Town of East Fishkill

**ZONING BOARD OF APPEALS**

February 28, 2023

Chairperson Drummond called the Zoning Board of Appeals to order with a roll call. Those present were Alberto Paratore, Rocco Limitone, Aziz Ahsan, and Norma Drummond. Michael Cunningham, Esq., Town Attorney; Matt Rickett, Zoning Administrator; and Jackie Keenan, Clerk, were also present.

Chairperson Drummond led the meeting with the Pledge of Allegiance.

**CHAIRPERSON’S COMMENTS:**

Chairperson Drummond stated the next meetings would be Tuesday, March 28, 2023, and Tuesday, April 25, 2023. She stated that in the event of snow, if the Town Hall is closed the meeting is canceled and rescheduled for the following month. Everything from the agenda will just be transferred over.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to approve the minutes of the meeting held January 24, 2023, as amended. Voted and carried unanimously.

Chairperson Drummond stated there was an application for Bruck with the address of 26 Marcy Lane in Hopewell Glen that was looking to do a home office and we had a conversation with her and suggested that she rethink it. We did agree to hold the Public Hearing if she so chose. In the meantime, the applicant got back to Jackie and has decided that she's not going to move forward with the request. The Board does need to refund all but five dollars of her application fee.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to refund all but five dollars of the application fee to Rebecca Bruck, 26 Marcy Lane, Hopewell Junction. Voted and carried unanimously.

Chairperson Drummond went through the procedures for the meeting. She stated that the first part of the meeting is Adjourned Public Hearings and first time Public Hearings, which are applications that this Board has already had the opportunity to review. Neighbors are then noticed and have the opportunity to tell the Board anything they may not be aware of. They know the property better than the Board may. The next part of this meeting will be reviews. These are generally the first time this Board has had the chance to see the application. After the review of the information, they will schedule it for a Public Hearing. There is no public comment on any reviews this evening. They will be given the opportunity to speak at the appropriate time.

**ADJOURNED PUBLIC HEARINGS:**

**ADJOURNED PUBLIC HEARING – Appeal 4048- Stuart Taub (6557-03-363139)**

Stuart Taub, 27 Falcon Crest Court, Hopewell Junction, is requesting a 20’ sideline variance for a 40’ X 25’ (1000 sf) detached garage pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance. Footprint of the existing house is 1,804 sq. ft.

**Michael Gillespie was present.**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to re-open this Adjourned Public Hearing. Voted and carried unanimously.

Chairperson Drummond stated they held the Public Hearing at the November meeting and closed it. They then realized that the numbers were wrong. They were advertising for a 7-foot variance and in reality, they needed a 20-foot variance. They opened the Public Hearing again last month. The neighbors to the immediate right did come and express some concerns that they had. They did asked if Mr. Gillespie could meet them on site. Mr. Gillespie stated that the applicant did meet with the neighbors. Mr. Gillespie had staked out the area so that the neighbors could see exactly what area was involved. The meeting was re-noticed, and the neighbor asked if they had to be present. They were told they could be present, but did not have to be. Chairperson Drummond stated that the applicant did share an e-mail that he received from the neighbors, but it indicated that they would be at this meeting. She stated there is some vegetation that screens this garage from the neighbors. They were concerned that it did not preempt any property of theirs or any of their property rights.

Chairperson Drummond asked if there were any comments or questions from Board members. There were none.

Chairperson Drummond asked if there was anyone from the public to speak for or against this application.

**MOTION** made by Rocco Limitone, seconded by Aziz Ahsan, to close this Public Hearing. Voted and carried unanimously.

APPEAL NUMBER: 4048

APPLICANT: Stuart Taub

NAME OF PROJECT: A 20’ side line Variance from the Schedule of Bulk Regulations for a proposed 40’ X 25’ (1000sf) detached garage

LOCATION: 27 Falcon Crest Court, Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6557-03-363139

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Albert Paratore­­­­­­­­­­­­­­­­­­­­­­­­

**WHEREAS,** the Applicant has requested to build a detached garage; and

**WHEREAS,** the Applicant has proposed this garage to store classic cars; and

**WHEREAS,** this is a Type II action under SEQRA, and no further review is required; and

**WHEREAS,** the Zoning Board of Appeals held a Public Hearing on November 22, 2022, and continued on January 24, and February 28, 2023; and

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on November 16, 2022 and January 18, 2023; and

**WHEREAS,** the Zoning Board of Appeals finds that:

The granting of the Variance will not produce an undesirable change in the character of the neighborhood since the Applicant will use the garage for the storage of classic passenger vehicles;

The desired result cannot be achieved by other means due to the layout of the Property;

The Variance could be deemed substantial, but there is existing vegetation between this property and the neighbors to help screen the garage;

The Variance will not have an adverse effect or impact on the physical or environmental conditions;

**NOW, THEREFORE, BE IT RESOLVED,** that the Zoning Board of Appeals hereby

approves the request from Stuart Taub for a proposed 20’ side line Variance from the Schedule of

Bulk Regulations for a proposed 40’ X 25’ (1000 sf) detached garage.

