

Town of Marbletown  
 Stone Ridge, New York 12484  
 Physical Address: 1925 Lucas Avenue, Cottekill  
 Zoning Board of Appeals  
 Monthly Meeting  
 September 27, 2017

Minutes

**Agenda:** Chairman Husta called the meeting to order at 7:12pm and read the Agenda into the record

**Old Business**

**New Business:**

<u>Review time/ ZBA point person/ Zoning Permit date received</u>	<u>Applicant</u>	<u>Application</u>	<u>Location</u>	<u>Dist</u>	<u>Tax Map Number</u>	<u>Applicable Regs</u>	<u>Need and/or update</u>
7:30/Tom Smiley /ZP Rec'd: 9/19/17	Property Owner: New Beginnings Applicant: Cypress Creek	SUP for a large solar array	2585 rte 209	R-1	55.3-3-8.100	Local Law 6 of 2017;	SEQRA Classification; set PH Need: set Escrow

**Public Hearing:**

<u>Review time/ ZBA point person/ Zoning permit date received</u>	<u>Applicant</u>	<u>Application</u>	<u>Location</u>	<u>Dist</u>	<u>Tax Map Number</u>	<u>Applicable Regs</u>	<u>Need and/or update</u>
7:00/Parris Perry/ZP rec'd: 9/12/17	Kathleen O'Sullivan	SUP for an Accessory Apt	332 Marcott Rd	R-1	62.3-3-44.100	200-46(D)(15)	SEQRA Classification-Type II;
8:00 Brian Taylor/ Max Stratton/ ZP rec'd 6/2017	New Beginnings Farmstead/ Egidio and Elisa Tinti	A Special Use Permit for the use of an existing barn for a limited service eating establishment/catered public events	2585 Route 209	R-1	55.3-3-8.100	200-46; 200-39	SEQRA Classification; set PH Update: had 2 events submitted readings

**Attendees:**

- **Present:** Will Husta, Chairman;, Paris Perry, Vice-Chair Brian Taylor Alternate Kathie Grambling Tom Smiley
- **Absent ; Alternate Max Stratton;**

**Consultants Present:****Announcements:****Public Hearing**

Review time/ ZBA point person/ Zoning Permit date received	Applicant	Application	Location	Dist	Tax Map Number	Applicable Regs	Need and/or update
7:30/Paris Perry/ZP rec'd: 9/12/17	Kathleen O'Sullivan	SUP for an Accessory Apt	332 Marcott Rd	R-1	62.3-3-44.100	200-46(D)(15)	SEQRA Classification; set PH

Application overview: Applicant wants to convert 700 sq. ft of her existing residence into a 1 bedroom apartment.

The CEO completed the Zoning Permit showing her proposal meets the standards for an Accessory Apartment in the R1 district with a Special Use Permit

Public Input: None

Board Input:

Board reviewed Accessory Apartment criteria

The items listed below are considered the Zoning Board of Appeals to be the complete record for: Owner: Kathleen O'Sullivan

Application: The appellant, Kathleen O'Sullivan, has filed a Special Use Permit to be allowed to create a 773 sq. ft. Accessory Apartment within her principal dwelling located at 332 Marcott Road in the R-1 zoning district at tax map number 62.3-3-44.100 containing 14.1 acres.

**Appellant Exhibits**

Exhibit number	Exhibit name	Attachment number
A1	Application for Zoning Permit approved by CEO	1
A2	Special Use Permit with Plot Plan, floor plan and written compliance to both the general SUP and specific Accessory Apartment requirements	1

A3	Deed	2
A4	Fee	3
A5	Aerial of property with structures	4
A6	Short Environmental Assessment form	5
A7	Email with revised floor plan and lighting and views from all sides of the structure	6

