



Town of Marbletown  
Zoning Board of Appeals  
1925 Lucas Avenue  
Cottkill, New York 12419  
[planning@marbletown.net](mailto:planning@marbletown.net)

Zoning Board of Appeals  
Approved Meeting Minutes  
May 23<sup>rd</sup>, 2023

Meeting Called to Order

6:08 P.M.

Pledge of Allegiance

Quorum Call:

Board Present: Andy Nilsen, Kathie Grambling, Egidio Tinti, Zach Bowman

Board Absent: Nancy Birdsall

Board Late Arrival: Tom Smiley (6:40 P.M.)

Town Staff Present: Shawn Marks, Tracy Kellogg

Announcements:

- Andy Nilsen will be the Acting Chair; Tom Smiley will be late to the meeting.

Business:

**1.) 2023-05 AV – Sheen Area Variance – New Public Hearing**

Dave Sheen and Jason Chiang

125 Mohonk Road, High Falls, NY, 12440

SBL: 70.3-6-15.100; R-1 Zone, 2.5 Ac +/-

Requesting an Area Variance to replace an existing Pole Barn within the required front yard setback to create an Accessory Apartment

Robyn Gullickson presents for the Application

***Motion to Open the Public Hearing for the Sheen Application made by K. Grambling, second by Z. Bowman; call of the roll with unanimous Aye. (4-0)***

Zach Bowman, Application Point, provided a brief review of the Application request and the details of his Site Visit and his review findings:

- Parcel is a flag lot, and the existing structure sits within the required front yard setback; location is a substantial distance from Mohonk road and the neighboring residences.
- The structure is legally permitted but has a non-conforming setback of 28 feet.



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- Applicant would be permitted to create an accessory apartment by right but discovered the setback non-conformity during site evaluation.
- Applicant wishes for transparency in their creation of the accessory apartment and has requested a variance on the 28-foot setback; a 30% variance request for 12 feet.
- The accessory apartment law does provide for the ZBA to consider setbacks on structure which are proposed to become a new accessory apartment and do not meet setback requirements.
- The Board has recently considered and approved similar applications for variance which sought to create an accessory apartment in an existing detached structure which did not meet setback requirements.
- New septic system is planned as the existing septic is at the rear of the property.
- A thick stand of trees provides screening of the structure from the nearest structure on the adjacent parcel which is an accessory structure.

The Board reviewed the Site Plan on the overhead projector and discussed the impact of the request.

***Motion to classify the Sheen Application as a Type II SEQRA Action made by Z. Bowman, second by K. Grambling; call of the roll with unanimous Aye. (4-0)***

*Call for Public Comment: None*

***Motion to Close the Public Hearing for the Sheen Application made by Z. Bowman, second by A. Nilsen; call of the roll with unanimous Aye. (4-0)***

The Board read, discussed, and edited the drafted Determination for the Sheen Variance

*Tom Smiley arrived at the meeting 6:40 P.M. and had previously recused himself from the Sheen Application at the April 2023 ZBA Meeting.*

*Acting Chair A. Nilsen called the Helm Application to the floor and turned the Chair over to Tom Smiley as a voting member.*

## **2.) 2023-04 AV – Helm Area Variance – New Public Hearing**

Steve Helm

1 Stilba Lane, Stone Ridge, NY, 12484

SBL: 61.20-2-24; R-3 Zone, 0.5 Ac +/-



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Requesting an Area Variance to place a new Pool/Storage Shed substantially within the footprint of two existing sheds which are to be demolished

Kristen Helm in attendance for the Application

***Motion to Open the Public Hearing made by A. Nilsen, second by Z. Bowman; call of the roll with unanimous Aye. (5-0)***

Application point Kathie Grambling provided an overview of the Application and the details of the request and engaged in discussion with the Applicant:

