

March 22, 2023  
ZBA minutes

**TOWN OF LEWISBORO  
Westchester County, New York**

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**ZONING BOARD OF APPEALS  
TOWN OF LEWISBORO  
MINUTES**

Minutes of the Meeting held by the Zoning Board of Appeals on Wednesday, March 22, 2023 at 7:30 P.M., at the Town of Lewisboro Offices, 79 Bouton Road, South Salem, NY.

Board Members Present: Robin Price, Jr., Chair  
Daniela Infield  
Todd Rendo  
Carolyn Mandelker

Absent: Tom Casper

Also Present: Donna Orban, Secretary  
Kevin Kelly, Building Inspector

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The Meeting was called to order at 7:31 P.M. by Chair Price who noted the emergency exits. Chair Price introduced the members of the Board and announced that the fifth Board Member, Tom Casper had recently passed away. Chair Price asked for a moment of silence for Mr. Casper.

Chair Price announced that the board is only four members, and the applicants will need three approvals from the board for the application to pass. If an applicant feels that they might not get three approvals, they are allowed to adjourn till next month.

**I. Review and adoption of minutes for February 22, 2023.**

The Board reached consensus to approve the meeting Minutes for February 22, 2023. Chair Price made a motion to approve the minutes. The motion was seconded by Ms. Infield. To approve: Mrs. Infield, Mr. Rendo and Chair Price. To Abstain: Ms. Mandelker.

**II. PUBLIC HEARINGS**

**CAL. NO. 09-23-BZ**

**Application of Leonard Brandes, AIA, [70 Cove Road, LLC, owner of record], 70 Cove Road, South Salem, NY for the following variance for an alteration to the existing, non-conforming primary dwelling that is located 7.5' from the rear lot line. The proposed deck cantilever will have a 5.5' setback from the rear yard whereas 25' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code therefore requiring an additional 2' variance on the deck cantilever.**

**The property is located on the west side of (#70) Cove Road, South Salem, NY designated on the Tax Map as Sheet 033A, Block 11156, Lot 022, in an R-1/4AC, One-quarter Acre Residential District consisting of approximately 0.11 acres.**

There was no objection to the notice of public hearing as published.

Leonard Brandes, AIA, architect, was present.

Chair Price stated that this applicant was before the board at the February 22, 2023 meeting. The applicant was given approval for noted variances that were presented in the Public Notice. The requested variance was not included in the first Public Notice, therefore the reason for the new application.

Mr. Brandes presented the application and noted that they are requesting a variance for the cantilevered deck in the back of the building. He showed the plan of the cantilevered deck and location using the plan that was submitted with the application.

Chair Price asked if anyone from the public wanted to comment. There was no comment.

Chair Price noted that tonight's variance request was missed in the previous application, this is basically the same plan that was reviewed last month. This is a minor amendment to the application.

There is no practical alternative to the variance requested. The Board found that the variance is not substantial. There will not be an adverse effect or impact to the physical or environmental conditions of the neighborhood. The Board found that the difficulty was partially self-created but has no impact on the surrounding area.

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

#### **CAL. NO. 05-23-BZ**

**Application of Angelo Lora, [Lora, Stacey & Angelo, owner of record], 6 Cornel Drive, Goldens Bridge, NY for the following variance for the proposed shed, which will be on the east side of the property with a dimension of 18.92 ft to the closest point to property line therefor requiring a side yard setback variance of 21.08 ft., *Per Article IV Section 220-12 and attachment 1, Schedule of Dimensional and Bulk Regulations for Residential Districts of the Town of Lewisboro Zoning Code.***

**The property is located on the south side of (#6) Cornel Drive, Goldens Bridge, NY designated on the Tax Map as Sheet 0013, Block 11152 Lot 259, in an R-2AC, Two- Acre Residential District consisting of approximately 1.60 acres.**

There was no objection to the notice of public hearing as published.

Angelo & Stacey Lora, owner of record, was present.

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Mr. Lora presented the application. Mr. Lora explained that the proposed shed is needed to store power equipment. Mr. Lora informed the board that the backyard has an incline and the reason for the location of the shed. Mr. Lora shared with the board a picture of the backyard, from his laptop computer.

Ms. Mandelker questioned how the board should handle this situation of the applicant giving photo(s) evidence from the laptop and having not submitted a photo(s) with the application. This photo(s) having been shown to the board are now part of the file. It was a consensus of the board that the photo(s) be sent to the ZBA secretary to then be placed in the file.

