

May 24, 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, May 24, 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 7:34 P.M. by Chair Price who introduced the members of the Board and noted the emergency exits. He announced that the next ZBA meeting is scheduled for Wednesday, June 28, 2023. Ms. Mandelker joined the meeting at 7:41 PM.

**I. Review and adoption of minutes for April 26, 2023.**

The Board reached consensus to approve the meeting Minutes for April 26, 2023. Ms. Infield made a motion to approve the minutes. The motion was seconded by Mr. Rendo. To approve: Mrs. Infield, Mr. Rendo, Ms. Mandelker and Chair Price. To Abstain: none.

**II. PUBLIC HEARINGS**

**CAL. NO. 15-23-BZ**

Application of Connor O'Donnell-Bedford Poolscales, [Ferney, Jordan & Paul, owner of record], 14 Lockwood Road, South Salem, NY for the following variance which the applicant is seeking to legalize the constructed inground pool equipment that was installed with a 22' side yard setback whereas 40' is required per Article IV Section 220-23E of the Town of Lewisboro Zoning Code therefore requiring a variance of, 18'.

The property is located on the south side of (#14) Lockwood Road, South Salem, NY designated on the Tax Map as Sheet 049C, Block 09834, Lot 118, in an R-2AC, Two- Acre Residential District consisting of approximately 2.00 acres.

Mr. Peter Gregory, project engineer, was present.  
Mr. Connor O'Donnell, Bedford Poolscales, was present.

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Ms. Helmes, abutting neighbor, was present.

Mr. Gregory presented the application. Mr. Gregory stated that the public notice was incorrect. The pool equipment was noticed as installed with a 22' side yard setback, however the equipment was installed 33' off the property line, this would be a variance of 7' instead of 18'. The pool equipment was to be installed in an area of an existing shed which was 22' off the property line. The shed had been taken down. The equipment was then installed further from the property line, closer to the pool which is shown on the survey as 33' setback and needing a variance of only 7'.

Chair Price commented that the amended setback will be noted in the record. The variance that is being sought is less than what was noticed, the variance can be granted. Chair Price thanked Mr. Gregory for informing the board of the change. The board did a site walk on Saturday, May 20<sup>th</sup>.

Mr. Gregory explained that the original plan was to install the equipment between the existing stone wall and the property line, which would be 22' from the property line. The existing shed was not in good condition and was taken down. Instead of installing the pool equipment in the planned location, it was decided to change the installation location to the front of the stone wall. The pool equipment was installed in the new location making it 33' from the property line, therefore needing a variance of 7'. There is existing screening and landscaping between the pool equipment and the property line.

Ms. Infield commented that the pool equipment appears to be in a better location than what was originally proposed, being that it is further from the property line.

Ms. Helmes questioned if the equipment would be covered with a large shed. She was informed that a shed cannot be placed over the equipment since the equipment might overheat. She stated that she is okay with the location of the equipment and the existing screening and landscaping.

Chair Price asked if a board member would like to approve the application on the condition that the screening is maintained in good order.

Mr. Rendo made a motion to approve the application on the condition that the screening would be maintained in good order. Ms. Infield seconded 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. 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**

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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, abutting neighbor, was present.

Mr. Sirignano requested the board give the Waccabuc Country Club applicants and, Mr. Rossi and Mr. Dayton five minutes to talk with each other about the proposed requests for the pickleball courts.

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Mr. Rossi requested if the board would give him ten to fifteen minutes to call Ms. Fisher, abutting neighbor whom Mr. Rossi represents with the opposition of the pickleball courts. Mr. Rossi needed to speak with Ms. Fisher about the proposed agreement that the Waccabuc Country Club and Mr. Dayton have come to. The ZBA agreed to give ten to fifteen minutes to Mr. Rossi for the phone call to Ms. Fisher.

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Chair Price read aloud the application, then requesting Mr. Sirignano to begin the presentation.