- Proposal to tear down two existing aging storage sheds and replace them with a single larger structure to be 31.5 feet from the centerline of Stilba Lane; single structure to be a Pool House/Storage Shed combination.
- The Applicant is also proposing to replace an existing dilapidated pool fence with a 5-foot-tall fence which will also require a variance; Fence Law stipulates that a fence greater than 5 feet in height which is within 25 feet of the front property line requires an Area Variance. Board agreed that the variance is for the height of the fence and not a particular setback.
- The lot is an irregular size and shape making the application of yard definitions challenging and requires a detailed look at the Site Plan and Zoning Code; both sheds are legally in existence and have non-conforming setbacks; the Pool is also legally in existence with non-conforming density. The Board agrees that the Pool is not being contemplated in the application and will take no action on its non-conformity as its legally existing since the mid 1970's.
- The footprint of the new structure is proposed to encompass the footprint of the existing sheds and extend to 31.5 feet from the centerline of Stilba Lane; existing Storage Shed is 37 feet from the centerline. The variance request is approximately 83% in relation to the Front/Side Yard, being 6.5 feet of a required 40 feet, or 33.5 feet from the property line; and approximately 58% in relation to the Rear Yard being 17.4 feet of the required 30 feet, or 12.5 feet from the property line; the parcel is a corner lot requiring the treatment of the Side Yard as a Front Yard in relation to the density requirements.
- The Board discussed safety concerns surrounding the current fence which is proposed for replacement with a 5-foot-tall pool fence. The current fence is in disrepair and poses a potential risk to children who live on the property and those who live in the



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neighborhood. Marbletown Elementary School is also nearby. The Board agreed that they are inclined to grant a Variance for the fence and expressed its desire to consider a Preliminary Approval for the fence to facilitate its replacement in a timely manner.

- The Board discussed the need for screening to be a condition associated with the final approval of the fence as it's open faced and the legally existing Pool is a Use which is unenclosed and visible from Stilba Lane as well as neighboring properties; Additional consideration to a potential condition of approval for the Pool House & Shed is that no curb cut or driveway leading to the structure would be permitted.
- The Board reviewed the proposed floor plan and construction plan for the Pool House and Storage Shed and inquired as to if the Applicant had considered a small structure; The Applicant noted that there are many personal items that they are looking to enclose in the structure to include lawn care equipment and the mechanicals for the Pool, as well as the desire to have a half bathroom in the Pool House portion of the structure
- Due to the irregular shape and contours of the parcel and its lot lines, the Board reviewed and discussed the definition of Yards in the Zoning Code and their applicability to the Site Plan.
- The Board inquired with the Code Officers as to the application of the Yard definitions during the Zoning Review, Site Inspection, and Determination for the site. CEO Marks provided an overview of how he and CEO Allen interpret and apply the definitions of Yards to parcels of both common shape and irregular shape. The Board compared this interpretation and application of definitions and noted that it interprets the application of the definitions in a substantially congruent manner.
- The Board noted that Yards can be more precisely defined and delineated on a Site Plan with the use of a Surveyor, but that the practical application of Yard definitions and the subsequent determination by the Code Officer in using the horizontal planes of the primary structure, nearest points from centerline and property lines, while capturing the greatest widths of the yard possible by employing acute angles and linear designation is practical and appropriate for the current Application before the Board.

***Motion to classify the Application as a Type II SEQRA action made by Z. Bowman, second by E. Tinti; call of the roll with unanimous Aye. (5-0)***



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The Applicant Kristen Helm submitted into record five (5) letters and emails of support from neighbors on Stilba Lane and a neighbor on Pine Bush Road who is adjacent to the rear property line of the Applicants parcel

*Call for Public Comment: None*

***Motion to Close the Public Hearing made by Z. Bowman, second by A. Nilsen; call of the roll with unanimous Aye. (5-0)***

***Motion to grant Preliminary Approval for the Helm Variance Application 2023-04 (B), for a Pool Fence, made by Z. Bowman, second by K. Grambling; call of the roll: E. Tinti, Aye; A. Nilsen, Aye; Z. Bowman, Aye; K. Grambling, Aye; T. Smiley, Aye. (5-0)***

