

July 26, 2023
ZBA minutes

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

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

Minutes of the Meeting held by the Zoning Board of Appeals on Wednesday, July 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
Thomas Fischetti

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

The Meeting was called to order at 7:31 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, August 23, 2023.

I. Review and adoption of minutes for June 12, 2023, Town Board Meeting, Comprehensive Plan Joint Meeting and ZBA meeting, June 28, 2023

The Board reached consensus to approve the meeting Minutes for June 12, 2023. Ms. Infield made a motion to approve the minutes. The motion was seconded by Mr. Rendo. To approve: Mrs. Infield, Mr. Rendo, and Mr. Price. To Abstain: Ms. Mandelker

The Board reached consensus to approve the meeting Minutes for June 28, 2023. Ms. Infield made a motion to approve the minutes. The motion was seconded by Mr. Fischetti. To approve: Mrs. Infield, Mr. Rendo, Ms. Mandelker, Mr. Fischetti, and Mr. Price. To Abstain: none.

II. PUBLIC HEARINGS

CAL. NO. 18-23-BZ

Application of Vincent Doria, [Doria, Frances, owner of record], 129 Ridgefield Avenue, South Salem, NY for the following variance of the proposed one-story garage will have 744 square feet whereas 600 square feet is the maximum permitted per Article IV Section 220-23D(11) of the Town of Lewisboro Zoning Code therefore requiring a 144 square foot variance.

The property is located on the south side of (#129) Ridgefield Avenue, South Salem, NY designated on the Tax Map as Sheet 0041; Block 10265, Lot 008, in an R-2AC, Two Acre Residential District consisting of approximately 4.50 acres.

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

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There was no objection to the public notice.

Mr. Price explained that the application was a carryover from a previous variance that was approved last month. The variance that was granted was for the setback of the garage. The size of the garage was not included in the original denial letter therefore was not noticed. The area variance requested for the size of the garage is 144 square feet.

Mr. Doria commented that when he was before the board last month, he was under the assumption that approval would be given for the plans presented to the board. Mr. Doria requested that the board approve the variance for the 144 square feet, that is on the plans.

Mr. Price asked if anyone on the board wanted to comment on the application. There were no comments.

Mr. Price asked if anyone from the public wanted to comment on the application. There were no comments from the public.

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

Mr. 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.

Mr. Price stated that the application was approved.

CAL. NO. 19-23-BZ

Application of Ellen Adelman, [Adelman, Ellen M., owner of record], 18 Pond Street, Goldens Bridge, NY, is proposing a new deck construction with a 16' south side yard setback and 19' north side yard setback in a 1A zoning district which requires a 30' side yard setback therefore requiring a 14' south side yard variance and 11' north side yard variance respectively as per Article IV Section 220-23E of the Town of Lewisboro Zoning Code.

The property is located on the west side of (#18) Pond Street, Goldens Bridge, NY designated on the Tax Map as Sheet 007A, Block 12665 Lot 012, in an R-1AC, One-Acre Residential District consisting of approximately 0.93 acres.

Ms. Adelman, owner of record, was present.
Ms. Leighton was present.

There was no objection to the public notice.

Ms. Leighton introduced herself as the daughter of Ms. Adelman and will be presenting the application. Ms. Leighton thanked the board for their service to the town and for coming out to the site visit to look at the site of the proposed deck. Ms. Leighton noted that they had supplied three letters of approval, from their neighbors.

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Mr. Price commented that the board had been on the site visit. Upon reviewing the plans, Mr. Price commented that this was 90 % of an existing deck, the early 1980's. Ch Price clarified with Ms. Leighton that this is basically a replacement deck with an addition of another staircase.

Mr. Price asked if anyone from the board had any comments on the application.

Ms. Infield commented that it will be on the same site as it has always been and will be an improvement.

Mr. Price asked if anyone from the public wanted to speak on the application. There was no comment.

Mr. Price asked if there would be a motion to approve the application based on the 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.

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

CAL. NO. 20-23-BZ

Application of Gail L. Ascher, [Noriega, Carlos, owner of record], 229 Kitchawan Road, South Salem, NY for the following variance of the proposed two-car garage with a 6' front yard setback in a 2A zoning district whereas 50' are required as per Article IV Section 220-23E of the Town of Lewisboro Zoning Code therefore requiring a 44' front yard variance.

The property is located on the south side of (#229) Kitchawan Road, South Salem, NY designated on the Tax Map as Sheet 045A, Block 09827, Lot 118, in an R-2AC, Two Acre Residential District consisting of approximately 2.00 acres.

Ms. Ascher, the architect, was present.

Mr. Ascher, a relative of Ms. Ascher, was present.

Ms. Goodman, Kitchawan Road resident, was present.

Mr & Ms. Tanner, neighbor, were present.

There was no objection to the public notice.

Ms. Ascher presented the application.

Mr. Rendo questioned Ms. Ascher if she was filming the presentation.

Ms. Ascher explained that she was filming, for her client who was in Mexico.

Mr. Price explained that the Town Council was not informed of the filming, and it would not be allowed. Ms. Ascher would be allowed to do audio with her phone.