Chair Price questioned if Mr. Lora had explained to the neighbors the request for the shed.

Mr. Lora answered that he had spoken with the neighbor and there was no concern about the shed with the neighbor.

Chair Price questioned if the shed is going to be painted.

Mr. Lora answered that the shed will need to be painted.

Chair Price suggested that the shed be painted a darker color, a color that would help with the blending in with the surrounding environment.

Chair Price asked if anybody from the public wanted to comment on the application. There was no comment.

Mr. Kelly commented to Mr. Lora that the contractor or manufacturer should get in touch with him about the requirement of four hold down anchors.

Chair Price asked if there were any more comments. There were no more comments.

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

Chair Price explained that the application's approval is based on five factors. There is no practical alternative to the variance requested. The Board found that the variance is not substantial. There will not be an adverse effect or impact to the physical or environmental conditions of the neighborhood. The Board found that the difficulty was partially self-created but has no impact on the surrounding area.

**CAL. NO. 06-23-BZ**

**Application of Heike A. Schneider, [MacPhail, Lucy Hamilton, owner of record], 93 Todd Road, Katonah, NY, is proposing a two-story addition to the existing single family structure on the property, as well as increasing the size of the deck, the property is a pre-existing non-conforming lot that is significantly smaller than the current zoning, the following variances of the proposed addition to the structure are for Minimum Lot Area – Per the R-2A zoning, the minimum lot size is 2.0 acres. The existing lot is 0.279 acres (12,173 sf). While there is no proposed change to the lot, a 1.721-acre variance is required, Minimum Lot Width – The**

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**code requires a 200-foot minimum lot width in R-2A zoning. The existing lot is 60.71-feet wide. This requires a variance of 139.29-feet, Side Yard Setback – The required side yard setback in R-2A zoning is 40-feet. The proposed addition reduces the side yard setback from 16.9-feet to 15.5-feet. This requires a variance of 24.5-feet, Lot Coverage – Per R-2A zoning, the maximum lot coverage is 9%. Based on the proposed addition, the lot coverage will increase from 9% to 11.3%. This will require a variance of 2.3%, per the requirements of Article IV Section 220, attachment 1, Schedule of Dimensional and Bulk Regulations for Residential Districts of the Town of Lewisboro Zoning Code.**

**The property is located on the north side of (#93) Todd Road, Katonah, NY designated on the Tax Map as Sheet 0009, Block 11150 Lot 003, in an R-2AC, Two-Acre Residential District consisting of approximately 0.28 acres.**

Lucy MacPhail, owner of record, was present.

Will Rockett, resident of 93 Todd Road, was present.

Heike A. Schneider, Architect was present.

Chair Price asked if there was any objection to the public notice.

Mr. Kelly commented that he had reviewed the plans and found that there was a couple of things that were not noticed. Mr. Kelly commented that the front yard setback did not consider the 2' of the cantilever in the front which encroaches in the front. Mr. Kelly stated that he was in contact with the Town's council to verify his findings. The second one that was not noticed was the rear deck which reduces the side yard down to 4.2'. Mr. Kelly requested Chair Price put the application on hold and amend the notice and re-notice.

Ms. Schneider spoke of how the denial letter was incorrect. Ms. Schneider pointed out that the setback on the left does not change unless the cantilever is being considered.

Mr. Kelly replied that the cantilever is being considered. Mr. Kelly commented that the public notice is incorrect and needs to be amended and re-noticed.

Ms. Infield questioned if we have many cantilevers outstanding? We might need to look at all of them.

Mr. Kelly replied that this was done by the consulting firm, and this is the second one that has come up.

Ms. Schneider addressed the board that they are the only zoning board that does not allow a roof overhang of 2' minus a post going down. Ms. Schneider expressed her disappointment that this did not come up at an earlier time.

Mr. Kelly offered to meet with Ms. Schneider and go over the plans.

Ms. Schneider requested to talk about the application since she and her clients were present.

Chair Price replied that they could proceed with talking about the application.

Chair Price stated that the house has a history behind it. In 1984 the Zoning Board heard an application request to build a house on this property. The Zoning Board denied the application, then the County reversed the decision. This was an oversized house on a non-conforming lot. Chair Price expressed that this house was too much from the beginning, as far as the size of the house on the lot. Chair Price commented that for the board to grant a variance on a lot this size, to add onto the house, there needs to be a real hardship involved. There must be practical alternatives which have to be exhausted before a variance can be granted. Chair Price expressed one of his concerns is that the board has turned down requests like this before, due to the size and this proposed request was not going to work. Chair Price commented that he has a difficult time approving this proposed request, this is a slippery slope for this board to start doing this, when there are hundreds of houses in this town with the same situation.

