**ZONING BOARD OF APPEALS**

**TOWN OF LEWISBORO**

**MINUTES**

Minutes of the Meeting held by the Zoning Board of Appeals on Wednesday, June 22, 2016 at 7:30 P.M., at the Town of Lewisboro Offices at Orchard Square, Cross River, New York 10518.

Board Members: Present: Robin Price, Jr. Chairman

Todd Rendo

Jason Krellenstein

Carolyn Mandelker

Thomas Casper

Also Present: Aimee Hodges, ZBA Secretary

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The Meeting was called to order at 7:30 P.M. Chairman Price introduced the members of the Board and noted the emergency exits. He announced that the next ZBA meeting is scheduled for Wednesday, July 27, 2016 with a site walk scheduled for Saturday, July 23rd. The Board cancelled the August meeting.

**I. Review and adoption of the Minutes of May 25, 2016**

Mr. Krellenstein moved to adopt the minutes of May 25, 2016. The motion was seconded by Mr. Rendo; In Favor: Mr. Krellenstein, Mr. Rendo, and Chairman Price, Mrs. Mandelker and Mr. Casper.

**II. PUBLIC HEARINGS**

**CAL. NO. 16-16-BZ**

**Application of Mike Kerins, 8 Griffen Place, Yorktown Heights, NY 10598 [Charlene Indelicato, Owner of Record] for a variance of Article IV § 220-23E of the Zoning Ordinance in the matter of a proposed generator that will be closer to the side lot line than permitted (7’ proposed where 30’ is required) and closer to the rear property line (18’ proposed where 40’ is required) in an R-1A, One-Acre Residential District.**

**The property is located on the north side of (#15) Boutonville Road, Cross River, New York and designated on the Tax Map as Sheet 18, Block 10528, Lot 12, in an R-1A, One-Acre Residential District consisting of approximately 0.32 acres.**

Charlene Indelicato was present with her electrician, Mike Kerins.

There were no objections to the notice of public hearing as published in the Lewisboro Ledger.

Chairman Price noted that the Board members had walked the site on Saturday; he walked the property earlier today.

Mr. Kerins advised that the location for the proposed generator was chosen as it was close to the electrical service. He further noted that if the generator was located outside of the zoning setbacks on this 92 foot deep lot that it would have to be located in the center of the yard in close proximity to the air conditioner unit or to the patio. In addition, the propane tanks have to be located 10 feet away from the generator and air conditioner.

Ms. Indelicato stated that she would not install a generator if it were required to be located in the middle of her lawn. It would be a hardship to have to locate the generator anywhere else and given that everything in her home is electric she would have nothing should the power go out. Ms. Indelicato indicated that she had spoken with her neighbors who had no objections. Submitted this evening was a letter of no objection from Doug Friedman and Diana Frost whose property is directly behind hers. She also spoke with Don Whitman who also had no objections; she had hoped that he would have been present this evening, but he was not. She indicated that she would screen the generator from the neighbors and noted that this property is small.

Chairman Price acknowledged receipt of the letter of no objection from Douglas Friedman and Diana Frost.

Mr. Rendo indicated that he would have liked to have heard from Mr. Whitman who he believed would be most impacted.

Ms. Mandelker stated that she was curious as to why the generator could not be located on the other side of the house as the air conditioner is located there and seemed to be a utility area.

Mr. Kerins advised that it would have to be located five feet from the windows and 10 feet from the propane tanks and air conditioner.

Chairman Price believed that alternatively the applicant could consider seeking a variance for a front yard setback variance and place the generator in the front of the property where it would not impact any residences.

In response to a question of Mr. Casper, Ms. Indelicato advised that the Whitman residence is far away from her property line.

Ms. Mandelker questioned why the tanks could not be buried and was advised that it would be expensive.

After some discussion regarding alternatives, Mr. Casper noted that Mr. Whitman had been informed of this hearing and believed that the applicant had discussed this application with him. He believed that in this instance that the location proposed worked and that there are many generators located not far from the side yard setback. Mr. Whitman’s residence is located at a distance from the shared property line. He noted that he would vote to approve the application.

Should the Board vote to grant this variance, Ms. Indelicato stated that it could do so subject to a letter of no objection from Mr. Whitman. She further noted that she would place some acceptable form of screening around the generator.

Chairman Price suggested some sort of evergreen screening.

Mr. Krellenstein stated that this property is unusual and that the variance is substantial. He further believed that there may be another location, but understood the hardship. Mr. Krellenstein stated that he could approve the variance subject to the letter of no objection from Mr. Whitman and screening.

Mr. Casper moved to grant the variance as presented for the following reasons subject to the condition that a letter of no objection was received from the adjacent neighbor, Donald Whitman and that the property owner sufficiently screen the generator.

* There is no undesirable change to the character of the neighborhood or detriment to nearby properties. The required screening around the generator will mitigate any visual impact to the neighboring property.
* There is no practical alternative to the variance requested.
* Although the variance is substantial according to the zoning ordinance, it did not appear to be applicable in this instance as there is a great distance to the neighboring property owner’s residence.
* There will not be an adverse effect or impact on the physical or environmental condition of the neighborhood.
* The Board found that it was likely that the difficulty may be self-created, there did not appear to be many options on this small lot.