**BE IT FURTHER RESOLVED,** that within five (5) business days of the adoption of this Resolution, the Chair or other duly authorized member of the Zoning Board shall cause a copy of the Resolution to be filed with the Town Clerk and a copy sent to the Applicant/Owner.

Resolution Seconded by Zoning Board Member Aziz Ahsan

The votes were as follows:

Board Member Aziz Ahsan Aye

Board Member Rocco Limitone Aye

Board Member Alberto Paratore Aye

Chairperson Norma Drummond Aye

**ADJOURNED PUBLIC HEARING – Appeal 4050 – Keisha Duncan (6555-00-235210)**

Keisha Duncan, 174 Woodmont Rd. Hopewell Junction, is requesting a 20’ side line variance for a 28’ X 24’ (672 sf) 2 story garage/storage addition pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Keisha Duncan was present.**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to re-open this Adjourned Public Hearing. Voted and carried unanimously.

Chairperson Drummond stated they did review this application last month and discovered they all had the wrong paperwork. They all have the corrected paperwork for this meeting.

Mr. Ahsan stated the survey they have is from November 2022. He asked if that was the most recent. Chairperson Drummond stated they have an updated one from January 31, 2023.

Chairperson Drummond stated that it appears that it got larger. They are now 9 feet away from the property line. Mr. Ahsan reviewed the changes in size on each side. There was much discussion about the various surveys and the size changes. Chairperson Drummond explained they have to size up to the nearest foot, they cannot use exact to the inch measurements. Due to the applicants building showing at a 9.11 distance from the property line, she will need a 21-foot sideline variance. Chairperson Drummond stated this was not a large enough size difference to have to readvertise. She stated that due to the rocks on the property, it is very difficult to move this anywhere else. There is not an existing garage on the house already. This is a strange layout for the existing house in that the lower level of the house is where the kitchen is, and the bedrooms are on the “real” first floor. The neighbor to the left, who would have the most impact, came to the meeting and stated she had no problem with this because she does realize that anything the applicant would like to do will require a variance.

Chairperson Drummond asked if there were any other questions or comments from Board members. There were none.

Chairperson Drummond asked if there was anyone from the public to speak for or against this application. There was no one.

**MOTION** made by Aziz Ahsan, seconded by Alberto Paratore, to close this Public Hearing. Voted and carried unanimously.

APPEAL NUMBER: 4050

APPLICANT: Keisha Duncan

NAME OF PROJECT: A 21’ side line Variance from the requirements of the Schedule of Bulk Regulations for a 28’X24’ (672 sf) 2 story garage/addition

LOCATION: 174 Woodmont Rd., Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6555-00-235210

ZONING DISTRICT: R-3

Resolution offered by Zoning Board Member ­­­­­­­­­­­­­­­­­­­­­­­­­­­­­Aziz Ahsan

**WHEREAS,** the Applicant currently does not have a garage at her residence; and

**WHEREAS,** the Applicant is applying to the Building Department for an extension to the existing house to improve its livability; and

**WHEREAS,** there is a rock outcrop that limits the location of a potential addition; and

**WHEREAS,** the Zoning Board of Appeals held a Public Hearing on November 22, 2022 and continued on January 24 and February 28, 2023; and

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on November 16, 2022; and

**WHEREAS,** the Zoning Board of Appeals finds that:

The granting of the Variance will not produce an undesirable change in the character of the neighborhood as the house will remain residential in nature and the addition would be screened from neighbors;

The desired result cannot be achieved by other means due to the layout of the Property;

The Variance could be deemed substantial;

The Variance will not have an adverse effect or impact on the physical or environmental conditions;

**NOW, THEREFORE, BE IT RESOLVED,** that the Zoning Board of Appeals hereby

approves the request from Keisha Duncan for a 21’ side line Variance from the requirements of the

Schedule of Bulk Regulations for a 28’X24’ (672 sf) 2 story garage/addition.