Ms. Schneider questioned why a lot of this size was created. Ms. Schneider commented that her clients, like many other people are not familiar with zoning codes, but often buy a house thinking, how beautiful and how the family will benefit. No one tells someone when they are buying a house that it is already too large of a house for the lot. Ms. Schneider expressed to the board that there is a hardship.

Chair Price explained that he did not know when the lot was created or if the zoning had changed.

Ms. Schneider comments that it is a 2-acre zone. There is a 40' side yard setback and the lot is 60' wide. This does not allow for much of anything. Ms. Schneider commented that this house should never have been allowed to be built.

Chair Price questioned what is there to do to alleviate the problem? Chair Price states that they can pursue this project and it will not be easy, they could add land to the lot by asking the next-door neighbor to sell them land or sell the house and buy a larger house somewhere else.

Mr. Rocket requested to speak to the board. Mr. Rocket wanted to have the board know of the hardships that he and his family have encountered. Mr. Rocket explained that the last three years have been a hardship for everyone. Mr. Rocket explained that because of the pandemic he and his wife no longer go into the office but now work from home. Buying a new house with interest rates up to 8% and property values up 30%, that is not an option. This is their dream house, in their dream location. Mr. Rocket explains they have, three children, they need office space and mentions that the neighbor was in favor of the project saying that it would bring character to the neighborhood. Mr. Rocket urged the zoning board to review each case separately, homeowners, in this era do not have alternatives to go out and buy a new house. Mr. Rocket explained that they did not have any understanding of the size of the lot. Mr. Rocket expressed that this is their home and there are no other options.

Mr. Kelly commented that there had been variances granted to this property in the past and they should be researched. Mr. Kelly made suggestions for a possible alteration to the plans.

Ms. Schneider commented on Mr. Kelly's possible suggestions. Ms. Schneider explained that her client's desire is to stay living in this house.

Ms. Infield questioned what is the increase in the side setback?

Ms. Schneider explained that they are proposing to cantilever 2' out onto the left, into the setback. Ms. Schneider stated that they can push it back.

Chair Price explains that it is difficult to add more non-conformity and more coverage.

Ms. Schneider explained to the board the reason for the design of the proposed addition. Ms. Schneider states that no matter where they add on to this house, they will be creating more non-conformity.

Ms. Infield suggests that the public notice can be amended, or they could come back next month with a new plan.

Chair Price stated that the application must be tabled this evening, for a future meeting. The notice must be redone. If the plan is changed too much, then a new notice will have to be made.

Ms. Schneider commented that maybe they could have some feedback and suggestions to have a better chance.

Chair Price suggested that the proposed addition needs to be narrower and cut back on increase in the non-conformity as far as coverage. Chair Price explained that what is needed is a very minimal increase in non-conformity.

Chair Price explained that this application will be tabled to next month or another month.

**CAL. NO. 07-23-BZ**

**Application of Ellen Lehrman [Lehrman, Ellen, owner of record], 100 Upper Lake Shore, Katonah, NY for the following variance to install a propane tank, 7-feet from the side yard setback. Based on the R-1/2AC zoning district, the required side yard setback is 15-feet, therefore an 8-foot variance is required, per Article IV Section 220-12 and attachment 1, Schedule of Dimensional and Bulk Regulations for Residential Districts of the Town of Lewisboro Zoning Code.**

**The property is located on the west side of (#100) Upper Lake Shore, Katonah, NY designated on the Tax Map as Sheet 009D, Block 11140, Lot 063, in an R-1/2AC, One Half-Acre Residential District consisting of approximately 0.60 acres.**

There was no objection to the notice of public hearing as published.

Mr. Lehrman, resident of the property, was present.

Mr. Lehrman presented the application. Mr. Lehrman commented that he had spoken with the neighbor this evening. Mr. Lehrman explained that is for a standby generator and there have been LP tanks on the property since their purchase of the property. The neighbor will not be able to see the tanks since a fence is already in place.

Ms. Mandelker asked for the record why burying the LP tank was not an option.

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Mr. Lehrman responded that there are wetlands and will not be able to get a wetlands permit.

Chair Price commented that the public notice reads, a propane tank.

Mr. Lehrman explained that four propane tanks are what is required.

Chair Price commented that there is a conflict. The public notice says a tank and the plan shows four tanks. Chair Price offers a suggestion of one 500-gallon tank, long wise on the pad.