Mr. Sirignano reminded the board that at last month’s meeting when this application was presented the board recommended that Mr. Sirignano and Mr. Rossi explore and reach an accommodation which would make the neighbors more comfortable and would not disturb their peace and quiet. Mr. Sirignano commented that the two parties have met and have come to accommodations that both parties agree to. Mr. Sirignano shared the agreed accommodations being that there will be four pickleball courts on the existing tennis court, there will be no vehicle of any type allowed on the site by members, the only way the members are to access the courts are by the mulch path by the pro shop, there will be no lights on the courts, the hours will be consistent with the six tennis courts adjacent to this property. Mr. Sirignano stated that another condition will be to have the ZBA continue the jurisdiction and have the power to impose additional conditions through the summer season. The neighbors will be able to come back to the ZBA and ask to impose additional conditions of any disturbances to the peace and quiet.

Chair Price stated to Mr. Sirignano that they do not have a use variance for the court.

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Mr. Sirignano replied that they do not have a use variance, at that time he read the zoning code, Article III, 220-9, subsection E (5). Mr. Sirignano commented that the code empowers the board to allow for enlargement of a nonconforming use. He states that they consider this application to be consistent with the previous variance that were sought by the Country Club.

Ms. Infield commented that it has always been subsection E (5) of the code that they have used in the past.

Chair Price commented that he is not sure that the Country Club does not need a use variance. Chair Price states that this is a commercial type use on a residential zoned property.

Mr. Sirignano states the Building Inspector under New York state law has the authority to make interpretations of what zoning variances are necessary, whether it be an area or use variance. The Building Inspector made a determination that a use variance was not necessary.

Mr. Kelly questions if the application can be tabled until after the summer, since the applicant and neighbors have agreed to a trial period, this summer. Mr. Kelly states that the Club does have a building permit to modify the existing tennis court to pickleball courts.

Chair Price commented that they are not voting on this application this evening. Chair Price questioned Mr. Kelly if he is going to give permission to play on the courts without the other permits.

Mr. Kelly replied that the single-family property already has permission to play on the courts. The objection is the expansion of the Club.

Ms. Infield commented that the board encouraged the two parties to come together and agree on accommodation, which the parties have successfully done. Ms. Infield states that she is not sure as to how the board can approve this agreement and at the same time hold out on approving the variance till the end of the summer.

Mr. Rossi informed the board that he had filed an appeal today, he will withdraw the appeal without prejudice. There will be no procedural issues, this appeal was done to reserve the rights of the clients.

Mr. Sirignano explains that they are unable to get Planning Board approval without getting the ZBA to approve their application.

Ms. Infield states that she is unsure of how this application will proceed with the second part. She questions if they are going to reapply. Continuing with the proposed accommodation, the application is basically being left open.

Mr. Sirignano explained that this would be a condition of approval with the ZBA having jurisdiction over the abatement of a noise issue, the board would have the authority to place more conditions on the application.

The consensus of the board and involved parties was that the Town attorney needs to comment and advise.

Mr. Rossi explained that the vision is for the proposed accommodations. The Town attorney would draft a resolution that Mr. Sirignano and Mr. Rossi would review. The board would approve, and the Chair would sign the resolution.

Chair Price commented that if the Town attorney approves the temporary resolution, then he too will approve the temporary resolution. Chair Price stated that Mr. Sirignano would have to give a formal letter stating what they want.

Mr. Sirignano suggests that Mr. Rossi, himself, and the Town attorney work on writing a resolution that will be presented at the June 28, 2023, meeting, which will be approved by the ZBA.

Chair Price stated that the application will be held over to the June 28, 2023, meeting at which time the drafted resolution from the Town attorney of the temporary or final resolution will be presented and voted on.

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

Chair Price spoke to the board about the Comprehensive Plan Committee and Nelson, Pope, and Voohis presenting an update of the comprehensive plan at the June 12, 2023, Town Board meeting. The Planning Board, Zoning Board, ACARC and the Conservation advisory Council have been invited to attend.

Ms. Mandelker asked if there was a preliminary plan.

Chair Price commented that he will be attending the meeting. Ms. Mandelker said that she was interested in going.

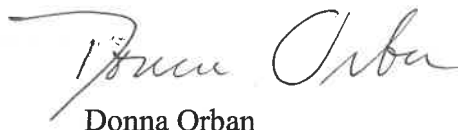
### **IV. NEXT MEETING**

**June 28, 2023**

### **V. ADJOURN MEETING**

Ms. Infield made a motion to adjourn. Mr. Rendo second the motion. The board reached consensus to adjourn the meeting at 8:25 P.M.

Respectfully submitted,



Donna Orban

Secretary, Zoning Board of Appeals