Ms. Ascher explained that the client needs a garage for more storage of their belongings. Ms. Ascher commented that there have been updated surveys of the property. The proposed garage had been staked out for the site walk. Ms. Ascher supplied with the application a rendering of the proposed garage. She explained that there had been a barn that was in poor condition. The client had the

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barn demolished without a demolition permit from the Building Department. Ms. Ascher commented that the driveway cut through next to the house, near the mud room, where the young children would come in and out of the house. This is the primary reason why the garage is not proposed to be built in the back. The client did consider pushing the garage back from the proposed plans, however this would be a costly plan, with removal of rock and ledge. The clients had a stone wall constructed with the intent of building a garage in the proposed location. Ms. Ascher states that the only option for the proposed garage location is the one that is being presented. Ms. Ascher explained to the board how the garage will be connected to the pergola. The dimensions of the garage will be 25'x 22'.

Mr. Kelly informed the board that there was a structure/barn that had been removed without a permit, the board technically cannot vote on this application at this time, since this is considered a violation. Mr. Kelly addresses the grading of the additional parking pad and the new retaining wall. Mr. Kelly informed the board that he did propose to Ms. Ascher to slide the garage a little further back from the proposed location.

Ms. Ascher disagreed with Mr. Kelly on the grading of the parking pad and the garage.

Mr. Rendo questioned Ms. Ascher as to why the client cannot build on the foundation of the demolished barn.

Ms. Ascher explained that the original driveway to the barn was only feet away from the house and because the client gets deliveries it was considered dangerous.

Ms. Mandelker asked Ms. Ascher to explain the delivery situation now.

Ms. Ascher replied that the delivery vehicles can drive all the way into the driveway and have room to turn around. The client would now like a garage and a parking pad area for turning around.

Mr. Rendo commented that 6' off the road does not make sense.

Ms. Ascher replied that it is not 6' off the road, but off the property line.

Ms. Infield commented that the variance that is being requested is large.

Mr. Price asked if anybody from the public wanted to speak on the application.

Mr. Tanner introduced himself and gave his address for the record. Mr. Tanner explained that he and his wife lived up the road and he owns a vacant parcel of land across from the applicant. Mr. Tanner asked the board if they had seen the photo of the previous barn that had been on the property. Mr. Tanner pointed out as a neighbor on Kitchawan Road, when he receives deliveries the delivery vehicle usually parks on the road and the delivery person walks the delivery to the house. He did not see the garage as being a solution to receiving deliveries. He points out that this is a large variance. Mr. Tanner commented that when you look at the aerial photo of the original barn it was ideal for a garage even though it is in the backyard.

Ms. Goodman introduced herself and her address. She explained that her residence is down the road and closer to Route 123. Ms. Goodman stated that she is not in support of the variance. Ms. Goodman spoke of living at her residence since 1995, and described the existing structures that are close to the road as being grandfathered with the reality of the age of the buildings.

Ms. Tanner introduced herself. Ms. Tanner explained that many homes on Kitchawan Road have barns that are also used as garages.

Mr. Price read a letter of opposition from Linda Simon and William Breslow for the record.

Mr. Price addressed Ms. Ascher about the violation for the removal of the old barn without a permit. He stated that this will have to be remedied before the ZBA can hear an amended application. Mr. Price commented that there are practical alternatives, the building is too large and too close to the property line. Building a garage is not going to help with the turning around issue.

Mr. Fischetti commented that the size of the variance seems to be very large. Mr. Fischetti addressed the safety of children, of which he does not see where the safety issue is. He states that when the board was at the site visit it would have been nice to have seen where the old barn had been.

Ms. Mandelker commented that the removal of the barn without a permit seems disingenuous. Possibly the owner had planned that they wanted a garage in the front, not in the back. Ms. Mandelker commented that knowing what they know at this time, there is a practical alternative. Ms. Mandelker pointed out if the garage was to go in the front property as proposed, there would be less space for trucks to turn around. The owner would be adding more of an apron for the additional parking for the cars.

Ms. Infield suggested that Ms. Ascher could have the beautiful garage that was being present built at the rear of the house. Ms. Infield commented that the barn had been removed without permits. The difficulty has been self-created.

Mr. Rendo commented that he agreed with his colleagues on their comments.

Ms. Ascher responded that putting the garage in the location of the barn is not a practical solution.

Mr. Kelly explained an alternative location for the proposed garage, that would not need a variance for setback.

Mr. Price explained that options had been given to the applicant. Mr. Price informed everyone that the board would not be voting on this application tonight. This application will be adjourned until the September 27, 2023, meeting. Mr. Price explained that if the applicant decides to come before the board again, the board will hear the application at that time.

Mr. Ascher commented about the proposed structure and location.

Ms. Infield explained that the board hears about the requested variance and does look at the project that is proposed.

Ms. Mandelker explained that the board must look to see if there is a practical alternative or alternatives. Is it self-created. Will the requested variance have an impact on the environment. Ms. Mandelker commented that this variance will have an impact on the environment. She states that there are three neighbors present at the meeting, which says that this proposed variance will have an impact on the environment.

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Mr. Price stated that the application is adjourned for the night and the applicant can come back in September. Mr. Price informed that the demolition of the barn permit violation needs to be cleared up before the board can proceed with the application.

Mr. Rendo informed the applicant and the audience that because of the adjournment of the application and being considered a carryover to the September meeting, this application will not be re-noticed.

III. CORRESPONDENCE & GENERAL BUSINESS

IV. NEXT MEETING

August 23, 2023

V. ADJOURN MEETING

Ms. Infield made a motion to adjourn. Mr. Fischetti second the motion. The board reached consensus to adjourn the meeting at 8:31 P.M.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Donna Orban", with a stylized, flowing script.

Donna Orban

Secretary, Zoning Board of Appeals