



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  
August 22<sup>nd</sup>, 2023

Meeting Called to Order

6:05 P.M.

Pledge of Allegiance

Quorum Call:

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

Absent: Nancy Birdsall

Town Staff Present: Shawn Marks, Tracy Kellogg

Announcements: None

Business:

**1.) 2023-09 AV – Sans Area Variance – New Application**

AHB1 LLC; c/o Katy & Gregory Sans  
120-121 Mill Road, Stone Ridge, NY, 12484  
SBL: 61.1-2-22.200, A3 Zone, 7.07 Ac +/-

Requesting an Area Variance to create an undersized flag lot in a 2-lot minor subdivision.

Agent Morgan Decker from Medenbach & Eggers in attendance for the Application

Chairman Smiley provided a brief overview of the request:

- Existing parcel of 7 acre which the Applicant wishes to subdivide into 2 parcels.
- Creating a flag lot which is proposed to be undersized; variance required.
- Approximately 1 acre short of meeting density code for the flag lot.

The Board reviewed the Application, Site Plan, supporting documentation, and engaged in discussion with Morgan Decker on the details of the variance request:

- Area variance to allow for a minor subdivision with the creation of an undersized flag lot.
- The proposed flag lot is non-conforming; short 1.1 acre to be code compliant.
- Flag lot required to be 4.5 acre; asking for Flag Lot to be 3.4 acre.
- The existing residence on the parcel was rehabilitated and the owners would like to subdivide the parcel to build and sell.
- The neighborhood has a collection of undersized and irregularly shaped parcels.



- Owners declined to pursue a potential mitigation discussed during the pre-application meeting for the establishment of access to the parcel across an existing right-of-way on the adjacent parcel; owners are not convinced that the neighbor would be receptive to the proposal.
- Add location of proposed well and septic to the Sketch Plat; area of disturbance containing any large old growth trees.
- Board requests distances to neighboring residences.

***Motion to Accept and Open the Application made by Z. Bowman, second by K. Grambling; call of the roll with unanimous Aye. (5-0)***

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

***Motion to set a Public Hearing for the September 2023 ZBA meeting made by A. Nilsen, second by K. Grambling; call of the roll with unanimous Aye. (5-0)***

*Andy Nilsen to be Application Point*

### **2.) 2023-06 AV – Mollins Fence Area Variance – Open Public Hearing**

Reed Mollins

71 Cedar Hill Road, High Falls, NY, 12440

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

Requesting an Area Variance for a fence to be located in the front yard which exceeds the maximum permitted height and limits the passage of views.

Applicant Reed Mollins is unable to attend the meeting this evening and requests that the Application and Public Hearing be carried until the September ZBA meeting.

**Call for Public Comment:** None

***Motion to carry and continue the Public Hearing at the September ZBA meeting made by Z. Bowman, second by E. Tinti; call of the roll with unanimous Aye. (5-0)***

### **3.) 2023-08 AV – Sindt Area Variance – New Public Hearing**

Stacy Sindt; 226 Van Wagenen Lane, Kingston, NY, 12401

Location: 351 Ashokan Road, Kingston, NY, 12401

SBL: 54.4-3-63.121, A4 Zone, 6.06 Ac +/-

Requesting an Area Variance to permit a Detached Garage w/ Accessory Apartment to be within the required front yard setback



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Applicant Stacy Sindt in attendance for the Application

Zach Bowman provided a brief review of the variance request, and the Board discussed the Site Plan and Application details:

- Area variance to allow for a detached garage with accessory apartment to be located 10 feet from the side property line within the front yard; within the required 40-foot setback.
- Request is for a 75% variance.
- Review of the parcel and neighboring parcels on the Ulster County Parcel Viewer; noted that the lot lines and right of way lines are skewed on the overhead. Lot lines should be shifted a bit counterclockwise to gain a more accurate perspective of the property lines and the locations of proposed structures.
- Irregular sized long narrow parcel with topographical difficulties noted by the Applicant; steep slopes, difficult grades for the placement of structures, waterways, and limited space for the placement of structures given the shape of the parcel, location of the driveway, and the location of the residence currently being constructed.
- Parcels adjacent on both sides of the parcel are of similar shape, size, and topography; long and narrow.
- Detached garage proposed to contain a workshop, garage area, and an accessory apartment for aging parents/in laws.
- Asking for the edge of attached carport to be 10 feet from property line and the bulk of the structure to be 20 feet from the property line.
- Drainage which runs across the center of the property; steep slopes and a ravine to the right of the house under construction, and to the rear of the house under construction.

