

**Town of Marbletown
Stone Ridge, New York 12484
Zoning Board of Appeals
Monthly Meeting
December 20, 2017**

Minutes

Agenda: Chairman Husta called the meeting to order at 7:05pm and read the Agenda into the record

Public Hearings:

- **James and Karin Reynolds**-Area Variance
- **Celia Seupel**-SUP Other Traveler Accommodation

Attendees:

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

Announcements:

- **Alternate Kathie Grambling is acting for Brian Taylor**

New Applications:

- **Tom Brownlie**-SUP

Old Applications: None

Public Hearings: New Beginnings –Special Use permit to hold Events at 2585 Route 209, tax map number 55.3-3-8.100. **Draft Determination circulated.**

Application 1:

James and Karin Reynolds have filed an Appeal requesting a 3 foot 6 inch front setback Area Variance for a barn, a 1 foot-1 inch front setback variance for a shed and a 10 inch front setback variance for a shed. All three structures were built without proper building permits. The property is located at 94 Brink Farm Road in the R-1 zoning district at tax map number 62.3-2-13.200 and contains 23.90 acres.

ZBA Assigned to Application: Will Husta, Max Stratton-Co Point Persons; Paris Perry; Tom Smiley; Kathie Grambling **Applicant Representative:** James and Karin Reynolds

Zoning Permit received: 5/22/2013

History: In 2006, the Applicants were issued three violations by the CEO for constructing 3 barns without building permits. The CEO determined as part of the violation, that all 3 structures were either in the ROW and/or in violation of the front setback. The Applicants disagreed with the CEO's determination and filed an Appeal with the ZBA. The ZBA upheld the CEO's determination that the structures were required to meet the front setback requirements. The Applicants approached the Supervisor requesting the Town consider adopting different setback requirements for private roads versus larger developments. They also stated they had very few choices about the road when they did the sub-division. The Town Board adopted, at the recommendation of the Town's Planning/Zoning Committee, modified setback requirements for certain situations. The Applicants are applying for an Area Variance to rectify all 3 structures so they can finish the process with the building department.

Application Presentation Karin Reynolds described the request for the front setback variance request of 3' 6" for the 24' x 34' barn; a 1 foot 1 inch variance for the medium shed; and a 10 inch variance for the smallest shed (which is less than 150 sq. ft.). The 2 smaller sheds are also within the designated ROW slightly. The Applicants presented a letter from their Attorney that they had previously submitted during their Appeal application which asserts that there is no specific requirement for a Town to require structures, trees, etc. not be placed within the un-developed portion of a ROW. Their property has significant wetlands on it and when they built the sheds/barn, they attempted to follow the traditional farming plan of placing buildings closer to the road. Since they are agriculture buildings, they believed were exempt from permits. Brink Farm Road is a private road and there is only one other property that is past their house. The new setback requirements have reduced their setback request by 10 feet. They feel the current requests are reasonable.

Applicant answers to Variance criteria-

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties?

No, the location of the barn close to the driveway effectively screens the driveway from unsightly 'backyard' activities, preserves the available open space, does not contribute to the 'suburbanization' of Marbletown, and is in alignment of the desirable rural character of our area. No, both our adjacent neighbors have publicly declared that a detriment to their properties is not produced.

2. Whether the benefit sought can be achieved by some method feasible?

The barn is built according to our initially approved site plan (for the residence) as an Agricultural Structure on a rural property. There is no feasible method other than demolition and re-built.

3. Whether the requested area variance is substantial?

No, existing distance barn/ CL driveway is 46'-6", required setback is 50'.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions

No, since the barn was built in 2002 there have been no accidents along this part of the driveway. The private ROW driveway is a 10' gravel road with sufficient clearance for two vehicles to pass and has established vegetation for screening on both sides that leaves as much as possible in a natural state. The distance from the edge of our gravel driveway to front of barn is 46'-6", exceeding the "safety" front yard setback of 40'. No, the location of the barn close to private ROW driveway actually reduces an undesirable disturbance of the environment and enhances the rural character of the area.

