

ZBA meeting minutes
September 28, 2022

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TOWN OF LEWISBORO
Westchester County, New York

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Town of Lewisboro

ZONING BOARD OF APPEALS
TOWN OF LEWISBORO
MINUTES

Minutes of the Meeting held by the Zoning Board of Appeals on Wednesday, September 28, 2022 at 7:30 P.M., at the Town of Lewisboro Offices, 79 Bouton Road, South Salem, NY.

Board Members Present: Carolyn Mandelker, Acting Chair
Todd Rendo
Thomas Casper
Daniela Infield

Absent: Robin Price, Jr., Chair
Jeff Farrell, Building Inspector

Also Present: Donna Orban, Secretary

The Meeting was called to order at 7:32 P.M. by Acting Chair Mandelker who introduced the members of the Board and noted the emergency exits. Mr. Casper joined the meeting at 7:33 P.M.

Review and adoption of minutes for August 24, 2022.

The Board reached consensus to approve the meeting Minutes for August 24, 2022. Mr. Casper made a motion to approve, Ms. Infield second the motion. To Abstain: Mr. Rendo.

I. PUBLIC HEARINGS

CAL. NO. 21-22-BZ Carry over

Application of Darren P. Mercer, Architect, PLLC [Marschke, Brett A. & Rima T., owner of record], 31 East Ridge Road, Waccabuc, NY for the following variance of the proposed pool cabana/storage barn and is requesting total square footage of 1296' whereas 600' is allowed per Article IV Section 220-23E of the Town of Lewisboro Zoning Code.

The property is located on the east side of (#31) East Ridge Road, Waccabuc, NY designated on the Tax Map as Sheet 0025, Block 10803, Lot 062, in a R-2AC, Two Acre Residential District consisting of approximately 3.70 acres.

There was no objection to the public notice.

Darren Mercer, the architect, was present.

Ms. Mandelker explained that this application was held over to give public notice of the exact size of the structure.

Mr. Mercer presented the application.

Mr. Casper questioned that it wasn't so much the size of the structure but the perimeter of the building excluding the open areas. When the code was read aloud it states that the open areas are excluded. Mr. Casper states that the application is back to the full area of the structure. Mr. Casper doesn't want to be changing the code if they should be considering the actual square footage of the enclosed structure, not the roof line. Therefore, the application was tabled a month.

Ms. Mandelker reminded Mr. Casper that legal counsel was presented with the question.

Mr. Casper stated he wanted to know what the legal opinion was, since there will be a vote.

Ms. Mandelker referred to Chair Price's interpretation is the entire structure, is what has the impact, not the open areas.

Mr. Casper said that was not what the attorney said. The attorney's email said that it could go either way and the board can decide. Mr. Casper explains that what was originally read to the board was 1,190 square feet. Mr. Casper said he was concerned that the same applicant is getting two different standards applied.

Ms. Infield addresses Mr. Casper's concern that the applicant has waited a month and she does not feel they should wait another month.

Mr. Mercer replied that he had accepted the change of the square footage of 1,296' to represent the larger square footage. Mr. Mercer mentions that the footprint of the structure is 36'x36'. Previously at the August meeting Mr. Mercer showed the loft area and the carved-out areas of the structure. Mr. Mercer notes to the board that it's a 100 square foot difference. Mr. Mercer reiterates that he accepts that the square footage is 1,296'.

Ms. Infield commented that she is fine with it being maybe 150' less or 150' more. Ms. Infield said she did not want to have the applicant adjourn again.

Ms. Mandelker asked if anyone from the public wanted to comment on the application. There was no comment.

Ms. Mandelker asked if there were any more comments from the board. There were no more comments.

Ms. Mandelker asked if someone from the board would make a motion to approve this application.

Mr. Rendo made a motion to approve the application. Ms. Infield second the motion. To Approve: Mr. Rendo, Ms. Mandelker and Mrs. Infield. To Deny: none. To Abstain: Mr. Casper.

Ms. Mandelker read the five factors; the board did not think that there will be an undesirable change in the character of the neighborhood; there appeared to not be a practical alternative; the variance is substantial, however the board felt that there would not be a serious impact on the environment; the difficulty was self-created.