**BE IT FURTHER RESOLVED,** that within five (5) business days of the adoption of this Resolution, the Chair or other duly authorized member of the Zoning Board shall cause a copy of the Resolution to be filed with the Town Clerk and a copy sent to the Applicant/Owner.

Resolution Seconded by Zoning Board Member Alberto Paratore

The votes were as follows:

Board Member Aziz Ahsan Aye

Board Member Rocco Limitone Aye

Board Member Alberto Paratore Aye

Chairperson Norma Drummond Aye

**PUBLIC HEARINGS:**

**PUBLIC HEARING – Appeal 4052 – Panny Industry Inc. (6555-00-363386)**

Panny Industry Inc., 256 Woodmont Rd. Hopewell Junction, is requesting a Special Permit in order to bring in 1,750 additional cubic yards of fill (total of 2,500 cubic yards less 375 per year for 2022 and 2023), pursuant to Section 194-75 of the Zoning Ordinance.

**Mr. Panny was present.**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to open this Public Hearing. Voted and carried unanimously.

Chairperson Drummond stated they did have an opportunity to review this application last month. The Town Code allows someone to bring in 375 cubic yards of fill a year. The application came in towards the end of the year, so the Board recognizes that he is allowed 375 for 2022 and 375 for 2023. The applicant is building a new house on Woodmont Road. The backyard is pretty much a drop-off. The Board doesn’t doubt that bringing in some fill makes sense. It cannot be impacting the neighbor with any kind of drainage issues or anything like that. The Town issued a stop work order because fill was being brought in over and above the amount allowed. At the last meeting the Board did ask that the applicant have his engineer provide an exact number, or as close as possible, showing how much fill was actually brought in already. Chairperson Drummond did not believe anything has been provided to the Town yet. Mr. Panny stated that information was submitted to the Town Engineer when he first submitted his application. Mr. Rickett stated that as of Friday, February 17, George Cronk said he has not received anything from Jack Carrell, the applicant’s engineer. Mr. Ahsan stated that without that information the Board has nothing to base the resolution on. His suggestion was to hold over this Public Hearing to the next meeting. Chairperson Drummond stated they would allow any neighbors to make comments tonight if anyone was present.

Chairperson Drummond asked if there were any other questions or comments from Board members. There was no one.

Chairperson Drummond asked if there was anyone in the public to speak for or against this application.

Nick Laino stated he lives adjacent to this applicant’s property. He is the one who has water damage due to the fill being brought in. He stated that most of the backyards on Woodmont Road, including his, are a cliff. The original plot plans that were submitted shows the backyard as a cliff. Mr. Laino stated that Mr. Panny knew that there would be no backyard when he started construction. On 6/28/22 Mr. Cronk knew that the applicant was bringing in more fill than he was supposed to. This goes back a long time. Mr. Laino has been having bad water problems on his property since they started this. When construction was first started Mr. Laino had a conversation with Mr. Panny because he cut down all the trees on the site. There are only a few trees left of the actual woods that were there when he started. Mr. Laino was immediately concerned as they are downhill from the property. Mr. Panny told him that he would take care of it and there would be no issues. They have had plenty of issues. The swale and the berm which were supposed to be put in right away did not happen. Significant damage has been caused on his property. It has destroyed his wife's garden. It has destroyed all the fill and topsoil they put down for their new shed. There are trenches in his backyard. If he brings in more it will get worse. Chairperson Drummond stated he is not bringing in any more fill. This is to account for all the fill that has been brought in. The applicant has assured the Board that there will be no more fill coming in. This variance is to account for the fill that has already been put in place. Mr. Laino stated the applicant assured George Cronk on 9/13/22 that he was not bringing in any more fill, but more fill was brought in. Mr. Laino stated he is not believing what they're being told because they have already been lied to multiple times. Now topsoil is coming in. Mr. Laino does understand the topsoil is needed to progress, but it is still adding more to what has already been added. About a month and a week ago a drainage pipe was finally installed. They have no idea if this is working or not as there has not been a significant rainfall since then. The amount of topsoil the applicant will need to bring in to cover all of the construction rubble is going to be a significant amount. All the water from the road is being diverted to the back of the applicant’s property. That water is going into a natural stream that has been there a very long time. The area is now turning into a swamp, which has never been an issue before. The drainage that the applicant put in is adding to that water. The topsoil is going to runoff and create a bigger swamp and it is all uphill from this neighbor’s property. Chairperson Drummond stated they have been told that no additional fill is coming in. Only additional topsoil, which is allowed. Mr. Laino stated that so far, the topsoil is way over the 300 that was initially allowed and there will be a lot more coming in. He asked what could be done about that. Chairperson Drummond asked if Mr. Laino’s property had been restored yet. Mr. Laino said no. All he has been told is that they will fix the water problem. He stated there is significant damage and they don't know if the drainage issue is fixed. Mr. Rickett stated that the Town Engineer believes that the applicant has rectified the problem. Mr. Cronk has been out there, and they lifted the stop work order, but to this gentleman's point, there has not been significant rainfall to see if it has made the correction. Chairperson Drummond asked who is responsible for fixing the damage to his property. Attorney Cunningham stated this would be a civil matter between the two parties. He stated that unfortunately the Town cannot serve as the arbitrator for that. They cannot do some sort of equitable damage allowance for property damage either. Mr. Laino stated he does understand it will come to a civil matter. Chairperson Drummond stated Mr. Laino is raising some points that this Board needs to consider. The drainage is a big issue, and the engineer has not provided the calculations to the Town as requested at the last meeting. She is not willing to close the Public Hearing. She is also concerned about the statements that the applicant has made about not bringing in more fill and then more fill has come in. Mr. Rickett stated topsoil is okay. Chairperson Drummond asked if that is not included as part of the 375 cubic yards and Mr. Rickett said no, Mr. Laino showed the Board photos of the drainage pipe as well as the construction debris. He explained the photos to the Board.