### **Zoning Board Exhibits**

Exhibit number	Exhibit Name	Attachment number
Z1	Assessor property card	7
Z2	September 2017 Agenda	8
Z3	September 2017 neighbor notify for initial meeting	9
Z4	January 18, 2017 minutes	10
Z5	October 2017 Agenda	11
Z6	October 25, 2017 Legal notice for PH, published 10/20/17	12
Z7	October 2017 PH neighbor notification	13
Z8	October 2017 minutes	14
Z9	Final Record	15
Z10	Entire Code of Town Of Marbletown (cover only)	16
Z25	Final Determination	17

### **Public Exhibits-None**

Official Actions:

Member Kathie Grambling motioned to accept the record; member Brian Taylor seconded the motion which was thereupon called to a vote as follows:

Will Husta-Aye

Kathie Grambling-Aye

Brian Taylor-Aye

Paris Perry-Aye

Max Stratton-Absent

Tom Smiley-Aye

Motion carried by a vote of 5 ayes, 0 nays, 0 abstentions and 0 absent

Member Kathie Grambling motioned to close the PH; member Tom Smiley seconded the motion which was thereupon called to a vote as follows:

Will Husta-Aye

Kathie Grambling-Aye

Brian Taylor-Aye

Paris Perry-Aye

Max Stratton-Absent

Tom Smiley-Aye

Motion carried by a vote of 5 ayes, 0 nays, 0 abstentions and 0 absent

**SEQRA:** Under 617.4 of the State Environmental Quality Review Act, construction of or expansion of a single family, two family or three family residence on an approved lot is classified as a Type II action as per 617.5(c)(9)(11): “(9) *construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (11) and the installation, maintenance and/or upgrade of a drinking water well and a septic system*”. At a regular meeting of the Zoning Board of Appeals held on September 27, 2017 it was motioned by member Tom Smiley and seconded by member Kathie Grambling to classify this action as Type II under SEQRA therefore requiring no further action; The motion was passed unanimously. In addition to the foregoing, and based on the record before it including the EAF submitted to the ZBA and the reasons set forth in this determination, the ZBA further finds that the proposed Special Use Permit will not have a significant adverse impact on the environment.

**I. SPECIAL USE PERMIT REQUEST:**

A. On or about September 12, 2017, the Applicant, Kathleen O’Sullivan, applied for a Zoning Permit for an Accessory Apartment in accordance with Sections 200-66 and 200-46-D(15) of the Town of Marblertown Zoning Law. By this application the Applicant seeks to allow a proposed one bedroom 773 (553 of which is living space) sq. ft. Accessory Apartment to be located within a portion of the existing single family dwelling. The CEO determined on or about September 19, 2017 that the Zoning Permit complies with 200-66 and requires a Special Use Permit conforming to section 200-46 D-15 of Chapter 200: Zoning of the Town of Marblertown Code. The subject property is located at 332 Marcott Road in the R1 zoning district at tax map number 62.3-3-44.100 and contains 14.1 acres

**II. ZBA JURISDICTION:**

1. The Town of Marblertown use table, section 200-8, page 200:19 lists an Accessory Apartment as allowed in the R-1 zoning District by issuance of a Special Use Permit from the Zoning Board of Appeals and compliance with Supplementary regulations of 200:46(D) (15) on page 200:56<sup>1</sup> and the requirements adopted by the Town Board for Accessory Apartments via Local Law No. 3 of 2015.
2. The Town of Marblertown Zoning Law section 200-75(A), page 200:88 entitled Special Use Permit, states: “The Zoning Board of Appeals shall have the authority to issue special use permits pursuant to the provisions of Town Law 274-b and with regard to said authority is empowered to waive requirements subject to the criteria set forth in Paragraph 5 of said section 274-b. In the event of any conflict between the provisions of Town Law section 274-b and the provisions of this Article IX, the provisions of section 274-b shall control.”