*Cindy Russell provided a packet of photos to the board members which will be officially entered into the record once the Public Hearing is opened.*

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

The Board reviewed the site plan, the parcel viewer, construction plans, and engaged in discussion with Applicant Stacy Sindt:

- The proposed location will enable use of the garage and the ability to turn into the garage from the driveway. The 40-foot setback leaves approximately 10 feet of driveway clearance; not feasible for use of the garage. Will be difficulty with use and access to the attached garage as well at the 40-foot setback.
- The carport portion of the proposed garage to be used for the storage of equipment.
- 1<sup>st</sup> floor of the proposed structure is to contain an Accessory Apartment as well as three garage bays. Second floor area is for storage; non habitable.



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- Accessory Apartment proposed for aging family members.
- Applicant proposes to mitigate the variance with the placement of an 8' fence to screen.
- Applicant notes that topography, wet areas, and the septic reserve prevents the garage from being located elsewhere on the property. Difficulty with the width of the parcel in relocating the structure to another location on the property.
- Concern for location of the structure with regard to the proximity of the aging family members in the Apartment to the primary residence; husband to store his work equipment in the garage; having the garage and apartment close to the house is part of the plan.
- Inquiry as to if the driveway could be relocated or moved; Applicant notes difficulty with topography; steep embankment, gully with running water; culverts have been placed in several locations for driveway placement; 4 culverts in total; loss of space on the property with the creation of a retaining wall.
- Inquiry as to if the garage could be relocated next to the septic reserve area; Applicant notes the area is wet; had to adjust the lot line adjustment three times just to find a piece of dry land. (Request to add the septic reserve to the site plan)
- Inquiry as to if stormwater mitigations or earth work could create a dry area where the structure could be placed.
- No designated wetlands are noted to be located on the parcel; runoff and drainage.
- The Applicant notes that the project was rushed because of the increasing cost of building materials; had the property surveyed and engaged in a lot line adjustment to ensure enough space, but it was a mistake in thinking that the garage placement would work; asking for the variance now that we know it's not going to work at the 40-foot setback.
- Applicant noted that other towns have a smaller setback for structures that are far off the street; The 40-foot setback for the front yard is the Marbletown code requirement.
- Family members have a below grade Apartment at the Applicant's current residence, wish to provide them with an at grade, ground level apartment.
- The Board reviewed the dimensions of the proposed structure, approximately 60'x 30' plus an additional 10 feet of carport; cannot be viewed from the street but can be viewed from the adjacent parcel; discussed the proposed Use for the second floor and garage area; storage on the second floor, garage area for storage of equipment that husband utilizes for business.

**Call for Public Comment:**

Cindy Russell & Robert Goldberg – Ashokan Road:

- In opposition to the Variance request.
- Would like architect to speak first; Architect had drawn some pictures and reviewed the plans on the site.



Robin Andrade – Architect for Russell:

- Request that the construction plans be viewed on the overhead projected and provided the Board with a packet of documents which were placed into record; requested that she be allowed to walk the board through the document packet while she explains her position on the variance request.
- The original site plan shows the setback of 30 feet and the residence proposed at over 60 feet from the property line; the location of the house has changed from what was proposed.
- Relative measurements are noted on the site plan; the graphic depiction of the structure on the site plan is not accurate to its actual size in relation to the house which is being built; drawings are smaller in scale relative to what is being built.
- House has been moved from its original proposed location on the property, further from the stream; in its original configuration, the garage met the setbacks and fit without issue; the setbacks were acknowledged at the outset and should have been considered when the house was moved as to its impact on the garage.
- Garage is 60' x 46.6'; the drawing of the garage on the site plan is not to scale and presents as much smaller than what is being proposed; majority is garage, only a small portion is for the parents.
- Architect discussed with the Board a pair of GIS mock up drawings in the document packet provided; to scale reference to visualize the actual proposed size of the garage in relation to the residence, and the neighbors residence and neighbors garage; discussed the "volumetric differences".
- Owners knew there was a setback; they had it drawn with a setback; there's still plenty of room by making the garage smaller and stay within the setback which is what you're supposed to do.
- The owner has options; make the structure smaller, alter the configuration of the structure; no good reason why the setback needs to be violated; A graphic depiction of a smaller build is provided in the document packet submitted to the Board.
- The owner had a survey completed which was an accurate resource to properly plan for construction, no excuse for the variance.
- The owner's husband is a builder, he's in the trade and does this every day; The setback should have been known and considered from the outset of the project. The land was bought as vacant and there was plenty of opportunity to verify the setbacks and to make the project work without the need for a variance; could have had a smaller house, could have had a smaller garage; could have made the project work.
- Variances are not for mistakes made by builders; setbacks are given. Variances are for reasons, not for mistakes; should not be given a variance to violate a setback when they should have known all along.