Scott Lombardo stated Mr. Laino is his son in law. Mr. Lombardo has owned that house since 1970. He stated one of the main concerns is the elevation of the fill. He stated it is 10 feet above where his property is. The applicant put boulders in instead of a retaining wall and now there is a swale that comes down and the boulders are not going to hold any of the water back. It is all going to continue to run in to Mr. Lombardo's property. Mr. Laino stated boulders were never on the original plan. It was supposed to be grass but now they have to stare at boulders every day. Attorney Cunningham stated part of the fill in the pictures is construction material. Mr. Lombardo stated everything that has come in has been construction debris. It has been concrete block, rebar, bricks, but no dirt. Mr. Laino stated he does not know if there is lead paint or asbestos in anything that came into the neighboring lot. They are trying to have a vegetable garden and all this runoff is running into what their growing. Mr. Laino asked if all the fill was on-site now, how is the pipe going to get covered. Mr. Lombardo stated he just brought in 80 additional yards of topsoil and there is not a septic in yet. That will need to be covered as well. The pipe on the other side of his hill is a 30- or 36-inch culvert pipe, which also is not covered yet. Chairperson Drummond asked if they had photos of the damage to the yard and Mr. Laino stated they have already sent copies into the Town. He stated he would be happy to send new ones in because the damage has gotten more severe since the original photos were sent. Mr. Lombardo stated they brought in item 4 to set up a new shed and that has all washed away. They graded the side of the property and put down grass seed and that is all washed away. Now they have 1 foot trenches going through their property and garden area. Mr. Ahsan requested that when they sent paperwork into the Building Department, they make a second set for the Zoning Board. Chairperson Drummond stated that Jackie would be able to supply copies to this Board.

Mr. Panny stated that Chairperson Drummond keeps saying they are not bringing more fill and they are. He stated they have 1500 yards of fill in there now and they have another thousand yards of fill needed to cap everything. Chairperson Drummond asked Mr. Rickett if that was his understanding from the Building Department. Mr. Rickett stated he believes Mr. Cronk thought that the 2500 was already on site. Chairperson Drummond stated they think there is already 2500 on-site so his original calculation is way off. Mr. Panny stated his engineer has calculated it at 1500 yards brought in. Mr. Rickett said that goes back to the original point of the Building Department having no correspondence. Mr. Panny stated he does not remember it being said that there would be no more fill brought in at the last meeting. He stated he knows they had 1500 yards brought in that is the construction material and then there is material that goes over it to backfill and grade the whole property. Mr. Panny said due to the stop work order the material was just left in a pile in the middle. It now needs to be spread out and then a cap material goes over it. He stated that no one informed them when they got their building permit that they needed this. Chairperson Drummond stated that the plot plans showed this house was not going to have a backyard. Mr. Panny stated he did not know there was a fill law. They are trying to rectify it now and trying to make everybody happy. Chairperson Drummond asked what the applicant was going to do about the damage to the neighbor’s yard. Mr. Panny stated he is happy to help providing material to get his yard shaped up if necessary. He stated nobody has asked him to do that. Nobody has asked him to do anything. His job has been stopped, the machines have been pulled on and off the site at a great expense, but no one has asked him for any help. Chairperson Drummond asked what happened after the Town Engineer came to the site and told him that there was damage to the neighboring property. Mr. Panny stated at that point they were issued a stop work order and they haven't had the opportunity to do anything since then. The pipe is installed where it is shown on the plan. The other pipe is what the Town Engineer asked them to do. If it needs to be extended further down, it can be. They are not elaborating on what they have done, they are doing exactly what they were asked to do. The stop work order was lifted and now they can start moving forward once they get this fill permit. Then they can finish grading the backyard and do all of the landscaping. Chairperson Drummond stated they cannot move forward without the necessary calculations. They need to know exactly how much fill has already been brought in. Mr. Panny stated he believed they told them they had 1500 yards on site and were bringing in another thousand yards. Chairperson Drummond stated she did not believe anybody has seen calculations as to how they got the 1500 yards. She stated the applicant's engineer needs to provide to the Building Department all of the calculations that they have asked for. This Board will not act until they have all of the information they need and that the neighbors need to understand. They need to make sure that the action that the Board takes is not going to cause more damage and that they fixed the circumstances that the applicant has created.

