Town of East Fishkill

**ZONING BOARD OF APPEALS**

March 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 Jean Burke, 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, April 25, 2023, and Tuesday, May 23, 2023.

MOTION made by Aziz Ahsan, seconded by Alberto Paratore, to approve the minutes of the meeting held February 28, 2023 as amended. Voted and carried unanimously.

Chairperson Drummond stated there was an adjourned Public Hearing for Panny Industry, Inc and it had been rescheduled to a time that they had more information for the Board. There were concerns raised by neighbors so the applicant was requested to provide additional information regarding the amount and contents of the existing fill to the Board. At this time, they have not presented any additional information, so this Adjourned Public Hearing would not be opened tonight.

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. The board recognizes that neighbors may know the property better than the Board would. The next part of this meeting will be reviews. These are generally the first time this Board has had the chance to see these applications. 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 for comment at the appropriate time.

Chairperson Drummond stated that the Board had previously approved an appeal for Daniel Cabbibo to be able to do an addition to his house for his father to be able to live in the smaller apartment. He was also going to add a one car garage for his father to be able to park his vehicle. Mr. Cabbibo has come back and said that doing everything he had expected is going to be too expensive so instead he would like to convert his existing three-car garage into the accessory apartment for his relative. Then he will just build a new three-car garage off of the back of the house. It is pretty close to the original size of the original proposed addition. Mr. Rickett stated the garage was going to be 5'10" and the addition is 9'10". Now they are doing a detached garage at 9'12". Chairperson Drummond stated it is less of an impact than the variance originally requested. They originally needed a side yard variance and a rear yard line variance. Now all they need is the rear line variance. Because it is less impactful than what was previously approved, and they do not want to leave an approval out there to have an applicant expand on it later without neighbor comment, there is a resolution in the packets for the Board to review if they choose to adopt. The Board can do that or request that the applicant come in and explain the whole thing. Mr. Ahsan stated the impact is going to be lessened. The approval he is asking for is less than was originally requested so he does not see the need for the applicant to come back in.

APPEAL NUMBER: 4027

APPLICANT: Daniel Cabibbo

NAME OF PROJECT: Request for a 28’ rearline variance from the Schedule of Bulk Regulations to allow a proposed 912 s.f. three car detached garage (the “Variance”)

LOCATION: 191 Creekside Rd. Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6457-04-563475

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Aziz Ahsan

**WHEREAS,** the Applicant applied in 2022 to the ZBA for Variances in order to create additional living space in his home for his parents; and

**WHEREAS,** the Applicant applied for and was granted: (i) an 11’ sideline variance from the Schedule of Bulk regulations to allow a proposed 510 s.f. garage; and (ii) a 28’ rearline variance from the Schedule of Bulk Regulations to allow a proposed 950 s.f. addition; and

**WHEREAS,** after approval, the Applicant has decided to forego the installation of an addition to his home, and instead decided to pursue the creation of a three-car detached garage totaling 912 s.f.; and

**WHEREAS,** the proposed size of the detached garage meets the requirements Section 194-107(C) of the Town Code, and no variance is required; and

**WHEREAS,** this is a Type II Action under SEQRA; and

**WHEREAS,** no additional Public Hearing is required, since the only Variance that the Applicant is now requesting is a 28 foot rearline Variance, which was previously granted by the ZBA; 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 Property will remain residential in nature;

The desired result cannot be achieved by some other means due to the location of the driveway;

The Variance could be deemed substantial, but the Applicant has proposed the minimal Variance which would accomplish the desired result;

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 by Daniel Cabibbo for a 28’ rearline variance from the Schedule of Bulk

Regulations to allow a proposed 912 s.f. three-car, 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 Rocco Limitone

The votes were as follows:

Board Member Aziz Ahsan Aye

Board Member Rocco Limitone Aye

Board Member Alberto Paratore Aye

Chairperson Norma Drummond Aye

**DECISION:**

**DECISION - 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.**

Chairperson Drummond stated they have already conducted the Public Hearing and it has been closed. They were just waiting for the Planning Board to be able to declare themselves Lead Agency and to the SEQRA review that would encompass this Board’s action.

