



The *Zoning Board of Appeals* of the Town of Schaghticoke met at the Town Hall, 290 Northline Drive, Melrose, NY 12121 on Thursday, May 2, 2019.

The meeting opened at 7:30 p.m. Roll call took place.

Present:

Ed McDonough, Chairman
Rich Geddis
Kristin Griswold
Jason Shover

Absent:

Lettie Saheim

Kristin Pratt, Deputy Town Attorney, was present. Elizabeth Hale, Clerk, was present.

REGULAR MEETING

7:30 P.M. The Board reviewed the minutes from the April 4, 2019 meeting. Kristin Griswold made a motion to accept the minutes as submitted. Jason Shover seconded.

Ayes: McDonough, Geddis, Griswold, Shover

Nays: None

PUBLIC HEARING

7:35 P.M. Chairman Ed McDonough read the Notice of Hearing for Application #1-19 of Thomas Martin, of 22 Cambridge Court, Mechanicville, New York 12118, for property located at 2401 River Road, Melrose, New York 12121, in the Town of Schaghticoke, Tax Map #50.-1-7.32 for an AREA variance pursuant to Town Zoning Code Section V(K) to permit the construction of a deck attached to a single family residence. The proposed deck will be located approximately 92' from the Hudson River. The Applicant is requesting an area variance of eight (8) feet as the Zoning Code imposes a minimum setback of one hundred (100) feet for development within the normal stream bank of the Hudson River. The property is located in the Residential Agricultural (RA) District.

Brian Holbritter, land surveyor, appeared to represent the applicant, Thomas Martin. Thomas Martin was present. Patti Sawyer and Thomas Martin are owners of the 4.5 acre parcel of property located in an RA district at 2401 River Road. The property is contiguous to the Hudson River. An application, survey, short form EAF and application fee were submitted for an area variance of 8' in order to construct a one family residence with a rear deck proposed to face the Hudson River on the River Road parcel.

Bill Mattson, a neighbor, at 2443 River Road, appeared. Mr. Mattson stated that he did not have a problem with the granting of a variance; however, he commented as the request for an 8' area variance was so minimal that he couldn't comprehend why the applicant preferred to submit an appeal rather than adhere to the Zoning Code. In addition, he noted that his property was adjacent to the Thomas/Sawyer property, but the map did not reflect that information. Mr. Holbritter clarified that the displayed survey was correct and pointed out that Mr. Mattson's property was the parcel further north.

There was no further public comment. The public hearing was closed at 7:45 p.m.

Ed McDonough made a motion to close the public hearing and open the regular meeting. Kristin Griswold seconded.

Ayes: McDonough, Geddis, Griswold, Shover

Nays: None

REGULAR MEETING

7:46 P.M. Brian Holbritter, land surveyor, stated that the application for an 8' area variance for the construction of a dwelling for Mr. Martin and Ms. Sawyer was submitted to allow the location of supports for a deck, 92' from the Hudson River, on the westerly side of the proposed residence. The location of the building line of the dwelling is proposed to be 100' from the Hudson River; the decking and supports extend beyond the foundation of the proposal, requiring the 8' variance, and allowing a better view of the river. Mr. Holbritter noted that the dwelling will be constructed within the flood plain. However, to compensate for the flood plain location and the resulting issues (such as the need for additional insurance), -plans for the use of the ground floor (basement) are very limited. Mr. Holbritter stated at the April meeting that Mr. Martin may entertain the installation of a workshop or may leave the space completely vacant. All living spaces, appliances, and electrical requirements are proposed to be located on the main floor, 3 feet above the flood plain, and level with the deck.

Mr. Martin presented the architectural plans for the proposed 2,400 square foot timber frame open plan dwelling to the Board. Mr. Mattson also viewed the plans. Mr. Martin stated that he had received RCHD approval for the septic plan.

Kristin Pratt, Deputy Town Attorney, stated that the applicant would be required to apply for a Special Use Permit from the Planning Board, as the construction will be taking place within the Flood Fringe Overlay District. Atty. Pratt added that according to Chapter 69 of the Town Code, the application will also require a permit for development within the flood plain.

