1, in the Town of Wilton, was granted, because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because there are consistent accessory structures in the area. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because the unusual shape of the applicant's property with the pie shape creating no side yard due to the curvature of the road as well as existing structures. This structure could be placed 5 ft. from a side or rear property line due to the size, but because of the curved lot creating a front, there is a 50 ft. requirement. 3. The applicant has demonstrated that the requested Area Variance is substantial, but due to unique features of the lot, it is allowable with the plantings along the

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left side of the greenhouse. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it will be screened by the plantings and consistent with other accessory structure in the neighborhood. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Barrett seconded the motion.

Mr. Kolligian explained that the contingencies are hard to grasp, and believes that the Board and neighbors would benefit from seeing an amended plan.

Mr. Ramsdill confirmed with Mr. Aquilino that he was comfortable with creating a new plan and would come back to the next meeting.

Mr. Ramsdill withdrew his motion to approve Appeal No. 2022-16.

Mr. O'Brien re-opened the public hearing at 7:39 p.m.

There was discussion between the Mr. Deloria, Mr. Ramsdill, and Mr. Aquilino about the planting of arborvitaes.

At the applicants request, Appeal 2022-16 was tabled until the combined November/December meeting to be held Thursday, December 8, 2022.

Appeal No. 2022-17 Jeff Dennis, 228 Loudon Road, Saratoga Springs, New York , 12866. Request for an Area Variance pursuant to Schedule B, R-2 District and §129-157 of the Zoning Ordinance; property located at 228 Loudon Road, Saratoga Springs, New York, 12866, Tax Map No. 154.-2-52, zoned R-2, in the Town of Wilton.

Mr. O'Brien read correspondence from Kenneth Jackson, 129 Ruggles Road, stating he has no issue with the proposed location of the pole barn. Jeff Dennis, 228 Loudon Road, was present and explained his project to the Board.

Mr. Ramsdill confirmed with Mr. Dennis that the lot is a corner lot.

Mr. Dennis passed photos out to the Board of the proposed location on the lot of the pole barn and explained them to the Board.

Mr. O'Brien opened the public hearing at 7:45 p.m. and closed the public hearing at 7:46 p.m. due to lack of public comment.

Mr. Ramsdill made a motion to approve Appeal No. 2022-17, Jeff Dennis, 228 Loudon Road, Saratoga Springs, New York, 12866. Request for an Area Variance pursuant to Schedule B, R-2 District and §129-157 of the Zoning Ordinance; property located at 228 Loudon Road, Saratoga Springs, New York, 12866, Tax Map No. 154.-2-52, zoned R-2, in the Town of Wilton, be granted, for 30 ft. northwest side yard setback relief for a proposed 2400 sq. ft. storage shed, property located at 228 Loudon Road, Saratoga Springs, New York, 12866, Tax Map No. 154.-2-52, zoned R-2, in the Town of Wilton, was granted, because the benefit to

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the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the relief sought is only 10 ft. along the rear portion of the property, the proposed pole barn meets all other setbacks, and is located in a wooded area with no other structures near. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because there is a drop down off the road into the property, and the overhead door that is in front of the building will require a further setback off the road to maneuver into the building. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it is only 10 ft. relief being sought. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because there are other accessory buildings and garages in the vicinity, and it will minimally impact the rear of the lot with no other structures behind it. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Kolligian seconded the motion. All board members present were in favor. The motion passed.

Appeal No. 2022-18 Patricia Rosenbauer, 91 King Road, Saratoga Springs, New York, 12866. Request for an Area Variance pursuant to Schedule B, R-2 District and §129-157 of the Zoning Ordinance; property located at 91 King Road, Saratoga Springs, New York, 12866, Tax Map No. 142.-1-14, zoned R-2, in the Town of Wilton.

Patricia Rosenbauer, 91 King Road, was present and explained her application to the Board.

Mr. Ramsdill questioned the boundary. Ms. Rosenbauer explained that the realtor pointed out her boundaries but did not have a current survey. She had it surveyed last year, and it was concluded that the property line was different than what she had thought it was. Mr. Ramsdill asked why the land in the middle was undetermined? She explained that she got an answer from Anna from Saratoga County Real Property Taxes before the meeting and confirmed that there is not a small parcel there at all, and concluded that the parcel belongs to the Malesky's. Mr. Deloria asked Ms. Rosenbauer to share the correspondence from Anna at County with the Board.