APPEAL NUMBER: 4054

APPLICANT: Salvatore Speziale

NAME OF PROJECT: (i) a 3’ side yard variance from the requirements of the Schedule of Bulk Regulations for an existing 19’ x 20’ (380 s.f.) shed; and (ii) a 4’ variance from the requirements of Section 194-67.1 of the Zoning Ordinance for a shared driveway measuring 12’ wide when 16’ is required (the “Variances”)

LOCATION: 2808 Route 52, Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6556-01-434927

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Alberto Paratore­­­­­­­­­­­­­­­­­­­­­­

**WHEREAS,** the Applicant applied to the Planning for a subdivision to create one extra lot; and

**WHEREAS,** the Property is approximately eighteen (18) acres in size, but is very long and thin; and

**WHEREAS,** due to the layout of the Property, the Applicant’s design professional designed a shared driveway to maximize space and to preserve existing trees; and

**WHEREAS,** Section 194-67.1(C)(3) requires that a shared driveway be 16 feet with a two-foot cleared shoulder on each side; and

**WHEREAS,** the Applicant is only able to provide a 12 foot wide driveway necessitating a Variance; and

**WHEREAS,** the other required Variance is for an existing shed; and

**WHEREAS,** the Planning Board was the Lead Agency in a coordinated review under SEQRA; and

**WHEREAS,** the ZBA closed its Public Hearing on February 28, 2023 but reserved its decision so that the Planning Board could issue its determination of significance under SEQRA; and

**WHEREAS,** the Planning Board issued a Negative Declaration at its meeting on March 21, 2023; and

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on March 22, 2023; and

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

The granting of the Variances will not produce an undesirable change in the character of the neighborhood since the Applicant proposed his design to preserve the existing country feel of his Property;

The desired result could be achieved by other means, but the Applicant believes the shared driveway design is preferable to preserve the existing trees and the aesthetic appeal of the Property;

The Variances are not 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 Salvatore Speziale for: (i) a 3’ side yard variance from the requirements of

the Schedule of Bulk Regulations for an existing 19’ x 20’ (380 s.f.) shed; and (ii) a 4’ variance from

the requirements of Section 194-67.1 of the Zoning Ordinance for a shared driveway measuring 12’

wide when 16’ is required, subject to the Applicant’s attorney completing a shared-driveway access

and maintenance agreement to the satisfaction of the Town Attorney’s Office.

**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 HEARINGS:**

**ADJOURNED 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.

Chairperson Drummond stated this was not being addressed at this meeting as none of the information requested has been provided.

**PUBLIC HEARINGS:**

**PUBLIC HEARING – 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.**

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

Chairperson Drummond stated that the Board did have an opportunity to review this application at the last meeting. The contractor knew of the limits for this and everything was all staked out. The pool was put in and the applicant went to work one day and came home to find out the equipment was not where it was supposed to be. The contractor told him not to worry about it. The applicant did have a conversation with his neighbor, who is okay with this location. A neighbor letter was sent in. They did discuss putting in some shrubs there to potentially absorb some of the noise.

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. She read a letter from Richard Wuenst from 134 Creamery Road in favor of this application. She thanked the applicant for taking the time to work out any issues with his neighbor. There was no one else to speak regarding this application.

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

APPEAL NUMBER: 4055

APPLICANT: Santo Barbagiovanni

NAME OF PROJECT: A 14’ side line Variance from the requirements of the Schedule of Bulk Regulations for existing pool equipment

LOCATION: 7 Lenart Pl., Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6458-02-790527

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member ­­­­­­­­­­­­­­­­­­­­­­­­­­­­­Rocco Limitone

**WHEREAS,** the Applicant’s pool was installed in June of 2022; and

**WHEREAS,** the Applicant’s surveyor marked the boundaries of the Property prior to the installation of the pool equipment, but his contractor still installed pool equipment in an area necessitating the requested Variance; and

**WHEREAS,** the Applicant plans to install shrubs to screen the pool equipment and mitigate potential noise impacts; and

**WHEREAS,** the Applicant has also discussed sharing the cost of adding a fence with his adjacent neighbor; 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 March 28, 2023; and

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on March 22, 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 Property will remain residential in nature;

The desired result cannot be achieved by other means due to the location of the pool;

The Variance could be deemed substantial, but its impact will be mitigated by screening the pool equipment with shrubs;

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 Santo Barbagiovanni for a 14’ side line Variance from the requirements of

the Schedule of Bulk Regulations for existing pool equipment subject to the Applicant implementing

a landscaping plan satisfactory to the Engineering and/or Planning Divisions.