Attorney Pratt stated that following research, she would consult with and guide Mr. Holbitter with regard to the required additional permit processes.

Mr. McDonough reviewed Section XI, B, 2,b,1-5 of the Zoning Code with the applicant. The Board determined that an undesirable change would not be produced in the character of the neighborhood. Since the proposal is an attractively designed dwelling, the Board concurred that the proposal would not create a detriment to the nearby properties. In addition, it was noted that there was no opposition by correspondence or verbal submission and only an expression of support from Bill Mattson. The Board indicated that the project could be implemented by adherence to the Code, but that the views would be impeded, that the appeal was not substantial, and that the application would not result in an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. By virtue of Mr. Martin's request to have a deck in the chosen location, the Board believes that the appeal was self-created. In addition, the Board noted that Rensselaer County indicated that the decision was left to local consideration; however, the county noted that "the deck footings and method of attaching the deck structure to the deck footings should be according to flood regulation requirements". In addition, the county noted that the "silt fencing along with other erosion control methods should be used to keep construction site erosion from depositing silt, construction garbage and chemicals from entering the river."

The requested area variance constitutes a Type II action under SEQRA and is therefore exempt from the SEQRA review. Since the Board had no further questions, Ed McDonough made a motion to grant final approval of Application #1-19 of Thomas Martin for an area variance of eight feet (8') to allow the construction of a deck with supports located 92' from the Hudson River, conditioned upon the applicant's procurement of a flood plain development permit under Chapter 69 of the Town Code, a Special Use Permit from the Planning Board for development within the Flood Fringe Overlay District and with the conditions recommended by the County included. Jason Shover seconded.

Ayes: McDonough, Geddis, Griswold, Shover

Nays: None

OTHER

Chairman McDonough stated that he received a phone call from a resident who keeps 3 chickens (no rooster) on a 3 acre parcel of property at 5 Rock Candy Lane. The resident stated that he contacted the Town Hall and learned that he is required by Zoning Code to have property measuring a minimum of 5 acres to legally keep chickens. The resident

informed Mr. McDonough that he might attend tonight's meeting; the resident did not appear.

In addition, Mr. McDonough received an e-mail from Ward Peek, 132 Riley Road. Mr. Peek would like to subdivide his 132 Riley Road 3 acre parcel which is located in an RA district in order to provide his son with land for the construction of a residence. Mr. Peek did not know when an application for a subdivision of the property would take place nor when construction of a residence would be scheduled. Chairman McDonough met with Mr. Peek and explained that the subdivision of a 3 acre parcel would not meet Zoning Code regulations and that an area variance would be required. In addition, Mr. McDonough informed Mr. Peek that if the variance was granted and not acted upon within a period of one year, the variance could expire prior to construction of a dwelling.

The Board asked Atty. Pratt if she had an update on the removal of junk from the Marvin Moses property on Riley Road. Mr. Moses' son, Matthew, has been collecting salvage and operating an illegal salvage business from his parents' property which is located in an RA district on Riley Road. Atty. Pratt informed the Board that although there are currently trailers loaded with materials apparently, ready for removal, there is still a large accumulation of junk on the property. There are a number of violations of the Zoning Code, as well as DMV and state statute. The DEC is also aware of the issues regarding the operation of a salvage business in an RA District. Atty. Pratt stated that the Town is seeking a permanent solution to the problem and that she is scheduled tomorrow to appear in court with regard to this matter.

Ed McDonough made a motion to adjourn the meeting at 8:25 p.m. Kristin Griswold seconded.

Ayes: McDonough, Geddis, Griswold, Shover

Nays None

Abbreviations:

DEC - Department of Environmental Conservation

DMV - Department of Motor Vehicles

RA - Residential/Agricultural District

RCHD - Rensselaer County Health Department

Respectfully submitted,

date: July 13, 2019



Elizabeth Hale, Clerk

Zoning Board of Appeals, Town of Schaghticoke