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Stacy Sindt:

- Wish to clarify why the house moved; during the survey and boundary line adjustment process, the location of the house was just placed as a reference and was not formalized or finalized; the Planning Board knew we did not have the exact location; after clearing the land and testing the soil, we changed our septic plan and relocated the placement of everything.
- We worked with engineers and surveyors before we purchased the land; I know that there are some people that are spot on all the time but unfortunately there is sometimes mistakes.

Robin Andrade – Architect for Russell:

- Noted that Bill Eggers is a known surveyor, and his work is spot on; I don't believe that when doing a survey, things just get dropped in.
- Setbacks are a given; if you give this variance, you'll need to give a variance to everyone and anyone who made a mistake.
- The owner's husband is a builder, not a novice; should have known that the setbacks needed to be considered.
- The owner was working with experts that I know and work with; I would never allow someone to just drop something in.

Cindy Russell & Robert Goldberg – Ashokan Road:

- Provided the Board with a packet of 12 photos and a copy of a letter to be entered into record.
- The letter entered into record was read out loud to the Board.
- Letter is in opposition to the variance request and cites various concerns from land clearing to the size of the structures, location of driveway, distance from proposed garage to primary residence of neighbor; proposed structure would impact privacy and enjoyment of property; size of the proposed building and its impact on neighboring property; owns a separate 5 acre parcel which is directly adjacent to the Sindt property that we enjoy as open space and have considered building a gazebo for enjoyment of the open space.

*Documents submitted into record were recorded as follows: Andrade Packet entered as Sindt #1, Russell/Goldberg Packet of 12 Photos entered as Sindt #2, Russell/Goldberg Letter as Sindt #3, and Photo of Zero Impact on Bachor as Sindt #4.*

*A copy of documents entered in to record may be obtained by contacting the Planning & Zoning Office.*





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Arthur Russell – Brother of Cindy Russell:

- Is a lawyer but doesn't know a lot about land use; going by the variance guidelines in the Code which are the undesirable change to nearby properties and the alleged difficulty was self-caused.
- The difficulty is entirely self-created and self-caused.
- The change in the property is undesirable; the structure is essentially a 60 foot long and 21-foot-high fence right on my property line; only 10 feet from the property line.
- The Town of Marbletown has a 40-foot setback for a reason; to provide space, greenery, light, air; this is of direct benefit to me, and the neighbors are proposing to take that away from me.
- The proposed structure being 10 feet from the property line is taking my greenery, my light, and my air; taking what the Town of Marbletown has decided it wants me to have and what is guaranteed to me.
- The setback is the reasonable expectation that all property owners can have that their neighbors will not build a 60 foot long 21-foot-high structure on my property line; the neighbors are proposing to take that benefit and guarantee of the setback; this is not fair, not right, and its wrong.
- If the neighbor wanted to put up a solid fence 60 feet long and 21 feet high, 10 feet from the property line, would you let them do that? This is what this garage is to me; an urban encroachment that blocks my light, my air, and my greenery, pushing me 30 feet back onto my own property.
- The justification that is being offered is that they say they didn't know until they cleared the land that it wasn't going to work; I believe this is nonsense and made-up fiction.
- The owners had to know that the building would not fit at the outset of the project; there was nothing pre-existing on the property and the project should have been engineered correctly from the ground up; they worked with engineers, builders, and surveyors in their day to day, they should have known.
- In showing the garage with the 30-foot setback, they knew then that the setback was a consideration and that the space would be cramped up; I believe they just put in the 30-foot setback so that they could begin building now, while they could get their windows for less, and then then they could come back and ask for a variance later.
- The alleged difficulty, whether a mistake, negligence, or intent, is a self-created deficit and self-created hardship that doesn't warrant a variance; they had plenty of acreage and even bought additional acreage from the Buffet's; should have known from the outset that it wasn't going to work.
- With 6.06 acres, the owners can find a location on the property where they can build without taking from the neighbors what the Town wants us to have.

Tom Bachor – Ashokan Road:

- The same situation happened to me in 1986 when the Goldbergs built and moved in; construction that I could see from my property.