**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

**PUBLIC HEARING – 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.**

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

Chairperson Drummond stated this application was reviewed at the last meeting. This applicant came before this Board many years ago and got approval for a caretaker cottage for this property. There are several different uses at this location. The applicant never did have a caretaker cottage built. The approval has expired so he is looking to get that approval put back in place. Some issues were brought to the attention of the Board when they did the inspection. They discovered an outstanding violation for a fire escape, which has been resolved but has not yet been inspected. Mr. Rickett stated there is another tenant that needs to apply for as-built signage as well. Chairperson Drummond stated there is also an issue with the Health Department as to whether or not they will be allowed to have a caretaker cottage based on the size of the septic. The applicant will have to get something from the Planning Board before they can go before the Health Department. Chairperson Drummond explained last time that uses in this plaza start very early in the morning with the post office and the daycare. Having someone on-site to deal with any issues is definitely beneficial.

Chairperson Drummond asked if there were any questions or comments from Board Members. Mr. Limitone asked if they would be approving this prior to the approval of the installation of the fire escape and septic verification. Chairperson Drummond stated that could be a condition of approval. Attorney Cunningham stated they were not granting approval at this meeting, as they are not ready yet. Chairperson Drummond stated they wanted to see if there were any issues from the public that needed to be addressed. Anything that would be approved would be subject to the approval of the Board of Health or any other agency.

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 and reserve their decision. Voted and carried unanimously.

Chairperson Drummond stated this application would be first on the agenda for next month, but the applicant does not need to be present.

**PUBLIC HEARING – 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.

Chairperson Drummond stated this public hearing has been held over until April 25.

**PUBLIC HEARING – 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.**

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

Chairperson Drummond stated they did review this application at the last meeting. This is a property that the applicant inherited. He is looking to build a standalone, detached garage separate from the house. It is a very small house, which is why he has to deal with the limitations of the size. Mr. Bryant stated it is also a uniquely shaped lot. Chairperson Drummond stated the applicant has access from both Route 52 and Old Route 52. The house is on Old Route 52, but he is proposing to have access to the garage, if he can get approval for a curb cut, from Route 52. The existing house is now rented, which raised some concern as there was another property in Town that had two very large garages and the house was being rented. Chairperson Drummond stated that the applicant has explained that he has a car collection and would like space for a potential RV. He did supply a floor plan to show how he plans on using the space. It is really meant for three cars and one RV. She stated that every lot is allowed one detached garage. She asked if the existing house has a garage and Mr. Bryant said no.

Chairperson Drummond asked if there were any questions or comments from Board members. Mr. Ahsan asked if the entrance is planned from Route 52. Mr. Bryant stated that is what he would like to do. He is working with DOT. Chairperson Drummond asked what color he decided on. Mr. Bryant stated it will be maroon-ish red and green, with some windows.

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

Mark Alexander from 41 Old Route 52 asked how tall the proposed building was. Chairperson Drummond stated it is a one-story building, but it will have a garage door on it that will be 12 feet high. Mr. Alexander stated he has the adjacent lot and there are trees that line the property. He is looking to take those trees down as he does not want them falling on the proposed garage. He asked if that was okay to do. Chairperson Drummond stated if the trees are on his yard, he is allowed to maintain trees on his property. Mr. Bryant stated those trees are on the other side of his property. He appreciated the offer, but it would not be necessary.

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

Chairperson Drummond stated that she had a neighbor letter for the record and asked that the hearing be reconvened.

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

Chairperson Drummond read a letter from John DeForest, Jr. in favor of this application. Mr. Bryant stated these are the neighbors closest to this location.