The motion was seconded by Mr. Krellenstein; To Approve: Mr. Krellenstein, Mr. Rendo, Chairman Price, Mrs. Mandelker and Mr. Casper. To Deny: None.

**CAL. NO. 15-16-BZ**

**Application of James Grant, 398 Route 123, South Salem, NY [Kay Parker Jex, Owner of Record] for a variance of Article IV § 220-23E of the Zoning** **Ordinance in the matter of an as-built generator that will be closer to the side lot line than permitted (11’ provided where 15’ is required) in an R-1/2A, One-Half-Acre Residential District.**

**The property is located on the west side of (#11) Truesdale Lake Drive, South Salem, New York and designated on the Tax Map as Sheet 36L, Block 10815, Lot 31, in an R-1/2A, One-Half-Acre Residential District consisting of approximately 0.539 acres.**

Kay Parker Jex was present with James Grant.

There were no objections to the notice of public hearing as published in the Lewisboro Ledger.

Mr. Grant advised that they were present this evening to request a variance for a generator that was installed four feet to close to the property line. He advised that they had a building permit but due to the configuration of the property, the electrician felt that the location shown on the approved plans was dangerously close to the house because of the venting of the generator and was concerned with carbon monoxide getting into the house. They precisely placed the generator eleven feet from the property believing that they were conforming. The error was discovered at the final inspection.

Mr. Grant displayed a site plan that he believed provided a better understanding of the constraints on this property. He noted the plantings already installed to screen the generator from the Conway property [and noted that Kevin Conway submitted a letter stating that he had no objections to the granting of the variance] and the 150 foot wetland buffer. He noted the location of the air conditioning units and the electric panel box.

Mrs. Mandelker stated that this installation was very well done on this difficult lake front property. She stated that she had no objections to the application.

Chairman Price acknowledged receipt of the May 28, 2016 letter of no objection from Kevin Conway.

In response to a question of Chairman Price, Ms. Jex advised that she was told by the Generac dealer that the generator was required to be installed five feet from any living unit.

Mr. Casper believed that it was a nicely done installation, which fit in. In this case the tanks were installed underground. He indicated that he would approve the application.

Mrs. Mandelker moved to grant the variance as presented for the following reasons:

* There is no undesirable change to the character of the neighborhood or detriment to nearby properties.
* There is no practical alternative to the variance requested.
* The requested variance is not substantial.
* There will not be an adverse effect or impact on the physical or environmental condition of the neighborhood.
* The Board found that it was likely that the difficulty may be self-created, but it was determined that it was not done intentionally.

The motion was seconded by Mr. Krellenstein; To Approve: Mr. Krellenstein, Mr. Rendo, Chairman Price, Mrs. Mandelker and Mr. Casper. To Deny: None.

# CAL. NO 17-16-BZ

# Application of Thomas Stalzer, 6 Arnold Lane, Rowayton, CT (James Marshall Sandler, 28 Lake Street, Goldens Bridge, New York 10526, owner of record) for [1] a variance of Article III§ 220-9D (2) and [2] Article IV § 220-23E of the Zoning Ordinance in the matter of an increase in non-conformity other than use due to the proposed stairs that are closer to the side property line than permitted (21’-6” where 30’ is required) in an R-1A, One Acre District.

## **The property is located on the west side of (#28) Lake Street, designated on the Tax Map as Sheet 7F, Block 12663, Lot 5, in an R-1A, One Acre Residential District.**

Thomas Stalzer was present representing the applicant.

There were no objections to the notice of public hearing as published in the Lewisboro Ledger.

Mr. Stalzer noted that the proposed stairs are actually proposed 21’-1” from the property line. He stated that he was looking for the continuation of a formerly approved variance granted for the stairs in June 2014. The house burned to the ground and the homeowner is rebuilding it on the original footprint with a modular product.

Mr. Krellenstein believed that previously the stairs were moved completely outside of the setback and that the variance granted was for the overhang only. Noting his concerns with the do it yourself nature of the prior structure done without permits, he believed that this particular variance request was very limited, far from the neighboring property with woods between the houses and not substantial.

Mr. Krellenstein moved to grant the variance as presented for the following reasons:

* There is no undesirable change to the character of the neighborhood or detriment to nearby properties.
* There is no practical alternative to the variance requested.
* The requested variance is not substantial.
* There will not be an adverse effect or impact on the physical or environmental condition of the neighborhood.
* The Board found that it was likely that the difficulty may be self-created, but the variance was not great.

The motion was seconded by Mr. Casper; To Approve: Mr. Krellenstein, Mr. Rendo, Chairman Price, Mrs. Mandelker and Mr. Casper. To Deny: None.

Mrs. Mandelker asked that the propane tanks be screened because they are located in the front of the house.

**IV. CORRESPONDENCE & GENERAL BUSINESS**

Mr. Krellenstein moved to adjourn the meeting at 8:10 P.M. The motion was seconded by Mr. Casper; In Favor: Mr. Krellenstein, Mr. Rendo, Chairman Price, Mrs. Mandelker and Mr. Casper.

Respectfully submitted,

Aimee M. Hodges

Secretary, Zoning Board of Appeals