

April 26, 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, April 26, 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  
Jennifer Herodes, Town Attorney

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The Meeting was called to order at 7:37 P.M. by Chair Price who noted the emergency exits. Chair Price introduced the members of the Board, the Building Inspector, and the Town attorney. Chair Price announced that the board is a four-member board this meeting, and the applicant will need a vote of three or more to be approved, they are allowed to adjourn till next month if they would like a board of five members.

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

The Board reached consensus to approve the meeting minutes for March 22, 2023. Ms. Infield made a motion to approve the minutes. The motion was seconded by Ms. Mandelker. To approve: Mrs. Infield, Mr. Rendo, Ms. Mandelker and Chair Price. To Abstain: none.

**II. PUBLIC HEARINGS**

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

**Application of Ellen Lehrman [Lehrman, Ellen, owner of record], 100 Upper Lake Shore Drive, Katonah, NY for the following variance for the proposed four 120-gallon propane tanks which will have a side yard setback of 7' whereas 15' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code therefore requiring a variance of 8'.**

**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, property owner, was present.

Chair Price commented that this application was before the board at the April 26, 2023, meeting. There was an error with the number of the propane tank(s). The public notice was re-noticed with the correct number of the tanks.

Mr. Lehrman addressed the board that the tanks are for a standby generator. The neighbor will not be able to see the tanks. There has been a tank on the proposed site.

Chair Price commented that the board did a site visit earlier in March. The board did see the screening in the surrounding area of the proposed tanks.

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

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

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

Chair Price explained that the application's approval is based on five factors. There will be no undesirable change in the character of the neighborhood or detriment to nearby properties. 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 not self-created.

Chair Price stated that the application was approved.

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

**Application of Glenn & Lynne Autorino [Autorino, Glenn P. & Lynne A., owner of record], 63 Pine Hill Drive, South Salem, NY for the following variance of the proposed 1000-gal LP tank 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' and the proposed generator will have a side yard setback of 30' whereas 40' are required per Article IV section 220-23E of the town of Lewisboro zoning code therefore requiring a variance of 10'.**

**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. & Mrs. Autorino, owners of record, were present.

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Chair Price commented that this application was held over from the March 26, 2023, meeting due to an error with the number of propane tank(s) and size of the tank.

Mr. Autorino commented that there had been two inconsistencies with the public notice. The previous public notice noted tanks and should have been for a 1,000-gallon tank.

Chair Price noted that the board did a site visit earlier in March. At the time the board was able to see that there was some screening. Mr. Autorino commented that more screening would be added. Mr. Autorino also commented that the neighbors had been informed.

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

Chair Price commented on that the board received letters of approval from the neighbors.

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

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

Chair Price explained that the application's approval is based on five factors. There will be no undesirable change in the character of the neighborhood or detriment to nearby properties. 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 not self-created.

Chair Price noted that the application is approved.

#### **CAL. NO. 10-23-BZ**

**Application of Envirostar [Dimos, Bill P. & Gianni, owner of record], 3 Stonewall Court, South Salem, NY for the following variance to install the proposed 275-gallon vertical above ground oil tank which will have a side yard setback of 35' whereas 40' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code therefore requiring a variance of 5'.**

**The property is located on the east side of (#3) Stonewall Court, South Salem, NY designated on the Tax Map as Sheet 0043, Block 10067, Lot 004, in a SCR-2AC, Special Character Two-Acre Residential District consisting of approximately 2.09 acres.**

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

Mr. Dimos, owner of record, was present.

Mr. Dinapoli, Envirostar representative, was present.

Chair Price commented that the board had done a site visit.

Greg presented the application and explained that the vertical above ground oil tank is a replacement tank.

Mr. Dimos commented that they had spoken to the surrounding neighbors via a neighborhood email. One neighbor replied that they had no objection and another neighbor requested that there be screening around the tank.

Chair Price questioned if the tank is being replaced in the same location as it is today. Mr. Dimos replied that it is being replaced in the same location.