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

APPEAL NUMBER: 4058

APPLICANT: Scott Bryant

NAME OF PROJECT: (i) 10’ side line Variance from the requirements of the Schedule of Bulk Regulations for a proposed detached garage; and (ii) a 570 sf size Variance from the requirements of the Schedule of Bulk Regulations and Section 194-107(C) of the Zoning Ordinance for a proposed 30’X44’ (1,320 sf) detached garage (the “Variances”)

LOCATION: 45 Old Route 52, Stormville (the “Property”)

TAX MAP NUMBER: 6657-03-182101

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Aziz Ahsan­­­­­­­­­­­­­­­­­­­­­­­

**WHEREAS,** the Applicant is applying to install a detached garage for storage of vehicles and an RV; and

**WHEREAS,** the footprint of the existing house is 833 sf; and

**WHEREAS,** the Property has frontage on both Old Route 52 and Route 52; and

**WHEREAS,** the side with frontage on Old Route 52 is considered the front yard per the Zoning Ordinance; and

**WHEREAS,** the Applicant intends to apply to the Department of Transportation (“DOT”) for direct access to the proposed garage from Route 52; and

**WHEREAS,** at the February 28, 2023 Meeting, the ZBA Chairwoman disclosed that the Applicant is a Town employee as required pursuant to Section 809 of the General Municipal Law; and

**WHEREAS,** the Applicant does not have supervisory authority over the ZBA; 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 March 28, 2023; and

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on March 22, 2023; and

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

The granting of the Variances will not produce an undesirable change in the character of the neighborhood since the Property will remain residential in nature;

The desired result cannot be achieved by other means due to the long, thin layout of the Property and the Applicant’s desire to place an RV in the detached garage;

The Variance for the size of the detached garage could be deemed substantial, but the Applicant is mitigating potential impacts with his proposed architectural design of the detached garage by having it look like a barn and with separate access from Route 52;

The Variances 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 Scott Bryant for: i) a 10’ side line Variance from the requirements of the

Schedule of Bulk Regulations for a proposed detached garage; and (ii) a 570 sf size Variance

from the requirements of the Schedule of Bulk Regulations and Section 194-107(C) of the Zoning

Ordinance for a 30’X44’ (1,320 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 Rocco Limitone

The votes were as follows:

Board Member Aziz Ahsan Aye

Board Member Rocco Limitone Aye

Board Member Alberto Paratore Aye

Chairperson Norma Drummond Aye

**REVIEWS:**

**REVIEW – Appeal 4059 – Anthony Pallone (6457-04-750261)**

Anthony Pallone, 43 Saddle Ridge Dr. Hopewell Junction, is requesting an 11’ rear line variance for an existing 10’ X 8’ (80 sf) shed with electric pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Anthony Pallone was present.**

Chairperson Drummond asked if the applicant put up the shed or if it was there when he purchased the property. Mr. Pallone stated it has been there for approximately 30 years, which is longer than he has been there. Chairperson Drummond stated it is a very small shed so for it to have electric is very surprising. Mr. Pallone stated there is also an outlet as well as the light. Chairperson Drummond asked if he has spoken to his neighbor about it. She asked what kind of condition it was in. Mr. Pallone stated it is in decent shape. He was thinking of putting a new roof on it as some of the shingles have worn away. Chairperson Drummond asked if it was visible from the road. Mr. Pallone stated you can see it from Saddle Ridge Drive. There is a tree right in front of it, so it is partially obscured. Chairperson Drummond asked what color it was, and Mr. Pallone stated it is gray. It does not really stick out.

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 April 25, 2023, meeting. Voted and carried unanimously.