CAL. NO. 25 -22-BZ

Application of Whitman, Don, [Whitman, William W. & Whitman, Donald R., owner of record], 21C Boutonville Road South, Cross River, NY for the following variance of the proposed detached garage and is requesting a total square footage of 698' whereas 600' is allowed per Article IV Section 220-23E of the Town of Lewisboro Zoning Code

The property is located on the north side of (#21) Boutonville Road, Cross River, NY designated on the Tax Map as Sheet 0018, Block 10528, Lot 007, in an R-1AC, One Acre Residential District consisting of approximately 4.81 acres.

There were no objections of the public notice.

Bob Eberts, architect, was present.

Mr. Rendo stated that this property was difficult to locate when meeting for the site visit.

Mr. Eberts presented the application on behalf of Donald Whitman. Mr. Eberts explained that the property is a 4.81-acre property with two residences. The residences are owned by two brothers. The residence that is closest to the road has a one car garage behind the house. The garage will be removed due to structural issues and rot. Mr. Whitman would like to replace the current garage with a two-car garage and a run-in shed. The proposed garage/run-in shed would be 698 square feet. The running-shed is for a Shetland pony that is currently being boarded off site. Mr. Eberts mentions that it's a minor application and not substantial, it does not present an undesirable change, not visible from the road, the area variance is not substantial, it is only 98 square feet over the allowed 600', this will not make an adverse impact on the environment, the difficulty is self-created with bringing the animal onto the property for boarding.

Ms. Mandelker mentioned that the board did a site walk on Saturday, September 24th.

Ms. Mandelker asked if anyone from the board wanted to comment.

Ms. Infield commented that the request is modest.

Mr. Rendo asked Mr. Eberts to confirm the measurements of the proposed structure.

Mr. Casper asked Mr. Eberts to clarify that two brothers owned the property. Mr. Eberts replied that two brothers own the property. Mr. Casper requested that the other brother write a letter approving the construction of the proposed garage for the record.

Mr. Eberts offered to make the letter of approval as a condition of the variance.

Ms. Mandelker asked if anyone from the public had any comments. There were no comments.

Ms. Mandelker asked if someone from the board would make a motion to approve this application.

Mr. Casper made a motion to approve the application. Ms. Infield second the motion. To Approve: Mr. Rendo, Ms. Mandelker, Mr. Casper, and Mrs. Infield. To Deny: none. To Abstain: none.

Mr. Casper reminded the board that on approval of the variance there will be the condition of a letter from the second owner, Mr. William Whitman giving approval of the construction of the garage/run-in shed.

Ms. Mandelker read the five factors; the board approved the variance based on that it does not see any undesirable change in the character of the neighborhood; not sure if there is a practical alternative; the variance is unsubstantial; no adverse environmental impact; the difficulty is somewhat self-created.

Mr. Rendo commented that he did not have any problems with the structure but was concerned with the use of the structure. Mr. Rendo requested that the building department gives approval of a horse being on the property.

Mr. Eberts replied that the approval of the horse on the property had already been cleared by the building inspector.

CAL. NO. 26-22-BZ

Application of Joshua Hadar [The Joshua D. Hadar Family Trust, owner of record], 20 Manor Drive, Goldens Bridge, NY for the following variance of the proposed detached studio and is requesting a total square footage of 2412' whereas 600' is allowed per Article IV Section 220-23E of the Town of Lewisboro Zoning Code, the applicant is proposing a detached studio home occupation space and is requesting a total square footage of 2412' whereas 500' is allowed per Article IV Section 220-23D-1-C of the Town of Lewisboro Zoning Code.

The property is located on the north side of (#20) Manor Drive, Goldens Bridge, NY designated on the Tax Map as Sheet 0007 Block 11137 Lot 166 & 165, in a 2-AC, Two-Acre Residential District, consisting of approximately 13.21 acres.

There were no objections to the public notice in the Record Review.

Bob Eberts, architect, was present.

Joshua Hadar, trustee, was present.

Dr. Goldberger, neighbor, was present

Dr. Goldberger objected to the notice that was sent to him as an abutting neighbor. Dr. Goldberger questioned if Mr. Hadar was able to speak on behalf of the trust.

Ms. Infield commented to Dr. Goldberger that the architect is going to be speaking on behalf of the trust.

Dr. Goldberger accepted the information from Ms. Infield.

Ms. Mandelker asked who would be presenting the application.