**II. FINDINGS OF FACT AND CONCLUSION OF LAW:**

1. The Applicants’ property is within the R-1 zoning district of the Town and contains 14.1 acres.
- 2 The bulk requirements for the Primary Residence in R-1 zoning district as outlined in 200-20, are as follows:
  - minimum acreage for each single family residence: 3 acres, Applicant has 14.1 acres;
  - minimum lot width-125ft., applicant’s lot width is 698 feet wide;
  - front setback-40 feet- existing setback is 420 ft.;
  - side setback-30ft; existing setbacks standing on Marcott Road facing existing residence are left-475ft and right-250ft;
  - rear setback-30ft; existing setback is -600ft.;
  - maximum lot coverage-30%-proposed maximum lot coverage with the existing residence and existing garage is 0.4%
  - maximum building height-35ft.- existing residence height is 18ft.
3. The Applicant’s property is located off a private ROW that intersects with Marcott Road, a Town maintained Road.

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<sup>1</sup> All page references utilize the 2006 printing of the Zoning Law.

4. The immediately adjacent properties have the following acres, access and tax map number: a 1.90 acre parcel accessed off Marcott Rd, tax map number 62.3-3-48, owned by David Wilbur; a 1.0 acre parcel accessed off Marcott Rd., tax map number 62.3-3-47, owned by Lebowitz Family trust; a 7.60 acre parcel accessed off Coxing Rd., tax map number 62.3-3-43.100 owned by Evans Agripidis; a 7.5 acre parcel accessed off Coxing Rd., tax map number 62.3-3-43.200 owned by Louise Paloympis; a 3.40 acre parcel accessed off Marcott Rd., tax map number 62.3-3-44.200 owned by Kathleen O'Sullivan; a 14.9 acre parcel accessed off Marcott Rd., tax map number 62.3-3-34 owned by Hope Macleod; a 6.75 acre parcel accessed off Marcott Rd., tax map number 62.3-3-45 owned by David Weinstein
5. The Applicant's house is approximately 420ft. from the nearest residence
6. Accessory Apartments have been allowed in the Town since Local Law No. 1 of 1989. The Town Board revised the existing Accessory Apartment regulations via Local Law No. 3 of 2015, which became effective upon filing with the Secretary of State on January 6, 2016. A copy of the adopted Local Law is annexed to this determination.
7. As stated in the Zoning Law, it is the intent of the Accessory Apartments provision to expand affordable housing opportunities in the Town, particularly for small families and senior citizens, to allow more efficient use of existing large structures, to provide expanded economic return to enable older homeowners to maintain their home and to provide options for live-in help or health providers.
8. The application for a one bedroom 553 sq. ft. Accessory Apartment within the principal residence requires a Special Use Permit.
9. The Applicant's existing septic and well use will not be altered as the one bedroom for the Accessory Apartment is already an existing bedroom.
10. A copy of the floor plan for the proposed Accessory Apartment was submitted and reviewed by the Board and a copy of which are annexed to this determination.

**IV. SPECIAL USE PERMIT GENERAL AND SPECIFIC CRITERIA AND BOARD FINDINGS 200-46-C(1-4) PAGE 200:50 AND 200d(15), PAGE 200:56**

**1. There shall not be any detrimental effect by the establishment of such use on other uses within the district**

**Finding:** The intent for an Accessory Apartment is to create opportunities for families to be able to live together without having to create large second dwelling units. The Applicant has proposed to allow the conversion of 773 (of which 553 is living space) sq. ft. of an existing single family residence. The Accessory Apartment will be completely contained within a conforming building. The applicant is proposing to create the accessory apartment by partitioning off a portion of the existing residence. An addition to the existing structure is not being proposed as part of the application. Based on the above facts, the Board finds that there will be no discernable impact on any neighbor or use within the district. The creation of the Accessory Apartment in the existing single family residence will not create any detrimental effect on other uses within the district.

**2. That such use will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls, fences, and parking area will not discourage the appropriate development and use of adjacent lands.**

**Finding:** Accessory Apartment use is permitted in the R-1 Zoning District. The Accessory Apartment will be completely enclosed within an approved single family dwelling that meets setback and density. The Board finds that nothing about the creation of the Accessory Apartment will adversely affect the orderly development of the District and will be in harmony with the District and that the nature, height of buildings, walls fences, and parking area will not discourage the appropriate development and use of adjacent lands.

