

Town of Marbletown  
Zoning Board of Appeals  
PO Box 217, Stone Ridge, NY 12484  
(845) 687-7500 Ext. 171  
Email: [planning@marbletown.net](mailto:planning@marbletown.net)

*Zoning Board of Appeals  
Approved Minutes  
October 21<sup>st</sup>, 2021*

Meeting Called to Order by Chairman Smiley

6:00 p.m.

Pledge of Allegiance

Announcement & Communications

- One potential application for an extension on a previously approved area variance was entertained but will not be presented this month as the applicant rescinded their request. The application will come before the board at a later date.

**Quorum:**

Board Members Present – Tom Smiley, Kathie Grambling, Brendan Masterson, Zach Bowman, Egidio Tinti

Town Employee's Present – Michelle Solcberg, Tracy Kellogg

**New Business:**

- 1.) Silva Area Variance – Variance for a Side Yard Setback on a Carport  
18 Spongia Road, Stone Ridge, NY, 12484 SBL: 61.2-1-21

Chris Silva (Applicant) explained his Variance request to the Board:

- Application is for a Carport to be placed in the side yard setback
- Difficulty in placing the Carport due to terrain; incline and grade of driveway and yard
- Will need the additional distance into the side yard to make navigation of the incline and the driveway possible

The Board discussed the Application, reviewed documents, photos, and queried the Applicant on the project and parcel particulars:

- Cannot move the Carport any closer to the house because of the turnaround area
- Two inclines to contend with in placing the Carport
- Carport is "hundreds of feet" from neighboring houses
- Applicant reports the neighbors cannot see his house and he cannot see theirs
- The carport would not be visible to the neighbors
- Rough measurement is 600 feet from Carport to neighboring homes

Zach Bowman assumed the role of Board Point of Contact and Application Lead

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***Motion to set a Public Hearing by Brendan M., second by Zach B.; call of the roll with unanimous Aye (5-0)***

**Old Business:**

2.) Dutchess Farm Appeal of Code Enforcement Officer Determination – Continued Public Hearing

Mike Warren – Applicant / Kyle Barnett – Attorney for Applicant

Chairman Smiley – Public Hearing remains open for Document Submissions only; tonight, I would like to review and verify that we have all the documentation utilized in the drafting and issuance of the Violations.

The Board discussed the two documents submitted by the attorney representing Dutchess Farms

Code Enforcement Officer Dave Allen verified that the items used to document, draft, and issue the Violations are in the Boards possession and confirmed no additional items were required to be submitted. Mr. Allen confirmed that the items contained in the file from Peak Engineering and Code Enforcement Officer Shawn Marks were complete and included in the file.

Mike Warren: The Town did not submit all the documents that we had previously requested

Tom S.: I believe these documents were provided with the FOIA requests that you previously submitted. The documents were sent to Replansky. I requested a copy of the Towns records of what was sent and I believe they were all in there. I believe these were all in there. If you don't have something which is on here, it can be sent.

Mike Warren: They didn't send, they did not submit everything that we asked for. <statement about Judge Mott which is inaudible> You're mixing up apples and oranges.

Kyle Barnett: If you can send this to me. I spoke to Replansky a while ago, and he indicated that there were some items that were not provided. If you can provide those documents.

Tom S.: Are there any other documents used or databases accessed?

Dave Allen: No

Kyle B.: So, what you're going to send me is the complete record that the Building Inspector relied upon when writing the complaint?

Tom S.: Yes, that's my understanding. That's what this represents. Before you arrived, I asked Mike about the two files that were submitted by you, and if there were any other submissions you would like to make?

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Kyle B.: Yes. We have the North Letter, and I think my office sent over a letter earlier today. We don't have any other documents that you guys requested.

The Board was queried by the Chair as to any details of specific items they wished to discuss

Tom S.: We received a letter from North, an Engineer, who did a site inspection. It appears that he laid it out against the Peak site inspection from the initial notice of violation and gave his opinion.

Kyle B.: Before we adjourn though, and you can email the documents to me also, is it possible to get a printout of the list this evening?

The Board and Attorney for Duchess Farms discussed the transfer of documents from the ZBA file via email and screenshot

Kyle B.: My understanding is that this is the list of documents that the Building Inspector relied upon when making the complaint?

Tom S.: That is correct. The other piece that was in here, there is a subfile that has the photos from the site inspection by the Building Inspector.

The Board reviewed the Photos contained in the Code Enforcement Officer documentation file. Photos were taken in February 2020 during a site inspection by the Code Enforcement Officer.

Kyle B.: It was Shawn that went out and did the inspection?

Tracy Kellogg: There was an initial inspection, and then there was a second inspection from which I believe these photos were taken.

Kyle B.: The dates of inspection are in the violation notice?

Tracy K.: Correct.

The Board Secretary and Attorney for Duchess Farms discussed the electronic transfer of documents via email.

The Board continued to review the photos in the file

Tom S.: Notice of violation says February 26<sup>th</sup>, 2020.

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Kyle B.: That's when these were taken, and that was by Shawn?

Tom S.: That's what I'm trying to confirm.