5. Whether the alleged difficulty was self-created.

The current condition certainly was self-created, but our position is that it does not represent a 'difficulty' but rather a collectively desirable enhancement, and moreover is consistent with the stated town planning goals. There has been some significant effort by the town to better reflect the appropriate legislative requirements for these types of conditions, but in this case it is our opinion that those provision in the current law do not go far enough.

ZBA Questions/Applicant Answers:

- What are the sizes of the structures? 24 x 34; 20 x 30; less than 150 sq. ft.

Referral Input: None

Public Input:

- Not allowed to ask for Variance as time expired after 2008 Appeal

Neighbor Concerns:

- Why no building permits
- What is the difference in the property line versus the edge of the ROW
- Are the two smaller sheds staying where they are
- Can the rest of the neighbors still get access

Official Actions:

Tom Smiley motioned to **continue the Public Hearing for document input only on January 24, 2018; Paris Perry** seconded the motion which was thereupon called to the following vote:

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

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 2 absence

Application 2:

Celia Seupel is applying for a **Special Use Permit** to be allowed to have up to 4 travel trailer campers on her property and rent them out. Property is located at 60 Cedar Hill Rd in High Falls in the R-1 zoning District at tax map number 70.3-4-22.400 and consists of 35 acres

ZBA Assigned to Application: Brian Taylor, Kathie Grambling-Co point person; Will Husta; Paris Perry; Tom Smiley; Max Stratton

Zoning Permit received 11/6/17 classified as 'Other Traveler Accommodation'

Application Presentation: **Celia Seupel** described the plan for developing 4 sites on her property that would contain self-contained travel trailers that she would own and rent out from May-Oct. on weekends. There would be no trailers brought to the property. BOH stated it is acceptable to just have them pumped out. I currently have a 3 room B & B approved in my house. Since last meeting submitted Revised site plan; working on naming ROW; Proof of BOH ok for Septic pumping and one well for all

Board Questions/Applicant Answers:

How will water be supplied? Answer: one well connected to all 4.

Do you own both lots around the main house? Answer-yes

What is the proposed setback to tax map number 70.3-4-22.200? Answer- I can make it whatever is needed

Will you be present in the house? Answer- yes

Who owns the ROW? Answer-I do.

Public Comments: None

Board Discussion:

Supplementary Regulations for Other Traveler Accommodation, 200-46D(3) does not necessarily fit proposed use. Use fits definition of Bungalow Colony, but Bungalow Colony is not listed in Use table.

SUP Criteria:

a) no detrimental effect on other uses within the District

I feel my proposal will have a positive effect within the District. One of our sustaining enterprises within the district is tourism. Mohonk Mountain House is close by, and there are a number of Bed and Breakfasts within the District, including mine, that contribute to the charm and attraction to the area as well providing business at local retailers and tax income for the District.

The proposed use of my property is similar to what was granted in my original variance. I am proposing a limited extension of my B&B business by accommodating tourists in four attractive, high-end camper trailers that I will own and take care of. As with a Bed and Breakfast, tourists will be permitted to bring only a car and will not be permitted to camp elsewhere on the property.

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Furthermore, the campers will not be visible or audible from any other property in the district. There are acres of woods between the location of the campers and any other property. Thus, any adjacent property can be developed or sold for any use without any impact.

b) use in harmony with District development

As a community member who participated in the original "visioning" of district development many years ago, I am committed to maintaining the beautiful and rural nature of our area.

I own 45 acres with one home; about 44 acres of my property is natural woodland.

As you can imagine, paying property taxes is very difficult. Rather than cutting down the forest and selling off the land in small parcels to build houses, I am trying to develop the land to preserve the woodland and also earn enough money to pay my property taxes.

In my proposal, I seek to develop a lovely area within the woods for the accommodation of travelers. There will be very minimal disturbance of the surrounding lands and minimal impact. Nothing will rise above the height of about 14 feet and no structures are planned, only landscaping. This will be a private area, and no part of it will be visible to any adjacent lands.

c) reasonable access to emergency vehicles

The camping area will be completely accessible to emergency vehicles in the same manner as the house, via the driveway.

d) use meets the prescribed requirements

All of the minimum yard requirements, parking and prescribed provisions have been met and exceeded, as detailed on the map.

