

ZONING BOARD OF APPEALS MAY 2, 2007

The regular monthly meeting of the Zoning Board of Appeals was held Wednesday, May 2, 2007 at 7:00 p.m. at the Town of Ulster Town Hall Lake Katrine, NY 12449.

Present:

Nelson White

Karen Markisenis

Mark Kaiser

Donald Wise

John Crispell –Chairman

A motion to open the meeting was made by Mr. Wise and seconded by Mr. Kaiser. All were in favor.

Motion to approve the minutes from the April meeting was made by Mr. Wise and seconded by Mrs. Markisenis

Gregory Shaffrick- 233 Forest Hills Drive

A motion to open the Public Hearing was made by Mr. Wise with a second by Mr. White. Mr. David Van Benschoten along with Mr. Gregory Schaffrick appeared on behalf of the application for an area variance to place a garage 3 feet from the property line. Mr. Van Benschoten states that the parcel is under sized and a odd shape. The use will be a residential garage so the applicant can engage in his hobby of woodworking and car collecting. The neighboring properties consist of a hotel, from which you cannot see where the garage will be built; the other side is Potter Brothers which is at the bottom of a steep incline, and Mr. Sabino's property which is 25 acres of forest. No one can see where the garage is placed. Mr. Wise questioned if this is the same building that was denied a variance last year. Mr. Van Benschoten states it is a smaller building but on the same site. Mr. Wise questions if the garage is already built; Mr. Van Benschoten states it does exist and if the variance is denied the applicant will need to remove it.

Mr. Van Benschoten states that the applicant has moved the building back and will reconstruct the building to meet the requirements of the variance if granted. Mr. Schaffrick showed pictures of the structure to the Board. Mr. Crispell asked if there was anyone in the supporting the variance; there were none. Mr. Paul Kellar appeared on behalf of Robert Sabino against the variance. Mr. Kellar states that if Mr. Schaffrick has moved the building back to meet the 7 foot variance he could cut it back more to meet the town code. Mr. Kellar submitted copies of Supreme Court decisions on substantial area variances and pictures of the property to the Board. Mr. Kellar states that the Board should not indulge Mr. Schaffrick's hobby's by granting this variance and that this is a self created hardship. Mr. Kellar also submitted a letter to the record reviewing his reason why a variance be denied. Mr. Moriello lawyer for Potter Brother Ski Shop states that the last time the applicant appeared before the Board there was an old bus and other debris on the property, this debris has been removed only after a lawsuit was brought against Mr. Schaffrick. Mr. Moriello states that the applicant has to be pushed to do anything the

proper way; Mr. Schaffrick has been served violation after violation on his property. Mr. Moreillo resubmits documents he submitted to the Board when the first variance was applied for. Mr. Van Benschoten states that the first step for a solution is to look at the survey that is consistent with the stone wall; the Board cannot decide which survey is correct. The purpose of the garage is to solve the problem of the cars and woodworking equipment in the applicant's yard. Mr. Van Benschoten goes on to say that the Board's job is to weigh the benefit to Mr. Schaffrick against the detriment to the neighbors. The variance will not have any effect on the Potter property and the only effect on the Sabino property would be the difference between a 3 foot setback and a 10 foot setback. Mr. Wise questions if the applicant ever asked Mr. Sabino permission to build his garage closer to the property line. Mr. Schaffrick responds that he asked to buy a piece of property from Mr. Sabino and was turned down. Mr. Zweben the Town Attorney explains to the Board that the applicant has been ordered by the court to apply for a variance; if Mr. Schaffrick's request for a variance is denied he will have to take the garage down. Mr. Schaffrick states he was not trying to get away with anything by building the garage without a permit; he states the Building Department knew about the building and did not stop him from continuing to construct the garage with out a permit. Mr. Zweben states that this is not a true statement; Mr. Schaffrick is before the Board because of a Stop Work Order issued by the Building Department. Sandy Sabino states that her family uses their property that abuts Mr. Schaffrick for riding ATVS and walking; since Mr. Schaffrick has owned the property there is trash and other debris all over the property and this has made it unpleasant to use the property. Mrs. Sabino feels it is a detriment to her and her family as they use the area for their pleasure. Mr. Sabino states that there is no way that all the cars and trucks that are on the property would not fit into a garage. Mr. Sabino states that Mr. Schaffrick has cut trees and created a pond on his property with out permission. Mr. Sabino states that the garage will be an eyesore. Mr. Schaffrick states that if he is allowed to finish the garage the cars and equipment will be moved inside. Mr. Kellar submits a letter from the office of Kevin Bryant concerning the agreement made between the Town and Mr. Schaffrick on the removal of the garage. Mr. Moriello states the burden is on the applicant to demonstrate they meet the five part test and they have not addressed the issues before the Board. Mr. Van Benschoten states that if the garage is three feet or ten feet from the property line it will not impact the Sabino's walking or using their ATV's on the property. A motion to close the Public Hearing was made by Mr. Wise and seconded by Mr. White with all in favor. A motion to deny the variance request was made by Mr. Wise and seconded by Mr. White a roll call vote was taken; Mr. White denied
Mr. Wise denied
Mr. Kaiser denied
Mr. Crispell denied
Mrs. Markisenis denied
All were opposed.

Glen Grubard- Interpretation

After lengthy discussion the Board concluded that a Flea market is not a retail use. The applicant was directed to apply for a use variance or zoning change.

Meeting Adjourned 8:05

Respectfully Submitted,
Mary Secreto
Zoning Secretary