Ms. Mandelker commented that there will be a trellis used for screening.

Mr. Dimos replied that the trellis is not in place now due to the installation of the oil tank. After the tank is installed, the new trellis will be constructed, and screening will be added.

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

Chair Price asked if anybody from the board wanted to comment on the application.

Ms. Infield commented that the application appears to be minimal and no change from the present site.

Ms. Infield made a motion to approve the application. Ms. Mandelker second the motion, with the addition of the screening and the trellis. To Approve: Mr. Rendo, Ms. Infield, Ms. Mandelker and Chair Price. To Deny: none. To Abstain: none.

Chair Price explained that the application's approval is based on five factors. There will be no undesirable change in the character of the neighborhood or detriment to nearby properties. 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 not self-created.

Chair Price noted that the application is approved.

#### **CAL. NO. 11-23-BZ**

**Application of Bob Eberts, [Maex, Dimitri & Katherine, owner of record], 97 Todd Road, Katonah, NY, is proposing a spa with a deck that has a side yard setback of 4.86' whereas 40' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code therefore requiring a variance of 35.14' and a rear yard setback of 31.0' whereas 50' are required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code therefore requiring a variance of 19'.**

**The property is located on the north side of (#97) Todd Road, Katonah, NY designated on the Tax Map as Sheet 0009, Block 11150 Lot 009, in an R-2AC, Two-Acre Residential District consisting of approximately 1.02 acres.**

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

Bob Eberts, architect, was present.

Mr. Eberts presented the application. Mr. Eberts explained the property has a single-family residence with a detached garage, the topography is hilly and has ledge rock. The proposed above ground pool is 22' by 11' with a surrounding deck. The wet land buffer had to be considered with the location of the pool. A small area behind the garage with an existing stone wall is the designated location. The existing garage has a bathroom. Mr. Eberts explains that the proposed location for the pool and deck will be 4.86' from the side yard lot line. This will be a substantial side yard variance. The rear yard lot line will be 31' from the required 50'. With this location they will be avoiding the wetland buffer.

Ms. Mandelker questioned if the pool could be placed in the front area adjacent to Todd Road.

Mr. Eberts replied that would be in the front yard and does have about a 10% slope upwards. That would result in extensive excavation. The owners do not want the pool in their front yard, nor would the lake association agree to the location, being that the lake is across from this property.

Ms. Infield commented that when she did a site visit, she noticed that there was a steep hill, and it would be tucked behind the garage.

Mr. Eberts addresses the five factors. There would be no undesirable changes or detriment to the nearby properties in the neighborhood, no one should be able to see the pool and there is really no other place to put the pool. Mr. Eberts stated that this is a substantial variance. This is self-created and should not have any adverse effects on the environment.

Chair Price questioned Mr. Eberts about the size of the deck.

Mr. Eberts replied that there will be 5' on the sides of the pool and goes back approximately 22'.

Chair Price questioned the elevation of the existing concrete pad.

Mr. Eberts replied that it is about 6' high. The pool is 5' in height.

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

Chair Price asked if there had been any correspondence from the neighbors. There was no correspondence from the neighbors.

Chair Price asked if there were any more comments from the board.

Mr. Rendo commented that it was well planned.

Ms. Infield commented that it would not be a detriment to the neighborhood and should improve the property. Ms. Infield stated that even though this is a large variance it is not unreasonable due to the topography of the property.

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

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Chair Price explained that the application's approval is based on five factors. There will be no undesirable change in the character of the neighborhood or detriment to nearby properties. There is no practical alternative to the variance requested. The Board found that the variance is 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 not self-created.

Chair Price noted that the application is approved.