**REVIEW** – Appeal 4060 – Nicholas Barbaria (6557-03-150030)

Nicholas Barbaria, 24 Prentiss Dr. Hopewell Junction, is requesting a 1’ side line variance for a 6’ fence

pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Nicholas Barbaria was present.**

Chairperson Drummond asked if the fence exists. Mr. Barbaria said no, it is a proposed 6-foot-high fence. Chairperson Drummond stated the issue is that it will not be 2 feet in from the property line. She asked if part of the fence was already existing. Mr. Barbaria said yes, and he wants to add the new additional fence in line with what is there already. She asked who installed the existing fence and Mr. Barbaria said he had a company come in to do it. It was only installed 1 foot away from the property line. Chairperson Drummond asked how long the fence was. Mr. Barbaria stated moving it would not be cheap. He stated he thought they had a variance for the first part of the fence. He did appear before this Board during a Zoom meeting. He thought the variance for it got approved as well as having it going past the front of his house. When Mr. Rickett came out to look at the proposed fence for the backyard, he said it did not have a variance. Mr. Barbaria then resubmitted all of the surveys he submitted a year and half ago. Chairperson Drummond stated the fence is really 18 inches off of the property line, so the variance is even less than they thought. She asked if the neighbor had any objections and Mr. Barbaria said no. He did submit a letter from them.

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 April 25, 2023, meeting. Voted and carried unanimously.

**REVIEW** – Appeal 4061 – Getaway House (6454-00-370849)

Getaway House, 17 Monte Cristo Trail Hopewell Junction, is requesting an appeal of a Zoning Interpretation issued 2/2/23 by the Zoning Administrator determining proposed use by applicant would be defined as a “trailer camp” as set forth in the Town of East Fishkill Zoning Code Section 131-3 and not a “large scale planned recreational development” per Section 194-3 and 194-59 of the Zoning Ordinance.

**Philip Rosenweig and Shane Hovel were present.**

Mr. Liponis handed out a large packet of information for the Board to review. There was also a smaller packet specifying there are a couple of uses that are allowed within the R2 zoning district.

Chairperson Drummond asked where this property was located. The property owner stated it is off of Long Hill along the Appalachian Trail.