Dave Allen: That was Shawn.

Kathie Grambling: Which Road is this?

Mike Warren: This is Bridal Path. There's nothing, there's no construction going on.

Kathie G.: But where is it located?

Mike W.: The last road. Oh, no, that's Palomino path. I couldn't, the bad weather.

Kathie G.: And this photo is the same?

Mike W.: No, that's the one all the way in the back.

Kathie G.: So, we have a collection of road here?

Tom S.: Yes, multiple roads.

Kyle B.: When I get these photos, is it going to identify which roads these are?

Zach B.: It does not appear to, no.

Mike W.: But you have the road video too, which was right after this.

Mike Warren provided details and descriptions of the photos that the Board was viewing

Tom S.: Mike, the stormwater retention pond, that's it right there?

Mike W.: This was just when the road was roughed in. That's the stockpile of the topping. You can't go to there because this was blocking it. And that's in his notes.

The Board continued to view the Photos from the Code Enforcement Officer's site visit contained in the CEO File.

Tracy K.: That the dirt pile blocking.

Zach B.: The topping.

Tom S.: Fancy dirt.

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Mike W.: That's called Solite (sp?).

Kathie G.: This was 2020 still? Has anything changed?

Zach B.: Yeah, yes.

Tom S.: There was a subsequent site visit and there is a site visit report for that. Our focus is the conditions at the time of the notice.

Tracy K.: This is what it looked like at the site on the date that the violation notices are based on.

Egidio Tinti: Mike, you said that's Solite for the top, ok that's the stuff that goes on top? When was that brought in, do you remember?

Mike W.: Yes. That was stockpiled there so we could use it. This was in the middle of wintertime, January or February. Note it wasn't being used.

Egidio T.: Do you remember when you had it hauled in? Was it brought in just before the photographs?

Mike W.: Yeah. It was wintertime, they just stockpiled it. Because nothing was down there. There was no houses, no construction.

Egidio T.: Do you just level it off and roll it?

Mike W.: Yeah, it packs, its nice. It's almost like millings. It better than the item. Item is what you can get today. Millings is the best thing you can get. You can pack it like asphalt. Solite is the next thing that will pack. I'm not a fan of item 4, but its what you can get.

Egidio T.: So, in that picture right there, the large one, that's the Solite?

Mike W.: Yeah. What happens after that, once it down, in the winter time you're not really driving on that, but once it down, then you scrape it, and then you have the heavy trucks come in and it just packs down. I don't plow that, its soft. You wait until the time is right to put it down. Once its packed, then its beautiful. Once it down, then you can plow.

Tom S.: Dave, did you get a good look at the photos. Is everything there to your recollection?

Dave Allen: Yes.

Tracy K.: Was that pile sufficient to cover the full roads?

Mike W.: No. They just start stockpiling it.

Egidio T.: There were a couple of those piles?

Mike W.: You get it when you can. You just stockpile it. You see, they started back, and then they came up towards the first house. You see the posted signs. That's private property.

Tracy K.: So, you hadn't sold any lots behind that?

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Mike W.: No. There's no construction. There are no building permits. There's nothing going on at that time. If anyone goes down there, it's trespassing.

Tom S.: So, there wasn't any site development work going on? No stormwater, no road construction?

Mike W.: No. None. It was the middle of wintertime. And you can't get from here to there. The roads blocked.

Tom S.: That could all be moved out in two days.

Mike W.: Oh, yeah.

Tom S.: It's blocked today, but that doesn't mean it doesn't...

Mike W.: Yes, but at the site visit, that was a blocked road with posted signs.

Egidio T.: So, when was that spread?

Mike W.: I don't remember.

Egidio T.: I've never used that Solite stuff. I've never seen it used before. It's interesting to me.

Mike W.: It's a nice product but like I said, don't do it when it's wet. And then pack it, and it's beautiful.

Egidio T.: So chances are this had to be dried out before you did that?

Mike W.: The thing is, you have to get it while you can. They only give out certain permits to certain contractors. Used to be it was almost free. And then everyone found out how good it was, they raised the price, and then they doled it out. Used to be they just gave it away years ago. It will wear down. If you're not in impervious surface roads, you have to do maintenance depending on, especially if you have construction going on. Trucks will grind this down. Not as bad as item, but it will break down. And this was before the DEP put a road in the back. The DEP has another road all the way in the back. There's a whole section of road. They couldn't use my material; I wouldn't let them. It was 54 loads of material that came in over my road base. We had to give them an easement.

Tom S.: Can we pull up parcel viewer so we can see where that starts and that ends? I'd like to understand where that is, the DEP road.

The Board and Mike Warren viewed the Ulster County Parcel Viewer and Mr. Warren pointed out the details that the Board wishes to know regarding the DEP road.

Tom S.: Ok, so it goes diagonally down by the end of the cul-de-sac. How did they get to the cul-de-sac?

Mike W.: The road base was already put in.

Tom S.: So, they went across the road base?

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Mike W.: Yes, with 54 loads. Triaxles.

The Board continued to view the Ulster County Parcel Viewer and the photos in the CEO file.