### **CAL. NO. 12-23-BZ**

**Application of Michael Fuller Sirignano, Esq. [Waccabuc Country Club, owner of record], 74 Mead Street, Waccabuc, NY. The proposed pickleball courts create an increase in the existing non-conforming private recreation club use and therefore require a variance pursuant to Article III, Section 220-9E(5) of the Town of Lewisboro Zoning Code and the proposed pickleball courts create an increase in the applicable setbacks for private club "active recreational facilities, such as tennis courts and swimming pools" and provides that such recreational facilities be "set back from adjacent residential property boundaries at least twice the minimum distance required for residential buildings in said district as per Article V, Section 220-36C" of the Town of Lewisboro Zoning Code, in that the proposed pickleball courts will have a side yard setback of 51' from the northerly property line and 98' from the southerly property line, where 100' (doubled) side yard setback is required under Section 220-36C of the Town of Lewisboro Zoning Code, therefore requiring a side yard setback variances of 49' and 2', respectively.**

**The property is located on the west side of (#74) Mead Street, Waccabuc, NY designated on the Tax Map as Sheet 0022, Block 10802, Lot 023, in a SCR-4AC, Special Character Four-Acre Residential District consisting of approximately 6.11 acres.**

Michael Fuller Sirignano, Esq., was present.

Harry Gilbert, 90 Mead St., was present.

John Assumma, Waccabuc Club Manager, was present.

Ashley Murphy, 90 Mead St., was present.

Dawn McKenzie, Insite Engineering, was present.

Donald Rossi Esq was present.

Duncan Dayton, adjoining neighbor, was present.

Chair Price asked if there was objection to the notice of public hearing as published.

Mr. Duncan introduced himself as the immediate adjacent property owner to 74 Mead Street. Mr. Duncan stated that he was not notified of the property's proposed changes till after the construction had started.

Mr. Sirignano presented the application on behalf of the Waccabuc Country Club. Mr. Sirignano introduced the representatives from the Waccabuc Country Club. He explained that the Country Club owns 74 Mead Street, which has a single-family residence, pool, and an existing tennis court on the property. The tennis court was built around 1989. Mr. Sirignano read the letter from Mr. Yoo, the previous owner of 74 Mead Street. The letter read that Mr. Yoo enjoyed living next door to the Country Club and had no problems with noise or any other disruptions. Mr. Sirignano

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explains that the existing tennis court is being proposed to become a pickleball court. Mr. Sirignano states that the building inspector has determined that there are variances needed for the repurpose of the court. The pickleball court will have four courts. Mr. Sirignano commented that the building inspector determined that proposed conversion of the tennis court to a pickleball court constitutes expansion of clubs legally non-conforming private club use, thereby needing a variance as per Article III, Section 220-9E(5) of the Town of Lewisboro Zoning Code and the proposed pickleball courts create an increase in the applicable setbacks for private club "active recreational facilities, such as tennis courts and swimming pools". Two setback variances are also needed. Side yard setback which are doubled set back distances for private club "active recreational facilities, such as tennis courts and swimming pools" and provides that such recreational facilities be "set back from adjacent residential property boundaries at least twice the minimum distance required for residential buildings in said district as per Article V, Section 220-36C" of the Town of Lewisboro Zoning Code. The pickleball court will need a 100 feet setback from the north and south side setback. The proposed southern setback is for 98' which is shared with 68 Mead Street. A 2' variance is requested. The northern setback 51' setback is needed, therefore requesting a 49' variance, which abuts the Country Club.

Ms. McKenzie presented an overview of the proposed project on behalf of Insite Engineering. Ms. McKenzie explained that there will be a wood chip path going from the parking area to the pickleball court. Evergreens have been planted. There is an existing 10' high fence. A mesh fabric called a wind cloth product will be installed on the inside of the fence.

Mr. Sirignano stated that on April 17, 2023, the building inspector advised the planning board that this project appeared to cause little disturbance to the site and that this would qualify for a waiver for site plan development procedures. Kellard Sessions planner has identified this project as a type II action which would be categorically exempt from SEQRA review. The Architectural Review Committee reviewed the project since Mead Street is a Special Character District.

Mr. Gilbert commented that he has been with the Club for over twenty-five years and is the Tennis Pro for the Club and is certified with Pickleball. He explained that the Club started a league last year and played on the clay courts.