Mr. Eberts introduced himself from Cross River Architects, and that he would be presenting the application.

Mr. Eberts presented the application with a description of the property being a 13-acre parcel, with an existing residence and pool house. Mr. Eberts stated that the owner would like to build a 2400 square foot art studio. The site that is proposed for the studio is invisible to the neighbors and the existing residence. The studio will be built onto a hillside. The structure will be constructed with indigenous material, field stone from the property, and solar reflectors which will reduce the environmental impact. Mr. Eberts commented that Mr. Hadar is a world renown sculpturer and wishes to do his artwork on his property. This is a one story, 2412 square foot structure. Mr. Eberts explains that the gravel driveway will be improved. The proposed structure will have a lot of glass, the roof will have solar reflectors and skylights. Mr. Eberts states that the application is asking for two variances, one for an area variance over 600', which they are asking for 1,812' variance and the second one for home occupation over 500' and are asking for 1,912' variance.

Mr. Eberts stated that they do not feel this will be an undesirable change, being that no one will be able to see the structure, there is no practical alternative since Mr. Hadar needs this space to do his work of large sculptures, it is considered a substantial variance, it does not have an adverse effect of impact to the physical or environment, this will be a positive impact on the environment with the removal of the unhealthy trees and the potential new growth of foliage, the difficulty is self-created.

Ms. Mandelker asked if anyone from the board wanted to comment on the application. There was no comment at that time.

Ms. Mandelker asked if anyone from the public wanted to speak on the application.

Dr. Goldberger introduced himself as the neighbor. Dr. Goldberger commented that he did not know what the definition of a studio was according to the board. Dr. Goldberger spoke of the large size of the studio, questioning if maybe this needs a zoning change instead of a variance. Dr. Goldberger described the studio's size and the skylights. Dr. Goldberger spoke of his concern with the skylights and the light pollution. He expressed his concern about the light pollution in the nighttime. Dr. Goldberger referred to the proposed structure as a factory. Dr. Goldberger, as a neighbor expressed his concern for the large structure and the trucks that would be using the shared driveway.

Ms. Mandelker asked if anyone else from the public wanted to speak.

Mr. Hadar introduced himself as the applicant. Mr. Hadar explained that he does not have a factory and works with one or two other people as assistants. Mr. Hadar explained that the issue with

trucks and the deliveries would not be any larger than the trucks used for amazon or fed-ex deliveries. Mr. Hadar also explained that the metal that is delivered for the sculptures is no more than 12 feet in length. He said that he does maybe two or three sculptures every year, with maybe two or three metal deliveries every year.

Ms. Infield asked if Mr. Hadar would be working at night.

Mr. Hadar replied that he has children, and he works during the day, and has worked at night, but this is his job.

Ms. Infield commented that when on the site visit, she was not able to see the neighbor's property. Dr. Goldberger stated that he will see the building since it will be 21 feet in height and commented about the light from the skylights. Dr. Goldberger was corrected that the height of the building will be 13 feet.

Mr. Rendo requested that a condition be put on the variance, that the skylights will have shades to be drawn at night to reduce the light pollution.

Ms. Mandelker asked that it can be confirmed the structure is for an artist studio and not to be used as a commercial building or selling anything.

Mr. Eberts commented that the correct height of the structure is 17'.

Mr. Rendo commented that he hopes that the studio can be built, and that Mr. Hadar and Dr. Goldberger can be amicable neighbors.

Ms. Infield suggested that Dr. Goldberger take a walk with Mr. Hadar and look at the site where it is staked out.

Ms. Mandelker explained to Dr. Goldberger that when doing the site walk the board was looking for the neighbors' homes and especially Dr. Goldberger's house. Ms. Mandelker commented that it was very hard to see Dr. Goldberger's house and that it is a considerable distance from the proposed studio. Ms. Mandelker said that the board does take into consideration the surroundings and the impact on a neighborhood.

Ms. Mandelker commented that there were several dead and dying trees on the site of the proposed studio. The removal of the dead trees will allow for new growth of foliage. The board takes this into consideration.

Ms. Infield commented that the proposed studio would be a nice added addition to the hillside. Ms. Infield said that it was a modest size for the landscape of the property.