**3. That all structures, equipment and materials shall be reasonably accessible for fire and police protection**

**Finding:** The property is located in the Cottekill Fire District and is served by the NYS Troopers and Ulster County Sherriff. The CEO will require and ensure the measures necessary according to State Code to permit occupancy of the Accessory Apartment.

**4. That the use meets the prescribed requirements for the district in which located, including minimum yard requirements for the district in which located or as further specified in this section and including maximum height, required off-street parking and sign regulations**

Specific requirements for an Accessory Apartment as approved in Local law No. 3 of 2015 is below

Accessory Apartment regulation as per local law #3 of 2015	Applicant has or proposes	Applicant meets requirement-yes or no
(15) Accessory Apartments. Apartments accessory to the principal permitted residential use of a building are permitted in all districts, except the I-1 District, subject to a special use permit	Property is in R-1 zoning district	Yes
a. Lot Area. An accessory apartment complying with the following standards shall not require any increase in lot area.	14.1 acres	Yes
b. Owner Occupancy. The owner of the property on which an accessory apartment is located must be an occupant of either the principal residence or the accessory apartment.	The Applicant will live in either the primary residence or the Accessory Apartment	Yes
c. Age of Structure. An accessory apartment shall be located in the principal dwelling, provided that such principal dwelling was originally constructed at least ten years prior to the date of the application for a special permit.	Existing Residence built in 1975	Yes
c. Lot size. The lot must be at least one acre in area to allow a dwelling unit plus and accessory apartment.	14.10 acres	Yes
d. Apartment Size. The maximum floor area for an accessory apartment shall not exceed 700 square feet. The accessory apartment shall have no more than one bedroom. The ZBA may modify, subject to appropriate conditions, the requirements of these regulations relative to the floor area of an accessory apartment where it determines that apartment size of more than 700 square feet is appropriate due to specific characteristics or features of the	Proposed Apartment is 773 sq. ft., but only 553sq. ft. of living space	Yes

building, and when such increase will not adversely affect public health, safety and general welfare of the Town.		
e. Number of Accessory Apartments. There shall be no more than one accessory apartment or a total of two dwelling units per lot permitted under this subsection.	Only 1 Accessory Apartment proposed	Yes
f. Exterior Appearance. The exterior appearance of the building shall be altered only to the minimum extent necessary to accommodate the accessory apartment. No more than 100 square feet may be added to the exterior of the structure in order to create an accessory apartment.	Setbacks would allow an addition of 100 sq. ft. or less, which is has not been requested by the applicant. No additional exterior changes to the garage/workshop are proposed by the addition of the Accessory Apartment	Yes
g. Water and Sewer Service. Prior to the issuance of a building permit for the establishment of an accessory apartment in a principal dwelling, approval of the proposed method of water supply and sewage disposal shall be obtained.	Applicant has submitted plot plan showing existing septic and well locations. An existing bedroom will be used to create the apartment so no additional water or septic loading is expected.	Yes
h. Off-street Parking. At least one additional off-street parking space shall be provided for the accessory apartment. In no case shall there be parking space for less than a total of three cars on the property.”	Applicant has delineated 4 parking spaces	Yes

**Finding:** The Accessory Apartment meets all the requirements of Local Law No. 3 of 2015. The one required parking space for the apartment will be located near the existing dwelling.

**Conclusion:** In reviewing all applicable requirements for a Special Use Permit and weighing the needs of the applicant against the public health, safety and welfare, the Board finds that the Accessory Apartment, which is allowed by Zoning, meets the prescribed requirements for the R-1 zoning district and is supported by the facts that: it is wholly contained within a structure that conforms to the prescribed requirements for the R-1 district, including minimum yard requirements, maximum height and the one required off-street parking requirement is provided. The granting of a Special Use Permit is in order.