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- I built my house 1500 feet back where I had a view and privacy; 300 feet away they built their house.
- I had no complaints, didn't say a word; it's their property, and I let the trees grow on the property as screening.
- The area has always been wet and it's practically a swamp; the last few storms that have come through we've lost a lot of trees in there; it's always been a swamp and wet, it's not because the Sindt's are building there.
- Goldbergs wanted to do an addition to their house, and they came to me about a variance. I ended up giving them a 10 foot by 90-foot strip of land so that they could meet their setback and didn't charge them anything; they returned the favor when Time Warner ran cable onto the property that they would run the cable to their house and my house.
- The Goldbergs thought a variance would take too long and wanted to keep building so I gave the land to them and made the deal for the cable.
- I don't see a problem with the variance; it's their land to build upon. It's one person who doesn't like that someone is building a house next door because of their own privacy.
- You could see the house from my property, and I allowed 37 years' worth of trees to grow to screen my property from where the Goldbergs built their house; as a result, they can't see my house now.
- Brings this point up because the architect noted that they should have known the setbacks and the architect designed a house that didn't fit the side setbacks on the neighbor's property.

Robin Andrade & Cindy Russell:

- Clarified that a Lot Line Adjustment took place with Bachor; it was not about a variance.
- A couple of feet were needed and exchanged to avoid getting a variance.
- Tom Bachor's house is invisible from our house; what's being built by the Sindt's, I can see from everywhere on my property, and that's without the garage being built; Tom's experience was not the same thing, and the discussion with Tom for the land happened before any permits were filed; we did the work beforehand.
- Reiterated that the owner has options other than a variance; make the building smaller, drop the carport, change the orientation of the building, move the building.
- Already have a 2-car garage on the property which is attached to the house; this is even more; option to find another spot on the site.
- The rendering I provided of the smaller garage will provide them with a 2-car garage and they would meet the setback and still have enough space in the driveway and the apartment for their parents; the 3-car garage is excess, it's like an industrial building.
- They can meet the setback by putting some ingenious thought and intention into the plans.





Stacy Sindt – Applicant:

- The pool is 16' x 36', it's not humungous; the hole to construct the pool needed to be large because it's sand; pool is directly behind the house being constructed.
- Yes, I bought the land and I'm sorry that they are sad that we took their spot.
- We're good stewards of our land; we build houses, and we could sell it to people who will Air B&B it every weekend, but that's not our intention, this is to be our home, and we intend to be good neighbors.
- The detached garage is not for construction work, for storage of equipment only.
- The house is proposed to have 2 bedrooms for my children, 1 bedroom for us, and 1 guest bedroom; the parents are in the 5<sup>th</sup> bedroom in the proposed apartment.
- We would like to fence the back of the carport with an 8-foot fence, but we would need to have a variance for that.
- Tom feels they took his privacy, and they feel I took their privacy. There needs to be a way to all get along and live together in the same neighborhood; I was not trying to alienate them the way this is going.

**Additional Call for Public Comment:** None

The Board discussed arranging an additional site visit so all Board members could visualize the site of the requested variance.

Cindy Russell offered to have the Board view the site from her property as well.

***Motion to continue the Public Hearing at the September 2023 ZBA meeting made by Z. Bowman, second by K. Grambling; call of the roll with unanimous Aye. (5-0)***

*The Board requested distances to the neighboring residences from the proposed location of the garage.*

Other Business:

1.) Approval of Meeting Minutes

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

2.) Scheduling conflict for the September Meeting

***Motion to change the date of the September ZBA meeting from September 26<sup>th</sup> to Thursday, September 21<sup>st</sup>, 2023, to begin at 6:00 p.m., made by Z. Bowman, second by K. Grambling; call of the roll with Unanimous Aye. (5-0)***



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*(Change of Date to be announced on Website and by Legal Notice)*

3.) Continued Board Discussion on Sindt Area Variance

- Reviewed site plan, survey, and possible alternate locations for the structure.
- Discussed setback distances and the requested variance.
- Site Visit discussed and set for August 31<sup>st</sup>, 2023, 10 a.m.
- Discussion of points raised by the neighbors and the neighbors' representatives.
- Reviewed UC Parcel Viewer and discussed the character of the neighborhood.
- Relocation of the primary residence and its impact on the proposed garage.

4.) Pending Applications for September – Preview

- Area Variance for Creation of a Second Dwelling Unit on Highland Road
- Area Variance for an addition to an Existing Barn on Main Street

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

Meeting Adjourned

7:59 P.M.

*DRAFT SUBMITTED 9/3/2023*

*MINUTES APPROVED 9/21/2023*

Shawn Marks