Chairperson Drummond asked if there was anyone else who wanted to speak for or against this application. There was no one.

Attorney Cunningham stated that the plan needs to be in place to remove the construction materials that are there as part of the fill. This Board has never approved a special permit for fill that included construction materials being dumped on the site. Mr. Panny stated it is just concrete and rubble. Attorney Cunningham stated the picture show rebar and bricks as well. Mr. Ahsan stated he saw electrical piping or conduits as well as additional construction debris. Chairperson Drummond stated that is why the applicant should be getting tickets as to where the fill is coming from. If the DEC gets called, he needs to be able to show them where the fill came from. Mr. Panny stated he knows where the fill comes from so he can get the tickets.

Mr. Lombardo stated that the entire property that the applicant has had filled is construction debris. The entire basement under the concrete floor is construction debris. It has to be at least 100' x 50' x 10' deep of all construction debris. He stated they would like to know where it came from, and it should have been certified. He stated he agrees with the Town Attorney that all the fill should be removed.

**MOTION** made by Rocco Limitone, seconded by Aziz Ahsan, to adjourn this Public Hearing until such time as the Building Department get the appropriate information. Voted and carried unanimously.

Chairperson Drummond told Mr. Lombardo that he should plan on being here at the next meeting. If he would like, he could call Jackie to see if it is on the agenda, which is probably easiest. He can also come into the office and look over the file to see if something has been submitted. Mr. Lombardo stated he tried that and was told they needed to fill out a F.O.I.L. request. Chairperson Drummond stated they do not have to fill out a F.O.I.L. request to look over the Zoning Board file.

**PUBLIC HEARING – 4054 – Salvatore Speziale (6556-01-434927)**

Salvatore Speziale, 2808 Route 52. Hopewell Junction, is requesting a 3’ side yard variance for an existing shed 19’x 20’ (380 sf) pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance and a 4’ variance for a proposed shared driveway that would be 12’ wide when it should be 16’ pursuant to Section 194-67.1 of the Zoning Ordinance

**Salvatore Speziale was present.**

**MOTION** made by Alberto Paratore, seconded by Aziz Ahsan, to open this Public Hearing. Voted and carried unanimously.

Chairperson Drummond stated that this property has a very long driveway with trees on both sides. She does understand the applicant is looking to subdivide his property. It is approximately 18 acres. They currently rent out the house and he is looking to create just one additional lot. There is a barn in the back. In essence it is a shared driveway by the users now, but he is looking to formally subdivide the property. He is before the Planning Board to do that because he wants to put a residence in next to the barn. He is asking that rather than uproot and disturbed the trees by widening the driveway, to just have a shared driveway. It is approximately 150 feet long. Mr. Speziale said it was probably closer to 100 feet from Route 52 to the house and then it becomes a wider area. Chairperson Drummond stated there is also cobblestone along the edges which is part of the look of the driveway. Chairperson Drummond stated that to have a shared driveway they have to have a good agreement in place. She stated that right now the applicant owns both lots but will not own both lots forever. Mr. Speziale stated it will go to his kids. She stated they still need to have a good maintenance agreement in place as the Town has had some disputes due to shared driveways. It will be in his best interest to get that ironed out as soon as possible.

Chairperson Drummond asked if there were any questions or comments from Board members. There were none.