Official Actions:

Paris Perry motioned to **continue the Public Hearing for document input only on January 24, 2018;**

Kathie Grambling seconded the motion which was thereupon called to the following vote:

Will Husta-Aye

Paris Perry-Aye

Brian Taylor-Absent

Tom Smiley-Aye

Kathie Grambling-Aye

Max Stratton-Absent

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 2 absence

New Applications:

Application 1

Brownlie, Tom-Special Use Permit for Commercial Event Venue on property located at 73 Mill Dam Road in the R-1 zoning district. Tax Map Numbers 62.3-1-47.212 & 62.3-1-47.213 containing a total of 80 acres

Zoning Permit received on:

ZBA assigned to Application: Paris Perry-Lead, Will Husta, Tom Smiley, Brian Taylor, Kathie Grambling

Application overview:

Applicant has an existing residence on 80 acres which contains a Bed & Breakfast. He is requesting to be allowed to have up to 12 wedding type events on his property for up to 200 people. Initially the events would be under a tent, but if successful, he would build a barn like structure that is insulated and sound proof.

Neighbor concerns- a number of the neighbors were present and shared many of the same concerns listed below:

- Traffic
- Noise

- Visual impact
- Hours of operation
- Number of events
- Disruption of residential area
- Lighting
- Ground disturbance
- Public safety
- If alcohol served, cut off before driving
- Does 10:00 end time mean event or just music
- Water pollution
- Effect on value of neighboring properties

Board Discussion: Paris Perry, as Lead for the Application explained to the public the process the Board will go through in reviewing the application: a sound test will be conducted at a time that it is likely people will be home, the Board will assess all factors in their determination.

The Secretary notified the Applicant and the Board that Mr. Brownlie had recently completed a lot line adjustment application with the Planning Board that had conditions. Mr. Brownlie was instructed to get a letter of clearance from the Planning Board.

Official Actions:

Paris Perry motioned to **schedule the public hearing for January 24, 2018; Kathie Grambling** seconded the motion which was thereupon called to the following vote:

Will Husta-Aye

Paris Perry-Aye

Brian Taylor-Absent

Tom Smiley-Aye

Kathie Grambling-Aye

Max Stratton-Absent

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 2 absence

Paris Perry motioned to classify the action as **Type II # XXXX** under SEQRA; **Will Husta** seconded the motion which was thereupon called to the following vote:

Will Husta-Aye

Paris Perry-Aye

Brian Taylor-Absent

Tom Smiley-Aye

Kathie Grambling-Aye

Max Stratton-Absent

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 2 absence

Action Items:

1.Cypress Escrow- Kathie Grambling motioned to **increase the escrow by 500.00; Tom Smiley** seconded the motion which was thereupon called to the following vote:

Will Husta-Aye

Paris Perry-Aye

Brian Taylor-Absent

Tom Smiley-Aye

Kathie Grambling-Aye

Max Stratton-Absent

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 2 absence

2. Nelson Pope Escrow voucher for Cypress Creek- Tom Smiley motioned to **pay the voucher in the amount of 607.50 from the escrow;** Paris Perry seconded the motion which was thereupon called to the following vote:

Will Husta-Aye

Paris Perry-Aye

Brian Taylor-Absent

Tom Smiley-Aye

Kathie Grambling-Aye

Max Stratton-Absent

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 2 absence

3. Paris Perry motioned to hold an **additional ZBA meeting on Wednesday, January 10, 2018 at 7:00PM** for the purpose of **reviewing Determinations;** Will Husta seconded the motion which was thereupon called to the following vote:

Will Husta-Aye

Paris Perry-Aye

Brian Taylor-Absent

Tom Smiley-Aye

Kathie Grambling-Aye

Max Stratton-Absent

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 2 absence

Minutes: None

Official Actions – Close:

Paris Perry motioned to **adjourn the meeting.** Kathie Grambling seconded the motion that was thereupon called to the following vote:

Will Husta-Aye

Paris Perry-Aye

Brian Taylor-Absent

Tom Smiley-Aye

Kathie Grambling-Aye

Max Stratton-Absent

Motion carried by a vote of 4 ayes, 0 nays, 0 abstentions and 2 absence

Meeting adjourned at 10:00pm.

Respectfully Submitted,

Maggie Colan, Secretary