Mr. Rosenweig had a picture of one of the units. He stated they are a company who purchases property, generally 80 to 100 acres, and place 40 to 60 cabins, which are each approximately 160 square feet, on them. Each cabin has a bed, kitchen, and bathroom. They install electric and septic if it is required. They also install freshwater. There are three different style cabins. There is a one bed, a two bed, and a handicap accessible unit. They are very close to each other and only slightly different in size. They all contain the kitchenette and a bathroom. They sit on a pad. The notion is to keep them separate from the ones next to them and to give people privacy. There are no TVs. They do not allow amplified music. The notion is to get away and enjoy nature. They are very often near a hiking trail, or they install a nature path. People can stay from 1 to 7 days. They don't allow anyone to stay longer than seven days. These are not set up to be residences. They tend to be within a few hours’ proximity to larger cities. All of the cabins are situated facing away from the road, so you have a view of nature. They do try to reuse existing roads. They do not clear-cut. They tend to have a maximum of about 15% cutting altogether. They also typically do plantings of native species from the area. They are very cognizant of wildlife, septic, and making sure their runoff is controlled. There is not a gray water issue at all. The land has one “back of house” building where they maintain a residence so there was someone there all the time to make sure there is no noise after 10 o'clock and that all fires are out by then. They do not have a food and beverage business or a communal area. They encourage people to come and pick up something locally. They can order dry goods to be delivered to their unit on the first night. At this parcel there are existing roads, and their plan shows reuse of these roads. Very often they do have to enhance them to make sure that emergency vehicles can get in and access the area and if it is a two-way road it has to be wide enough for passing. Mr. Limitone asked if this was a short-term rental business. Mr. Rosenweig stated the typical stay is two nights, and sometimes three nights on a weekend. Midweek tends to be 2 to 3 nights. The maximum is seven. Mr. Limitone stated he did review the shorter package and asked why specifically they are trying to change the designation from mobile park. Mr. Liponis stated this particular property is within the R2 zoning district. In the Town Code mobile home parks are not allowed in the R2 zone and trailer parks for trailer camps, with the same definition as a mobile home park, are also not allowed. He stated this is not a mobile home park or trailer park because people are not living there, they're not staying there for longer than seven days. The average stay is 1.5 days. This particular use is along the lines of large scale planned recreational development, a type I camp or even a motel. The motel definition really is what Getaway is trying to do with the property. Chairperson Drummond asked if they would be paying hotel tax. Mr. Rosenweig said if they are designated that way, then they would be paying the tax. She asked if they were designated as a hotel on their other sites. Mr. Rosenweig said they are generally designated as campgrounds, but there are some sites where they are designated as a hotel. He stated mostly they are a campground. He stated that these arrive with their units having an RVIA designation. Chairperson Drummond stated that is the point. These are vehicles. These are vehicles that are registered to someone. Mr. Rosenweig stated they are vehicles, but they cannot be driven as there is no motor. Chairperson Drummond asked if they were registered with the Department of Motor Vehicles and Mr. Rosenweig said yes. Chairperson Drummond asked what the current use of the property was. Mr. Hovel stated he is the current owner, but they are in contract. He purchased the property in an “as is” condition, and at the time it was the existing Monta Rosa Lodge. There is an existing restaurant and a motel that has nine rooms, each with their own bathroom. There was also recreation use by way of camping, which is essentially what this is. Chairperson Drummond asked what time of year these rentals would be used and if they were equipped for all year-round use. Mr. Rosenweig said yes. She asked if each home had a septic and well. Mr. Liponis stated it is not a home. She asked if each residential unit had a septic and well. Mr. Rosenweig said it was not a residential unit either. He stated these were for transient use. It is like a motel. Chairperson Drummond asked if they needed permits from the Town to construct these units. Mr. Rosenweig stated it is on the municipality. They are opening one in a few months in which the municipality did require individual inspections and permits. She asked again if each unit would have a septic and well. Mr. Rosenweig stated each unit will be connected to septic but will not have individual ones. Chairperson Drummond asked if there was going to be a wastewater treatment plant. Mr. Liponis stated there is a septic field up there. Mr. Rosenweig stated that connects them. Sometimes they connect just two or three depending on the location. They will all be connected either directly or they will share septics. The same thing happens with the water. There is a well and they will put in a water system. Chairperson Drummond asked if they were going to cut down trees on 15% of the property and Mr. Liponis stated he believes it is even less than that. Mr. Liponis stated that this location already has roads. The cabins are approximately 8 and a half feet wide and 15 to 20 feet long. They sit on a gravel pad. The area is cleared if it needs to be, however they always look for the spaces that are already usable. They do not like to cut down trees. Chairperson Drummond asked if the units fall into disrepair, are they wheeled out and a new one brought in, or if the operation is not successful are these structures going to be wheeled out. Mr. Rosenweig stated they do remain on wheels so they could be moved out. Every month they maintain the pressure in the wheels and the units are maintained to be mobile. According to the jurisdiction some require them to be plated and some do not. They are stick built and are similar to any stick frame building so their expectation is that they would last on the exterior with good maintenance for 30 years. They do maintain them and repair them on a regular basis. Mr. Limitone stated they have wheels on them, and they are pulled in as a trailer. He asked if they have a license plate on them when they are driving on a New York State highway and Mr. Rosenweig said yes. He asked if it was