Chairperson Drummond asked if there was anyone from the public to speak for or against this application. There was no one.

**MOTION** made by Aziz Hassan, seconded by Rocco Limitone, to close this Public Hearing. Voted and carried unanimously.

Attorney Cunningham stated that this is a procedural hurdle. This is under the State Environmental Quality Review Act. Some subdivisions need to go before both the Planning Board and the Zoning Board, so before they can get approval here it needs to be environmentally cleared by the Planning Board. The applicant’s next step will be to go back before the Planning Board. Chairperson Drummond stated that the Planning Board is the lead agency, and they are doing a coordinated review. She asked if they have gotten notice of this yet. Clerk Keenan said yes.

**MOTION** made by Aziz Ahsan, seconded by Alberto Paratore, to acknowledge that the Planning Board will be made Lead Agency for SEQRA purposes. Voted and carried unanimously.

Chairperson Drummond explained that the Zoning Board cannot take any action because the SEQRA has not been done yet. The Planning Board is lead agency and they are taking the bigger look at this and they will ultimately approve the subdivision. Attorney Cunningham stated that most subdivisions don’t require variances but this one did, which is why the applicant is before both boards. Chairperson Drummond stated they have 62 days to act to approve the variances, which is why they had to approve the lead agency request by the Planning Board so that they can do their environmental review. Then it should come back to this Board at the next meeting. Chairperson Drummond stated the applicant does not need to come back to this Board. They will take formal action after the Planning Board does their piece. There were no objections to variances, but they can't officially approve them until the Planning Board does the SEQRA. Attorney Cunningham stated there would be no more public comment sections from this Board.

**REVIEWS:**

**REVIEW – Appeal 4055 – Santo Barbagiovanni (6458-02-790527)**

Santo Barbagiovanni, 7 Lenart Pl. Hopewell Junction, is requesting a 14’ side line variance for existing pool equipment pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Santo Barbagiovanni was present.**

Chairperson Drummond asked when the pool was put in. Mr. Barbagiovanni stated it was finished and completed this past June. Chairperson Drummond asked what company did the installation. Mr. Barbagiovanni stated the owner is Jim Hughes. Chairperson Drummond stated they put in the pool and the pool equipment. Mr. Barbagiovanni stated the property was marked and flagged by the surveyor. They saw the flags then decided to put the pool equipment adjacent to the pool. He is not sure why they did that. He went to work and when he got home that is where it was.He pointed out to the installation company who said it would not be a problem and they would take care of it.

Chairperson Drummond stated the Building Department went out and said there is little to no screening between this lot and the neighbor. She asked if there was the ability to put anything there. She stated the issue with pool equipment is that it can make noise especially if it is running in the evening. Screening can help absorb the noise, so it does not negatively impact the neighbors. Mr. Barbagiovanni stated they will probably put shrubs behind that equipment. He has also spoken to the neighbor, and they are discussing sharing the cost of putting the fence there as well.

Chairperson Drummond asked if there were any questions or comments from Board members. There were none.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the March 28, 2023, meeting. Voted and carried unanimously.

**REVIEW – Appeal 4056 – Kimberly Korners Corp. (6559-03-327315)**

Thomas Cunningham, 1610 Route 82. Lagrangeville, is requesting a special permit to allow a caretaker apartment in the shopping plaza pursuant to Section 194-44 of the Zoning Ordinance.

**Thomas Cunningham was present.**

Mr. Cunningham stated this is a repeat of something they have done a few years ago. Chairperson Drummond stated when Kimberly Corners was developed Mr. Cunningham had asked for a caretaker cottage then. She stated she does not think he was ever actually put the apartment in, but they did get permission to do it. Mr. Cunningham stated they went through the Zoning Board. They had plans that were submitted and approved and then they ran out of money. It is a busy location with commuters showing up at six in the morning. Post office trucks start coming in at 7:30 AM. The daycare center has people in and out all day and sometimes Sonny’s stays open and they don't get out until two or three in the morning. Chairperson Drummond stated this was approved by the Zoning Board, but the approval has expired as it was never built. The applicant is looking for a re-approval of a previously approved application. Mr. Cunningham stated they have not had complete plans drawn up yet. It will be on well and septic. Chairperson Drummond stated there is an open violation because there is a second-floor fire escape. Mr. Rickett stated that in 2018 the Lagrangeville fire Department responded to an alarm at this location. They determined that the fire escape route to the apartment was not safe. Mr. Cunningham stated he believes they brought that down. They have an open permit as they were re-doing that area and awaiting final inspection. There was a tenant that also had an open issue and the Building Department said that they would close them both at one time. He believes the inspection was done on the tenant last week. Mr. Rickett asked if it was the hair salon and Mr. Cunningham said yes and nail salon had a issue as well. Mr. Rickett stated she has to call for final inspection. Mr. Rickett stated he is not sure anyone now knows that they've had to look at that before. It was only because of the application now that they realized that there was an issue with it. Mr. Cunningham stated that is why when they redesigned it, they took everything away so it could be used. That whole area is filled in so it cannot be used as an exit. Now they may have to rethink that again. The ladder is gone and has been gone for a while. Mr. Rickett stated they would work on it, but that should not interfere with holding a Public Hearing. Chairperson Drummond stated the appeal for the caretaker apartment was originally in 2014.