Tom S.: In this photo here, what's happening here Mike?

Mike W.: That's the pond. Where the pond is.

Tom S.: Ok. And this was the same date no other work was being done? I'm trying to understand, was the road under construction, the stormwater under construction?

Mike W.: You can't see the pond.

Tom S.: I can see a pond.

Mike W.: Its right there, that's where the pond is.

Tom S.: Is that a feature that's always been there, or something that was excavated out?

Mike W.: Yeah, and you have pictures of it already. In this picture you can't really see. It looks like a muddy field.

Tom S.: I see a muddy field in the foreground, and I see a lot of grade stakes laid out, so I'm trying to understand.

Mike W.: No, those aren't grade stakes. That's where the fence is going. Those are lot lines.

Tom S.: Alright. I'm hearing that there was no construction going on at the time, but some of these photos show what looks like construction going on. So, I'm trying to understand.

Mike W.: I mean, if this was like 6 months previous, this was untouched. You put a road base; you finish a road base, so you have something to work with. The pond was there.

Tom S.: So, site development was underway as of that date?

Mike W.: Yes, before that.

Tom S.: So, you're saying that your road wasn't finished but development was underway?

Mike W.: It was in the middle of wintertime.

Egidio T.: When was the base put in?

Mike W.: It was back in, uh, quite a while ago.

Brendan Masterson: We saw that through the parcel viewer last month.

Tracy K.: Mike, when did you spread the topcoat then?

Mike W.: I don't remember. This is, now you're going back years. I don't know.

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Tracy K.: This was February. A year ago, February.

Egidio T.: It's almost two years ago.

Tom S.: So, this is the natural pond?

Mike W.: Yes.

Tom S.: It's always been?

Mike W.: Yes, yes. The stormwater when it was designed, the stormwater was designed so that the water goes where it always went. There was always a farm pond in that location for the last 70 years. That's one of the little low spots.

Tom S.: Is there anything else that the Board would like to see? I believe we've got confirmation that this is a complete file.

No additional questions or comments

***Motion to continue to Public Hearing for Document Submission only to November 17<sup>th</sup>, 2021, by Kathy G., second by Zach B., call of the roll with unanimous Aye. (5-0)***

Kyle B.: So, what's going to take place on the 17<sup>th</sup>?

Tom S.: A continuance.

Kyle B.: I heard you say something about documents?

Tom S.: We've closed the public hearing for comment, but we've kept it open for documents. We typically keep the public hearing open until our determination in case anything is submitted or comes up.

Kyle B.: So, on the 17<sup>th</sup>, that's open for document submission. What happens after that?

Tom S.: Ultimately when we have everything, we feel we need to make a determination then the Board will close the public hearing.

Kyle B.: So even the public can submit documents?

Tom S.: Yes.

Kyle B.: Assuming there any other documents submitted, here's what's confusing me. If that takes place, if there's anything else is submitted, will we have an opportunity to address some of that? If there's not a further opportunity for us to submit, we'll never have an opportunity to address it.



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Tom S.: Occasionally we get a letter from a neighbor, that frankly doesn't really weigh heavily on the determination. I have no issue, if it submitted, we'll send it.

Kyle B.: That's all I'm asking. If there's anything that comes before you, having the opportunity to review that and if it requires, or it may not require any comment from us.

Mike W.: And we finally got an engineer.

Kyle B.: They know that. When I did that letter, I didn't know whether we were under the gun to get someone out there to look at things. I'm glad we got it to you.

Tracy K.: Are you going to submit any backup to his letter, or is the letter standing?

Kyle B.: No, there's no backup. I don't anticipate anything.

Tracy K.: So, at this time, there's no anticipation on you submitting anything else?

Kyle B.: I don't know. As I sit here today, Tracy, I don't anticipate anything. If I meet with North next week and we have a further conversation which is relevant, believe me we'll address it.

Tom S.: You have the same opportunity as anyone else to submit documents.

Kyle B.: As I recall, you said you were also going to submit something?

Tracy K.: You got a copy in email. Of the zoning.

Kyle B.: When was this?

Tracy K.: About two weeks ago.

Kyle B.: You sent me an email?

Tracy K.: I can resend it.

Kyle B.: Ok, so you can send that to me again. Thanks, appreciate it.

**Other Business:**

**1.) Approval of September Meeting Minutes:**

Tom S.: I have not finished reviewing the last meeting's minutes so I'm not ready to vote on it yet.

Zach B.: We'll wait to approve them.

**2.) Notification for One Drive:**

- Request to notify the Board Members when new documents or files are uploaded to the One Drive

**3.) Open Meeting Law Amendment signed by NY State Governor**

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- Determinations, Resolutions, New Applications, Laws, anything that a Board is to act on at a meeting must be accessible by the public at least 24 hours in advance
- New regulation goes into effect 30 days from the date of signature on the regulation
- Draft needs to be 24 hours out, so preferably 4 days out would be best

***Motion to adjourn by Kathie G., second by Zach B., call of the role with a unanimous Aye. (5-0)***

Minutes Approved

November 17<sup>th</sup>, 2021

Michelle Solcberg