*A Final Determination on Area Variance Application #2023-04 A & B will be acted upon by the Board within 62 days*

*Chair Tom Smiley turned the Chair over to A. Nilsen for continuation of the Sheen Application; Chairman Smiley recused his participation in the Sheen Area Variance Application at the April 2023 ZBA Meeting*

### **3.) 2023-05 AV – Sheen Area Variance – Closed Public Hearing**

Dave Sheen and Jason Chiang

125 Mohonk Road, High Falls, NY, 12440

SBL: 70.3-6-15.100; R-1 Zone, 2.5 Ac +/-

Requesting an Area Variance to replace an existing Pole Barn within the required front yard setback to create an Accessory Apartment

The Board returned to reading, discussing, and editing the Sheen Variance Application Determination.

***Motion to approve the Sheen Area Variance made by Z. Bowman, second by K. Grambling, call of the roll; E. Tinti, Aye; A. Nilsen, Aye; Z. Bowman, Aye; K. Grambling, Aye. (4-0)***

*Tom Smiley returned to the Board as voting member and Acting Chair Andy Nilsen turned the Chair over to Tom Smiley*

### **4.) 2023-02 AV – Pagano Area Variance – Closed Public Hearing**

Richard Pagano

31 Vly Atwood Road, Stone Ridge, NY, 12484

SBL: 54.4-1-8.220; A3 Zone; 3.49 Ac +/-

Requesting an Area Variance to place a Carport within the required yard setback and for an existing Shed which is within the required yard setback



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Andy Nilsen provided a brief review of his Site Visit findings discussed at the April 2023 meeting and the Board discussed the Application request.

The Board read, reviewed, discussed, and edited the drafted Determination for the Pagano Area Variance.

***Motion to Approve the Determination and grant Area Variance 2023-02 (A), for a Carport, made by K. Grambling, second by Z. Bowman; call of the roll: E. Tinti, Aye; A. Nilsen, Aye; K. Grambling, Aye; Z. Bowman, Aye; T. Smiley, Aye. (5-0)***

***Motion to Approve the Determination and grant Area Variance 2023-02 (B), for a Shed, made by Z. Bowman, second by K. Grambling; call of the roll: E. Tinti, Aye; A. Nilsen, Aye; K. Grambling, Aye; Z. Bowman, Aye; T. Smiley, Aye. (5-0)***

**5.) 2022-06 AV – Mollins Area Variance – Closed Public Hearing**

Reed Mollins

71 Cedar Hill Road, High Falls, NY, 12440

SBL: 70.3-5-3.100, R1 Zone, 3.00 Ac +/-

Requesting a Variance to place a Garage within the required front yard setback

Application Point Egidio Tinti provided a brief review of the Application request and the revised Site Plan provided by the Applicant.

The Board read, reviewed, discussed, and edited the drafted Determination for the Mollins Area Variance.

***Motion to Approve the Determination and grant the Mollins Area Variance made by Z. Bowman, second by A. Nilsen; call of the roll: K. Grambling, Aye; A. Nilsen, Aye; Z. Bowman, Aye; E. Tinti, Aye; T. Smiley, Aye. (5-0)***

**Other Business:**

1.) Approval of Meeting Minutes

***Motion to Approve the April 2023 ZBA Meeting Minutes made by Z. Bowman, second by K. Grambling; call of the roll with Unanimous Aye. (5-0)***

***Motion to Adjourn the meeting made by Z. Bowman, second by A. Nilsen; call of the roll with unanimous Aye. (5-0)***

Meeting Adjourned

10:12 P.M.

*A digital audio recording of this meeting is on record in the Planning & Zoning Office.*



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*DRAFT SUBMITTED 6/3/2023*

*MINUTES APPROVED 6/26/2023*

Shawn Marks

Approved 6.26.23