Chairperson Drummond asked if there were any questions or comments from Board members. There were none.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the March 28, 2023, meeting. Voted and carried unanimously.

**REVIEW – Appeal 4057 – Nancy Zvonkovic (6554-00-301998)**

Nancy Zvonkovic, 70 Miller Hill Rd. Hopewell Junction, is requesting a 17’ sideline variance for a proposed 1448 sf. addition pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Steven Silverstein was present.**

Mr. Silverstein stated this is the old Miller house on Miller Hill Road. Everything about the site is nonconforming. They basically want to put a new living room and new master bedroom on the side of Rushmore Road. Miller Hill Road is now very heavily trafficked and noisy, so they want to move their bedroom away from that side. They also own the property across the street where they have a garage. It is very undeveloped. It is also mostly wetlands. The house itself could be approximately 150 to 200 years old. The house is presently 31 feet off of Miller Fill Road as there is a barn on the side on Rushmore Road, which is 12 feet 4 inches off the road. The addition would mimic the architecture of what is there right now. The addition would consist of a living room, a master bedroom suite, and a laundry room, they are removing one of the bedrooms on the original side and replacing it with the new master bedroom suite. There will be no change in bedroom count. All the setbacks are nonconforming.

Chairperson Drummond stated there is a propane tank that is even closer to the road than the house. Mr. Silverstein stated it is the same distance as the barn is. He is not moving that at all. It is already existing. Chairperson Drummond asked what the elevation difference between the road and the propane tank was. Mr. Silverstein stated he did not know. He stated there is a strong fence in front of that tank. He stated if they have to move the tank it is doable, but they are not planning on doing any work on that side of the site. He stated there is a grade change there, but he does not know exactly what it is. It is higher than the roadway. He stated there is also a fence that goes around the entire site. Mr. Ahsan stated he has two propane tanks shown on his map. Both of them are close to the road. Mr. Ahsan stated both tanks are within several feet of both roads. Chairperson Drummond stated there aren't two generators showing. Mr. Rickett stated there are permits issued for those. Chairperson Drummond stated there is a well in the middle of the property where they are proposing this new structure. Mr. Silverstein stated they will be moving the well. Chairperson Drummond asked the size of the lot and Mr. Silverstein stated 1.456 acres in an R3 zone. Mr. Rickett stated it is 3-acre zoning in that area. Chairperson Drummond stated that they have less than half of what is required for that area. It is already a nonconforming lot, and they are asking to expand the nonconforming use. Chairperson Drummond asked what the square footage of the existing house was. Mr. Silverstein stated it is 1475 sq ft and the existing barn is 1627 sq ft. The proposed addition is 1448 sq. ft.

Chairperson Drummond stated this area has had other requests to expand nonconforming homes, so they would not be setting a precedent by considering this. Clerk Keenan stated there are two other variances on this parcel. Attorney Cunningham stated he believes Parcel Access thinks the house was built before the Declaration of Independence. Chairperson Drummond stated that given the historical considerations here, she asked the pleasure of the Board. Mr. Ahsan stated they are looking to expand the nonconformity. The whole corner of the lot will be developed. Chairperson Drummond asked what color the home was, and Mr. Silverstein stated it is a light gray. It is a one-story addition.

Chairperson Drummond asked if there were any questions or comments from Board members. There were none.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the March 28, 2023, meeting. Voted and carried unanimously.

Attorney Cunningham stated that the applicant will have to go to the Dutchess County Departmentof Health for their septic approval. Mr. Ahsan stated they will need to know how close all the structures are to the road. Mr. Silverstein stated he will get them all.