Mr. Lehrman replied that he did not think that could be done.

Chair Price explains that the problem is that the public notice says “a” propane tank.

Mr. Lehrman comments that Heritage Propane has suggested four propane tanks. The pad that has been placed is for four tanks.

Mr. Rendo commented that the problem is that the public notice does not state four tanks but one tank.

Ms. Mandelker asked if there is an alternative.

Chair Price replies that the pad is for four 120-gallon tanks.

Chair Price explains that the problem is the public notice saying it's for one tank and it is for four tanks. A variance cannot be given based on one tank when you are installing four tanks. Chair Price confirms that Mr. Lehrman has a tank in place so that the system is operational for the time being. Chair Price requests that Mr. Lehrman amend the application to say four tanks and the board will hear the amended application next month, this way the paperwork will be correct. Chair Price commented that the amended application fee will be waived.

#### **CAL. NO. 08-23-BZ**

**Application of Glenn & Lynne Autorino [Autorino, Glenn P. & Lynne A., owner of record], 63 Pine Hill Drive, South Salem, NY for the following variance to install LP tanks, which will have a side yard setback of 15' whereas 40' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code therefore requiring a variance of 25'.**

**The property is located on the east side of (#63) Pine Hill Drive, South Salem, NY designated on the Tax Map as Sheet 029B, Block 10540, Lot 082, in an R-2AC, Two-Acre Residential District consisting of approximately 2.00 acres.**

There was no objection to the notice of public hearing as published.

Mr. Autorino, owner of records, was present.

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Mr. Autorino presented the application. Mr. Autorino explained that they built the house in 1993 and everything is original. They have a buried oil tank which will be removed, they are changing their furnace to propane. They will put a tank in the yard and will install a generator also.

Chair Price commented that this is one tank.

Mr. Autorino replied that it is a 1,000-gallon tank. A long tank. They plan on putting a fence around the tank for coverage from the neighbors. There are currently plants there which will partially cover the tank.

Chair Price comments that the site plan is for 500-gallon tank.

Mr. Autorino replies that he did not write 500 on the site plan.

Mr. Rendo questioned Mr. Autorino that it is not for a 500-gallon tank.

Mr. Autorino replies that it is for a 1,000-gallon tank.

Ms. Infield commented that it looked like the placement of the tank was a reasonable location, being that it already had planting and would not be noticed by the neighbors.

Chair Price read the public notice, which read, install tanks. Chair Price requested that a new application be submitted for the 1,000-gallon tank. The amended application fee would be waived.

Mr. Autorino noted to the board that the generator was not on the prior paperwork which he felt was in the setback.

Mr. Kelly commented that an amended denial letter will have the wording for one 1,000-gallon propane tank and generator.

Mr. Autorino questioned the wording of the amended application.

Chair Price replied that the amended application should read how many tanks and the gallon amount, and the generator. Submit the appropriate paperwork and come back at April's meeting. The amended application fee would be waived.

Mr. Autorino gave Chair Price a letter of approval from the neighbor. Mr. Autorino was given the letter moments before the meeting.

### **III. CORRESPONDENCE & GENERAL BUSINESS**

Ms. Schneider approached the board about something she noticed after her conversation with the board. Ms. Schneider commented about the deck setback which was not in the denial letter. Ms. Schneider and Mr. Kelly discussed the plan and the denial letter.

Mr. Rendo addressed Ms. Schneider and Mr. Kelly and requested that they work it out at another time.



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Ms. Schneider questioned how to go about the new application process.

Chair Price explained that she needs new plans to submit for a denial letter and then come back to the ZBA with a new application.

Ms. Lora inquired about the square footage of their home, stating that their square footage is incorrect. Ms. Lora questioned how to acquire the Town's square footage information on their home.

Mr. Kelly addressed Mr. and Mrs. Lora's concern with the square footage of their home. Mr. Kelly suggested that Lora's to call the office and discuss the situation.

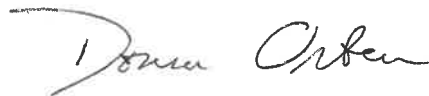
**IV. NEXT MEETING**

**April 26, 2022**

**V. ADJOURN MEETING**

Ms. Infield made a motion to adjourn. Mr. Rendo second the motion. The board reached consensus to adjourn the meeting at 8:34 P.M.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Donna Orban", with a large, sweeping initial "D".

Donna Orban

Secretary, Zoning Board of Appeals