Mr. O'Brien opened the public hearing at 7:52 p.m.

Peter Malesky, 97 King Road, said this is the first time he is hearing about this. He explained that as far as Ms. Rosenbauer and he knew that this piece of property is not owned by either of them. He bought his home 30 years ago and had it surveyed at the time, and his markers are in place. So there is a piece of land there that no one knows who owns it.

Mr. Deloria explained the email is stating from a tax standpoint and is for assessment information only. He is not sure how she (Anna) could be confident because tax maps are notoriously inaccurate.

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There was discussion between Mr. Ramsdill and Ms. Rosenbauer regarding survey pins. She explained she is there for her survey and not discussing anything else. The Board confirmed with Ms. Rosenbauer that the shed on the property to the east of her property is hers. There was discussion regarding a condition to be placed on the variance regarding the removal of the shed from the property to the east.

Mr. Kolligian asked Ms. Rosenbauer if the proposed shed/garage could be moved back onto the property without needing a variance. Ms. Rosenbauer shared that there are landscape issues in the back of her property. Discussion continued between the Board and Ms. Rosenbauer regarding the structure. Mr. Kolligian then asked how close the garage would be to the existing deck, then encouraged the applicant to request more relief to be further away from the home. The Board continued discussion about who the landowner is to the east.

Mr. Malesky stated he was dumbfounded about the property in between his and Ms. Rosenbauer. He also stated that Ms. Rosenbauer's surveyor indicated to him that the survey was accurate as far as its location as to his property.

There was discussion about moving the shed/garage further from the house between the Board and Ms. Rosenbauer. Mr. Deloria asked Ms. Rosenbauer if she would prefer it be further away from the deck. Ms. Rosenbauer stated that she has not thought about it. Mr. Ramsdill then stated they could grant the variance with a larger relief, but the structure can be placed closer to the house if she wanted. Ms. Rosenbauer accepted.

Mr. O'Brien closed the public hearing at 8:11 p.m.

Mr. Kolligian made a motion to approve Appeal No. 2022-18, Patricia Rosenbauer, 91 King Road, Saratoga Springs, New York, 12866. Request for an Area Variance pursuant to Schedule B, R-2 District and §129-157 of the Zoning Ordinance; property located at 91 King Road, Saratoga Springs, New York, 12866, Tax Map No. 142.-1-14, zoned R-2, in the Town of Wilton, be granted, conditioned on removal or relocation of an existing shed that is currently not on the applicants property. The applicant has requested a minor modification of the original Area Variance request of 24 ft. east side yard setback relief, to be increased to 28 ft. east side yard setback relief, property located at 91 King Road, Saratoga Springs, New York, 12866, Tax Map No. 142.-1-14, zoned R-2, in the Town of Wilton, was granted, because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because this will be an appealing garage/shed in style with the existing home, and not unlike existing sheds in the neighborhood. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because there are landscape issues for the rear of the property where relief would not need to be sought. 3. The applicant has demonstrated that the requested Area Variance is not substantial because the applications relief can be improved from 24 ft. relief to 28 ft. east side yard setback relief due to property lines, and the existing home and deck. 4. The applicant has demonstrated that the requested Area Variance will not have an adverse

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effect or impact on the physical or environmental conditions in the neighborhood district because it is a relatively small area that is being sought, and existing conditions of the landscape and neighborhood. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Deloria seconded the motion. Mr. Kingsley was opposed. Chairman O'Brien, Mr. Ramsdill, Mr. Barrett, Mr. Deloria, and Mr. Kolligian were in favor. The motion passed.

Adjournment:

Mr. Kingsley made a motion to adjourn. Mr. Kolligian seconded the motion. All board members were in favor. The meeting was adjourned at 8:17 p.m.

Dated: October 28, 2022

BOARD OF APPEALS

BY _____

Lisa Closson, Zoning Clerk

BY _____

Joseph O'Brien, Chairman