**REVIEW –** Appeal 4058 – Scott Bryant (6657-03-182101)

Scott Bryant, 45 Old Route 52, Stormville, is requesting a 10’ side line variance, 530 sf. size variance for a proposed 40’ X 32’ (1280 sf) detached garage pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance. Footprint of the existing house is 833 sf.

**Scott Bryant was present.**

Chairperson Drummond stated that Mr. Bryant is the Town Engineer. He does not oversee this Board and has ultimately nothing to do with this Board. He has more to do with the Planning Board then this Board. This review will be totally objective, and they have to be careful of any precedent that they might be setting here. Attorney Cunningham stated that as per General Municipal Law Section 809 covers full disclosure information.

Chairperson Drummond stated this is a very small house at 833 sq. ft. It is a rental property. Mr. Bryant stated this was his mom's house until she passed. It just became a rental for now. He has always wanted to put a building in the back. Chairperson Drummond asked what the size of the property was and Mr. Bryant stated it is 1.382 acres. It has a very irregular shape. Chairperson Drummond stated it appears to have two front yards. Attorney Cunningham stated the code has recently been changed to get rid of that issue. The front yard is on Old Route 52. The reason he is looking for a 32 x 40' garage is because he has a car/truck collection scattered all over and he wants to put them all in one spot. His plans are also to get an RV in the next few years as he approaches retirement, and he does not want to have to add on to it later. Chairperson Drummond asked how this was going to be accessed. There is frontage on Route 52 and Old Route 52. Mr. Bryant stated his preference would be to access it from Route 52. If the application moves forward, he will apply to the DOT to get a driveway off Route 52. Chairperson Drummond asked how can they not declare this as a front yard if it has a driveway access. Attorney Cunningham stated they did just change the code so that everyone really only has one front yard. He stated they would have to look at it again. Chairperson Drummond stated if it is a second front yard, they just need to address it that way. Attorney Cunningham stated it should be that whatever road your front door faces is your front yard.

Chairperson Drummond asked what the screening would be and how close the neighbors are. Mr. Bryant stated he has talked to the neighbors. There is a little existing tree line. Some of the trees are very mature but it does not create a very significant visual buffer. You can see through it. When it was discussed with the neighbors, their concern was that it will block the sun and the mountain view so they had asked if it could be shifted back to the north. If he moves it back that way, he will have to get closer to their property line. He has staked where it will go, and they are fine with it. He could plant trees, but they have not expressed an interest in him doing that. If they do want trees, he will plant them.

Chairperson Drummond asked what it was going to look like. He was going to paint it a burnt red like the shed, but he is okay with making it a forest green to match the house. It will be a single story with a 12-foot door at the end to fit an RV and the other doors will probably be 10 x 10 for cars and trucks. It will be tall enough to accommodate an RV.

Mr. Ahsan stated if he comes in off Route 52 than that makes Route 52 his front yard. Mr. Bryant stated he does not have to go in that way, it just makes more sense, so he does not have to navigate around the house and shed to get there. That way he is also not disturbing the tenant when he wants to get something in or out of the garage for as long as it is a rental. He is not sure he will get the DOT approval. Chairperson Drummond stated if it was going to have its own access, do they want it to look more like a house than a large barn or garage. They could have him add some features onto it to make it look more like a house. Mr. Bryant stated it was going to be a metal building not a stick built. He can put windows into it. He wants something relatively maintenance free. He stated on the other side he believes it is for Verizon that has a substation. It is some sort of commercial building. There is also a difference in elevation when driving on Route 52. Chairperson Drummond asked if the existing house has a garage and Mr. Bryant said no. She stated every property should have a garage. When they have had people ask for such large garages the Board has asked for a floor plan and a justification as to why he is asking for something this size. It will just get put in the file. She also asked if possible, could they get an elevation to show what it will look like. There are other properties in town that have large garages that look like garages so if they could look more house like she would like it better. Mr. Brant stated he could put in windows and plant shrubs, but he is trying to keep the cost under control.

Chairperson Drummond asked if there were any questions or comments from Board members. There were none. She stated that advertising for this may reflect the fact that this may be a detached garage in a front yard. Attorney Cunningham stated he just looked up the latest draft of the law and it states that there will only be one front yard and it will be based on the principle access so it will probably not end up with this being considered a front yard but, if it is, they will advertise appropriately.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the March 28, 2023, meeting. Voted and carried unanimously.

**ADJOURNMENT**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to adjourn the Zoning Board meeting at 8:42 PM. Voted and carried unanimously.

Respectfully submitted:

Julie J. Beyer

Meeting Secretary