a trailer plate and Mr. Rosenweig said yes. They can be removed at any time, they don't have their own water or septic and everything connects to a communal water system. He stated by New York DMV law they are defined as a trailer. Mr. Liponis stated he is not sure but can get back to them with an exact answer. He stated the word “trailer” seems to be the biggest issue. There are ways to tie these to the site to make them more permanent. Mr. Limitone stated if a landscaper as a trailer with a lawnmower on it and brings it into his backyard and put stakes into it and mounts it to the ground it is still a trailer. Mr. Liponis said it boils down to if the definitions are in the zoning code. He stated they did look at the language of the ordinance first and understand what the parameters are and whether a particular use falls within that definition. He stated with something like this you would look at the definition of a large-scale planned recreational development, a type 1 camp, and a motel, all of which are allowed within the R2 zoning district subject to special permitting by the Planning Board. This falls squarely within in all three of those. Chairperson Drummond stated she's not sure they have an issue with the use. The question is why this type of structure and whether it's a trailer making it a trailer park. She thinks it's a good idea to make this area into a campground. She asked why they don't go permanent structures. They could do modular units and put them on site they would be permanent. Mr. Rosenweig stated they have not done that but it is something they could look into. Mr. Liponis stated they have campgrounds in a lot of parts of the country. It is sometimes just more cost-effective to build something the way you have always been building them. Mr. Liponis stated they are looking to be given direction as to what to do to make it fall into that definition. Chairperson Drummond stated it is not the Board’s job to suggest that they need to do something else. It is their job to interpret the code. Mr. Liponis stated that they went to the Building Department to see if this use would be allowed. Mr. Rosenweig stated that they did get an interpretation from the Zoning Administrator that it is not allowed because it has wheels. Chairperson Drummond stated that was not specified as the reason. Mr. Rickett stated they determined that it is a trailer camp. Mr. Liponis asked if it was because it had wheels and Mr. Rickett stated that certainly went into their decision-making. Chairperson Drummond asked how many acres the property is and how many units they are proposing. Mr. Liponis stating it is 86 acres and they are proposing 50 tiny cabin units. Mr. Limitone stated it is a nice concept. Chairperson Drummond agreed. Mr. Rosenweig stated that a lot of people do bring young children, but typically not their teenagers. He stated there is absolutely no TV and no amplified music. Chairperson Drummond stated it her personal opinion that she likes the concept but not the wheels of the vehicle/trailer park component. She stated that if they could make it more permanent structures, she would feel more comfortable that it meets the requirements of the code. Mr. Liponis stated that the standard under the law is that you have a zoning use and if there is nothing prohibited… For example, in the definition of large-scale recreational development, under the zoning code, it doesn't say anything about the structure shall not have wheels. The same thing goes for a Type I Camp and for a motel. He stated if it would work without them having wheels, just tell them. Chairperson Drummond stated the applicant needs to tell the Board what they're looking for and not the Board telling applicant what they should do to get it approved. She stated it sounds like they should have a conversation with the Planner. Mr. Liponis stated that they did, and it was recommended that they come to the ZBA. Chairperson Drummond asked if they had the specific references as to what the applicant wanted them to look at and Mr. Liponis said yes. Chairperson Drummond stated their choice at this point is if they want to proceed with a Public Hearing, or if they want to reconsider based on the conversations that happens this evening. The public comments would be limited to how people feel it does or does not meet the code. It would not be about their general feelings on the project. Attorney Cunningham stated the application before them is exactly what they have presented. At least two of the Board members brought up points as to why these would be considered trailers under DMV law and why it would fit in that specific section of the code. The applicant will need three affirmative votes in order to overturn the previous decision. Perhaps the best action would be to go with reviewing different code sections and possibly submit an alternative showing the units permanently affixed to the ground. That may or may not lead to a different determination. That is not known at this point. If they have VIN numbers and DMV plates, they do sound like trailers. Mr. Liponis stated they are working with Getaway because they don't want to do something that cannot be approved. They are happy to submit some alternatives, but they were hoping for some guidance. Chairperson Drummond stated without the benefit of public comments and discussion amongst themselves, they can't approve something. She does not believe the application is ready to go to a Public Hearing yet. Mr. Liponis stated that for the benefit of the record there is another campground in East Fishkill that is a lot like this application. It is the Sylvan Beach Park. Chairperson Drummond asked how long it has been there for and Mr. Liponis said for many years. This property was purchased in 2019. Chairperson Drummond stated that does not tell her how long the park has been in existence. He showed photos of the units in the R1 zone at Sylvan Beach Park to show the similarities in what Getaway is proposing in the R2 zone. Mr. Ahsan verified that the photos in the packets were of Sylvan Lake and what Getaway is proposing and Mr. Liponis said yes. Mr. Ahsan stated that all the units are on wheels at this point and Mr. Liponis said yes. Mr. Liponis asked if the Public Hearing could be continued, and Mr. Ahsan stated they do not keep their Public Hearings open for a long time. Mr. Liponis stated they will submit some alternatives and not move forward with the Public Hearing at this point. Mr. Ahsan stated that when they do present at the Public Hearing, they need to be specific as to exactly what kind of units they're going to have or have alternatives for the public to view and comment on. Chairperson Drummond stated that this Board's purpose is to give an interpretation of what a trailer park is only.

