

**Zoning Board of Appeals  
Draft Minutes  
December 15<sup>th</sup>, 2021**

**Meeting Called to Order by Chairman Smiley**

**6:00 p.m.**

Pledge of Allegiance

Announcement & Communications

- Egidio Tinti is running a bit late so until his arrival, Brendan Masterson will fill his seat as a voting member.

**Quorum:**

Board Members Present – Tom Smiley, Kathie Grambling, Brendan Masterson, Zach Bowman, Andy Nilsen

Town Employee's Present – Michelle Solcberg, Tracy Kellogg

**Applications and Business:**

**1.) Dahlgren Area Variance – Variance for a Side Yard Setback on a Storage Shed – Public Hearing**

22 Sun Creek Lane, Stone Ridge, NY, 12484

SBL: 62.3-1-47.160

Andy Nilsen – Application Point:

- Side Yard Setback Variance request for a storage shed to be placed within the side yard setback
- Shed is 288 square feet and proposed to be 9.5 feet from property line
- The placement of the shed is logical and congruent with the property, the existing house, garage, the vegetation, the driveway, neighborhood, and the topography of the parcel. The adjacent parcel is undeveloped, vacant, and wooded.
- Following my site visit and review of the application, my opinion is that it is a justifiable variance to place the shed in the proposed location
- Location of septic system and the topography make it very difficult to place the shed elsewhere
- The variance request is substantial but the circumstance of the parcel is worth consideration

***Motion to open the Public Hearing for the Dahlgren Variance Application made by Zach Bowman, second by Kathie Grambling, call of the roll with unanimous Aye. (5-0)***

Margaret Dahlgren – Applicant:

- The proposed location is really the best and only logical place to locate the shed
- Shed is going to be used for materials and tools. My husband works in the trades

Andy Nilsen:

- I spoke with the neighbor and her only concern was to ensure it was as side yard and not a rear yard variance request. No other concerns. This neighbor already has accessory structures around the periphery of the parcels in the neighborhood.

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- The placement of the shed would be the least disruptive location to the parcel, the vegetation, and is in character with other sheds in the neighborhood which are near lot lines.

Tom Smiley:

- The adjacent parcel is owned by the same property owner requesting the variance. In these circumstances, we usually inquire about the possibility of a lot line adjustment to mitigate the variance need. In this case, these parcels are undersized already, so any adjustment of the lot line would make the adjacent lot even more non-conforming.
- I would suggest that the variance offered be a variance on the size of the shed and not the setback. If the shed is under 150 square feet, it could be placed by right at 10 feet from the property line. I suggest if a variance is granted, it be for the side of the shed at 10 feet.

Andy Nilsen: This would be a 48% variance in contract to a 68% variance.

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

***Call to the Public for comments or inquiries: No response***

***Last call to the Board and the Public for comments and questions: None***

***Motion to close the Public Hearing made by Andy Nilsen, second by Zach Bowman, call of the roll with unanimous Aye. (5-0)***

The Board read, reviewed, discussed, and amended the Draft Determination for the Dahlgren Area Variance. The manner of variance approval was changed from the Side Yard Setback to an Area Variance on the Size of the Shed to be within 10 feet from the property line by right.

***Motion to approve the application and grant an Area Variance for a Storage Shed on the property owned by Margaret Dahlgren, made by Kathie Grambling, second by Andy Nilsen, call of the roll with unanimous Aye. (5-0)***

## **2.) Duchess Farm Appeal of Code Enforcement Officer Determination – Continued Application**

***Announcement by Chairman Tom Smiley – Andrew Nilsen will recuse himself during this business***

Tom Smiley:

- The Public Hearing was closed for document submittals on December 8<sup>th</sup>, 2021
- We have received additional correspondence from Kyle Barnett, and it was circulated to the Board for review. Letter was received on December 8<sup>th</sup>.
- The Public Hearing was closed based on a motion that was made at last month's meeting.

The Board reviewed the letter received on December 8<sup>th</sup>, 2021

Tracy Kellogg: I do not think that the Town is going to respond to this letter now, I don't think it warrants a formal response, but we will address this in the Determination.

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Kyle Barnett: Ok, what is next in the process?

Tom Smiley: The Public Hearing closed on the 8<sup>th</sup> and the Board now has 62 days to issue a Determination. That would bring us to approximately February 8<sup>th</sup> as a deadline for Determination or a default. If we don't make a determination by then, that means by default your appeal is granted.

Kyle Barnett: I understand Tracy said there will not be a response to this letter. Will there be any other responses at all to the arguments that were made by the Applicant?

Tom Smiley: Nope.

Kyle Barnett: Ok, we'll wait for your decision. Thank you.

Zach Bowman: With the new law regarding the Open Meetings Law...publishing...

Tracy Kellogg: If you have a document which is prepared, if it's a document that you're still working on and not ready for public dissemination, then it does not need to be put out. If you plan on voting upon it as a decision, then you are required to have it available 24 hours in advance. You're not required to post it online, but to have it available at request. At this point the Town has not enacted a procedure on how they will structure a potential record database that the public can access.

Zach Bowman: Yes, the Open Meetings law, the new rule about publishing the document.

Tracy Kellogg: If you have a document which is ready in advance, you need to put it out there or have it available 24 hours in advance. There's still some working on how the Town plans to work this.

#### **Other Business:**

#### ***Announcement by Chairman Tom Smiley – Andrew Nilsen will now return to the Board***

1.) Approval of November DRAFT Meeting Minutes

***Motion to approve the November 2021 ZBA Meeting Draft Minutes by Zach Bowman, second by Brendan Masterson, call of the roll with unanimous Aye. (5-0)***

2.) Approval of ZBA Meeting Dates for 2022

***Motion to approve the proposed 2022 Marbletown ZBA meeting dates made by Zach Bowman, second by Kathie Grambling, call of the roll with unanimous Aye. (5-0)***

#### ***Andrew Nilsen recuses himself during business pertaining to Duchess Farks CEOA***

3.) Board discussion with Of Counsel, Tracy Kellogg

Discussion on law amended in 2009 referencing executive sessions. Exemptions for executive session does not extend to the "public fact-finding stage" by the ZBA. A determination may not be made, nor a vote taken on a determination in Executive Session, but the deliberation and discussion may take place in private or executive session.

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***Motion for the Board to enter into Executive Session to discuss the potential for litigation coming from the Duchess Farms Appeal Application made by Brendon Masterson, second by Kathie Grambling, call of the roll with unanimous Aye (4-0) (Andrew Nilsen recused and Not Voting on This Matter)***

Executive Session Entered

7:24 P.M.

***The Board exited Executive Session***

***Andrew Nilsen returned from recusal at the completion of Executive Session***

***Motion to schedule a ZBA Meeting Workshop for Thursday January 13<sup>th</sup> at 6:00 p.m., made by Zach Bowman, second by Brendan Masterson, call of the roll with unanimous Aye. (5-0)***

***Motion to adjourn the December 2021 ZBA meeting made by Zach Bowman, second by Andy Nilsen, call of the roll with unanimous Aye. (5-0)***

Draft Minutes Respectfully Submitted,

December 29<sup>th</sup>, 2021

Michelle Solcberg