Ms. Mandelker questioned if there would be lights around the court and if there are lights currently around the tennis courts.

Mr. Gilbert replied that there are no lights currently.

Ms. Mandelker inquired if the neighbors who are objecting to the pickleball court ever object to the tennis court.

Mr. Gilbert replied that there has been no objection to the present tennis court.

Mr. Sirignano states that no club members will be allowed to drive onto the property, club members will have to access the court on foot from the pro shop. The facility will only be available during daylight hours. Mr. Sirignano spoke about the sound test that was conducted earlier in the day. Mr. Sirignano comments that the Town code protects people from noise, Section 160 and Article VIII 220-60.

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Mr. Rendo questioned Mr. Kelly if any permits had been issued for the proposed pickleball court.

Mr. Kelly replied that the club has been issued a permit for the work that they have begun with the corners of the fence around the court.

Ms. Infield questioned the use of the house and the pool.

Mr. Sirignano replied that the house is rented to members for their guests.

Chair Price addressed Mr. Dayton in reference to the notice of the public hearing. Chair Price commented that he is uncertain as to why Mr. Dayton did not receive the notice.

Mr. Dayton replied that he did receive the notice but not before the start of the construction last fall.

Mr. Kelly explains that when a permit is issued the surrounding neighbors do not need to be noticed.

Mr. Dayton responded that he did receive a notice from the Zoning Board.

Mr. Rossi represented Mr. Dayton, owner of 62 Mead Street and Jean Donovan Fisher, owner of 68 Mead Street, who are in opposition of the proposed pickleball courts. Mr. Rossi explains that Mr. Dayton and Ms. Fisher are members of the club as well as neighbors of the club. Mr. Rossi comments that the zoning is R-4 with a Special Character District. The club is a pre-existing non-conforming use, which the Town has allowed within its boundaries. Mr. Rossi explains that the club is requesting to expand its boundaries. Mr. Rossi says that this is proposed as a type II action under SEQR. Mr. Rossi states that he does not feel that it is. Mr. Rossi states that it is an unlisted action. This is not a matter of area variance for a single-family residence. If this an extension of the club and a use variance is not needed, then this is not for a single-family residence, but for a club, which is not considered as a type II action under SEQR. This is one of the legal issues for the ZBA to consider. Mr. Rossi spoke of the prior ZBA variances that had been granted to the club. Mr. Rossi states that the proposed variance for the pickleball court is a use variance, as presented in the email that was sent. Mr. Rossi states that the non-conforming use provisions of the code are clear and are accommodating to the use of the club. Mr. Rossi informs the board that the sound tests that were conducted earlier in the day are not being accepted. A sound test conducted by an expert will be accepted. Mr. Rossi presented a handout to the board of an ariel photo of the existing tennis courts also showing an existing paddle ball court located by the carriage house. Mr. Rossi proposed an alternative location for the pickleball court on the club's property, which would not be in a location near any private residences. Mr. Rossi requested that the board disregard the letter of support from Mr. Yoo., based on speaking for Ms. Fisher. Mr. Rossi stated that they were not notified of the ACARC meeting or the outcome and of the Planning Board's meeting, with the consideration. Mr. Rossi requested that the board view this as an unlisted action, not a type II action.

Ms. Infield interjected that she requested that Mr. Rossi keep to zoning board appeals variances and the issues pertaining to the ZBA, not Planning Board or wet land use.

Mr. Rossi requested that the Zoning Board of Appeals confer with the town attorney. To consult with the issues and assist with the determination of this application.



Mr. Dayton addressed the board, noting that he is a member of the club and would be interested in playing pickleball. Mr. Dayton commented that when the property was to be purchased, he thought that it was in the best interest of the club to obtain this property. He was unaware of the clubs wanting to transform the tennis court into pickleball courts. He expressed that he did not believe that this would be the best location for the pickleball courts.

Chair Price asked if anyone else wanted to comment on the application.