Ms. Mandelker asked if someone from the board would make a motion to approve this application, with the contingency of blinds installed on the skylights, to be drawn at night to help prevent light pollution to the neighborhood.

Mr. Casper made a motion to approve the application. Mr. Rendo second the motion. To Approve: Mr. Rendo, Ms. Mandelker, Mr. Casper, and Mrs. Infield. To Deny: none. To Abstain: none.

Ms. Mandelker read the five factors; the board approved the variance based on that the difficulty is self-created, the variance is substantial, we do not see an alternative, there will not be any environmental impact or any negative impact on the neighborhood.

Mr. Casper commented that it is substantial in numbers but not substantial give the entire application, which is critical since it's one of the four criteria.

CAL. NO. 27-22-BZ

Application of Plug In Stations, Brian Fetterman, [Cipes, Stephen, owner of record, Goldens Bridge Shopping Center], 104 Route 22, Goldens Bridge, NY for the following variance of the proposed EV charging stations with associated electrical structures and is requesting a front yard setback of 3'10" whereas 20' are required per Article IV Section 220-24E of the Town of Lewisboro Zoning Code.

The property is located on the east side of (#104) Route 22, Goldens Bridge, NY designated on the Tax Map as Sheet 0004, Block 11126, Lot 007, in an RB, Retail Business District consisting of approximately 8.961 acres.

There were no objections of the public notice.

Mr. Brian Fetterman, Sr. Project Manager for Plug In Stations was present.

Mr. Fetterman presented the application. Mr. Fetterman explained the level of EV charging stations and the time each level takes to charge a vehicle. Mr. Fetterman explained chargers that are being proposed in this application are Level 3, DC fast chargers. They are designed to give a 200-mile charge in about 20 to 30 minutes, this varies by vehicle. These stations are strategically placed around Interstate 684 and around the state. Mr. Fetterman commented that the company has built fifteen in the last year, these are more for the road trip, long distance travel recharging station. These types of stations are often found along major roadways and places where people can go shopping or other activities for a short time. Mr. Fetterman explained that they are asking for a setback variance of 3'10". The charging stations have been relocated from the original design due to the redesign of the shopping center. The charging stations will have the look of a high-tech gas station. Mr. Fetterman showed the board examples of charging sites that were built this past year. A third of the stations have been built in Stewart's gas stations and the remainder in municipal locations.

Ms. Infield asked if there was a lease with the owner or just doing it for the owner.

Mr. Fetterman replied that New York Power Authority and the owner have an agreement to do this.

Mr. Casper asked how one might pay for the service.

Mr. Fetterman replied that there are several methods of payment for the charge.

Ms. Mandelker asked how people will find the location of the stations.

Mr. Fetterman replied that there will be a banner on the light fixture. Most people find the charging stations through an app.

Mr. Fetterman mentioned that they had gone before ACARC. The ACARC board asked that shrubs be planted for screening.

Mr. Casper asked Mr. Fetterman if he could send the board any kind of regulatory language that some municipalities have used to define a plug-in station as a structure.

Ms. Mandelker mentions that the zoning code should probably be updated.

Mr. Casper commented that someone should let the town board know about this in case someone at some point says something about the plug-in stations.

Ms. Mandelker asked if there would be lighting in the area of the stations.

Mr. Fetterman answered by showing the site plan and where the lights will be located in the stations.

Mr. Fetterman added that in case of some sort of fire, there is a main shut off switch. The stations are self-contained.

Ms. Mandelker asked if there was a motion to approve the application.

Ms. Infield made a motion to approve the application. Mr. Casper second the motion. To Approve: Mr. Rendo, Ms. Mandelker, Mr. Casper, and Mrs. Infield. To Deny: none. To Abstain: none.

Ms. Mandelker read the five factors; the board approved the variance based on that there will not be any negative impact on the neighborhood; or environmental impact; there is no practical alternative; does not appear to be a substantial variance.

II. CORRESPONDENCE & GENERAL BUSINESS

III. NEXT MEETING


October 26, 2022

IV. ADJOURN MEETING

Ms. Infield made a motion to adjourn. Mr. Casper second the motion. The board reached consensus to adjourn the meeting at 8:50 P.M.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donna Orban". The signature is fluid and cursive, with the first name "Donna" written in a smaller, more compact script than the last name "Orban".

Donna Orban

Secretary, Zoning Board of Appeals