**Conditions:**

-The Applicant must live in either the Accessory Apartment or the principal residence.

-Prior to issuance of the C/O for the Apartment, the Applicant will rectify the incorrect 911 numbering from Marcott Road to ‘Leon Lane’ as shown on the attached Tax Map

-Prior to issuance of a C/O, the Applicant shall install an approved road sign for ‘Leon Lane’

-The owner of the property must occupy one of the living units

**Determination:** At a regular meeting of the Zoning Board of Appeals, it was motioned by member Kathie Grambling to approve with conditions the Special Use Permit for a one bedroom 773 sq. ft. Accessory Apartment in the existing single family dwelling, on 14.10 acres; the motion was seconded by member Brian Taylor and was thereupon called to the following vote of the members assigned to the application:

Will Husta-Aye  
 Paris Perry-Aye  
 Brian Taylor-Aye  
 Tom Smiley-Aye  
 Kathie Grambling-Aye

The motion having been made, seconded and voted upon was approved by 5 ayes; 0 nays; 0 abstentions; and 0 absent.

## **Application 2**

7:30 Brian Taylor/ Max Stratton/ ZP rec'd 6/2017	New Beginnings Farmstead/ Egidio and Elisa Tinti	A Special Use Permit for the use of an existing barn for a limited service eating establishment/ catered public events	2585 Route 209	R-1	55.3-3- 8.100	200-46; 200-39	SEQRA Classification; set PH
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Application overview-The Applicants bought the old Generation Farm and would like to hold weddings in the 3,200 sq. ft. barn. The CEO completed the required Zoning Permit and classified the use as Limited Service Eating Place for Catered Events allowed in the R-1 district with a Special Use Permit. The property is in a certified Agricultural district and they can have by right ag events such as maple festivals, but these would be in addition to those.

Public Input:

None

Board Input:

Official Actions:

Member Tom Smiley motioned to continue the public hearing on 11/15/2017 ; member Kathie Grambling seconded the motion which was thereupon called to a vote as follows:

Will Husta-Aye  
 Kathie Grambling-Aye  
 Brian Taylor-Aye  
 Paris Perry-Aye  
 Max Stratton-Absent  
 Tom Smiley-Aye

Motion carried by a vote of 5 ayes, 0 nays, 0 abstentions and 0 absent

## **New Business**

8:00 Brian Taylor/M	New Beginnings	A Special Use Permit for the use of an existing	2585 Route 209	R-1	55.3-3- 8.100	200-46; 200-39	SEQRA Classification ; set PH
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ax Stratton/ ZP rec'd 6/2017	Farmstead/ Egidio and Elisa Tinti	barn for a limited service eating establishment/cat ered public events					Update: had 2 events submitted readings
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Application Overview-Applicants propose to put a 2MW community facility on the upper field owned by the Tinti's

#### Public Input

Visual impact to Pine Tree Lane

Inverter noise

Fence

Stormwater

Rock ledge disturbance

#### Board Input

Point Person Tom Smiley noted the file is woefully uncomplete. Applicant was directed to go back and submit a more complete file

#### Official Actions:

Member Tom Smiley motioned to establish an escrow in the amount of 1.000.00; member Brian Taylor seconded the motion which was thereupon called to a vote as follows:

Will Husta-Aye

Kathie Grambling-Aye

Brian Taylor-Aye

Paris Perry-Aye

Max Stratton-Absent

Tom Smiley-Aye

Motion carried by a vote of ayes, 0 nays, 1 abstentions and 1 absent

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#### Action items

#### Correspondence:

**Paris Perry** motioned to adjourn the meeting; Tom Smiley seconded the motion which was thereupon called to a vote as follows:

Will Husta-Aye

Kathie Grambling-Aye

Brian Taylor-Aye

Paris Perry-Aye

Max Stratton-Absent

Tom Smiley-Aye

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 1 absent

**Meeting adjourned at 9:00pm.**

Respectfully Submitted,

Maggie Colan, ZBA Secretary