**REVIEW – Appeal 4062 – Margaret McDuffie (6354-00-665712)**

Margaret McDuffie, 17 Laura Ln. Hopewell Junction, is requesting a variance for a proposed 10’x12’ (120 sf) shed to be located in the front yard pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Margaret McDuffie was present.**

Chairperson Drummond asked Ms. McDuffie to explain why the shed needs to be in the front yard. Ms. McDuffie stated the main thing is that it is a very sloped property, and the most level section of the yard is in the front. That is also near the driveway, so it is easy to access. There are two uses for the shed. She is a cabinet maker and woodworker, and she has a small workshop at home and the shed would be to store wood and keep it dry. She would also keep some yard tools there as well. There is a small shed on the slope in the back that is more difficult to get access to due to the slope. There is a lawn down below but it gets very saturated and is sloped down so she would have to climb up for it anyway. The septic and well is down on the back side. Chairperson Drummond asked what her backyard was used for now. Ms. McDuffie stated it is half wooded with an open area in the middle. Chairperson Drummond stated the survey map is really not showing the topography changes. She asked the applicant what she thinks the grade change is. Ms. McDuffie said when you look at the property from the road it looks level, and it slopes a little toward the house and behind the house it slopes way down and behind that is a cliff. She already has septic issues with the bottom lawn because it constantly stays wet. She stated it does not back up, but it “breathes”. She does not want to put the building there and does not want to cut down trees. If she puts a shed down there, she would have to lug everything back up to the top where she does most of the work. Chairperson Drummond asked if the shed would be visible from the road and Ms. McDuffie said yes. It is approximately 60 feet off the road, so it is pretty far away from the road. Chairperson Drummond asked what color it would be, and Ms. McDuffie stated it will be a medium gray, which is the same color as the house. Chairperson Drummond asked if she was proposing screening around it and Ms. McDuffie said yes. She stated this road is a cul-de-sac, and she is very close to the end of it. She did get several neighbors to sign letters stating that they were fine with this. Chairperson Drummond asked if there was a pod on this property currently. Ms. McDuffie said yes and that would be gone as soon as she had the shed because it is holding the wood that is being put in the shed. It has been there since November. Chairperson Drummond verified that this was not a business being run out of the home and Ms. McDuffie said no. She has a shop location in Cold Spring. Mr. Limitone asked if the shed was going where the Pod currently is. Ms. McDuffie said no, but it is close to there. The pod is right off of the driveway because that is the easiest place for them to park it. The shed will be a little further to the south. Mr. Rickett stated there is a pad there, but it did not show up in the pictures that he took because it had just snowed. It is close to where the pod currently is. It is slightly behind it. Mr. Ahsan asked if there were any other areas where it could be placed. He does see a concrete walk and a gravel area on the survey. Is only a 10' x 17' shed. Ms. McDuffie stated the concrete walk is a pathway that goes down and around behind the house. She stated the house is a two-story house that you enter on the top floor in the front and the bottom floor is down below and that walkway leads to the bottom door. Chairperson Drummond asked what would happen if it moved back 10 feet and Ms. McDuffie stated then it hits the slope and then approaching it becomes awkward. She stated there were trees along the left side of the house and the right side of the house. She can get an aerial image for the next meeting. Mr. Limitone asked if this was the only level area and if she was trying to avoid an incline. Ms. McDuffie said that if it went in on an incline, she would probably have to have the doors open towards the road. Mr. Paratore asked how much room was between the pad and where the slope starts. Ms. McDuffie said it was right there. She did put it as close to the slope as she could. She is also proposing it there for the ease of the next person who owns this house. She asked how to get overhead shots of her property. Mr. Ahsan said she could supply pictures without the snow and how it would look from the front. He also suggested showing pictures of the slope of the walkway.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the April 25, 2023, meeting. Voted and carried unanimously.

**ADJOURNMENT**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to adjourn the Zoning Board meeting at 8:33 PM. Voted and carried unanimously.

Respectfully submitted:

Julie J. Beyer

Meeting Secretary