Mr. Sirignano informed the board that this is a type II action which is the finding of the planning board consultant. This is not a use variance, with the determination of the building inspector. Mr. Sirignano commented that the idea of relocating the proposed pickleball courts to another location would not be feasible. Mr. Sirignano stated that the building inspector in writing to the planning board determined that it qualified for a waiver of site development. Mr. Sirignano comments that they will be going back before the planning board, for the waiver of the site development plan. Mr. Sirignano requested that the board vote on this application this evening.

Chair Price informed the applicant that a decision would not be made this evening. The board needs to consult with the Town attorney. Chair Price commented that the board has legal questions as to what the use is, zoning which is a special character district, the board needs to have questions answered by their attorney. This application will be held over to next month.

Mr. Sirignano requested that the board do a site visit while pickleball games are in play.

Ms. Infield replied that sound issues are not the only issue here tonight. There are issues that need to be addressed that have surfaced today.

Chair Price addressed the applicant as to whether the application is changing the use.

Ms. Infield read aloud from the code Article III section 220-9E.

Chair Price closed the public hearing, tabling the application till the May 24, 2023, ZBA meeting.

Mr. Rendo suggested that the two opposing parties try to get together and work together on a resolution.

Chair Price stated that the hearing closed and is being held over till next month.

### **CAL. NO. 13-23-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. The property is a pre-existing non-conforming lot that is significantly smaller than the current zoning. Multiple variances are required, as detailed below. 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 code requires a 200-foot minimum lot width in R-2A**

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**zoning. The existing lot is 60.71-feet wide. This requires a variance of 139.29-feet. West Side Yard Setback – The required side yard setback in R-2A zoning is 40-feet. The proposed addition reduces the side yard setback to 17.4-feet. This requires a variance of 22.6-feet. East Side Yard Setback – The required side yard setback in R-2A zoning is 40-feet. The proposed addition reduces the side yard setback to 16.3-feet. This requires a variance of 23.1-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 10.6%. This will require a variance of 1.6%. All the variances noted above are 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.**

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

Lucy MacPhail, owner of record, was present.

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

Heike A. Schneider, Architect was present.

Ms. Schneider presented the application requesting five variances, on an extremely small lot. The house was brought back to the original footprint, removing the extensions of the house and the cantilever, from the previous plans that were presented to the board at the April 26, 2023, ZBA meeting. New decking will be constructed, the septic tank will be turned to comply with the health department.

Ms. Infield requested that Ms. Schneider remind her of the original plans. Ms. Schneider reviewed the original plans with the board. The original plans had an extension of the deck aligning with the extension of the house, there was a cantilever on the left side extending two and half feet out. This reduced the lot coverage which was self-created. The original plans had 11.6 percent lot coverage and now it has been reduced to 10.6 percent coverage.

Mr. Rockett commented on the feedback from the April meeting. Mr. Rockett noted, not to make the house wider.

Mr. Rockett commented that this alteration to the house would add value to the property and neighborhood.

Ms. Schneider noted to the board that the front of the house will have no changes.

Mr. Rendo thanked the applicants for listening to the board and making the changes.

Ms. Infield commented that the changes are minimal and thanked the applicants for taking the advice of the board.

Ms. Mandelker commented that she had no objections, the modifications will not have an impact on the neighborhood.

Chair Price asked if there was any public comment on the application. There was no comment.

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

Chair Price explained that the application's approval is based on five factors. There will be no undesirable change in the character of the neighborhood or detriment to nearby properties. 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 may or may not be self-created, depending on how it is viewed.

**III. CORRESPONDENCE & GENERAL BUSINESS**

**IV. NEXT MEETING**

**May 24, 2022**

**V. ADJOURN MEETING**

Mr. Rendo made a motion to adjourn. Ms. Infield second the motion. The board reached consensus to adjourn the meeting at 9:40 P.M.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Donna Orban".

Donna Orban

Secretary, Zoning Board of Appeals