Town of East Fishkill

**ZONING BOARD OF APPEALS**

April 25, 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, May 23, 2023, and Tuesday, June 27, 2023.

Chairperson Drummond reminded everyone that the purpose of the signs they are required to put out before their Hearing are so that neighbors and people that may not get letters can see them and be aware that something is going on. She requested that all signs be placed facing the roadway, near the edge of the road so people passing can see and read them.

MOTION made by Rocco Limitone, seconded by Aziz Ahsan, to approve the minutes of the meeting held March 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 many concerns raised by neighbors so the applicant was requested to bring additional information regarding the existing fill to the Board. They did supply information, but it was received late, so the Building

Department has not had time to properly review it.

The Board did review the application for Getaway House, that is Number 7, Appeal 4061 at the last meeting. They were requested to review their application for any changes they may consider. At this time, they have not come back with any additional plans or amendments, so this application will be skipped tonight.

Chairperson Drummond went through the procedures for the meeting. She stated that the first part of the meeting is a Decision. The Board has seen the application and the Public Hearing has been closed. Because there were a few remaining questions, the decision was held over a meeting until all the answers were received. Next is the Adjourned Public Hearing 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 last 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.

**DECISION:**

**DECISION - 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.

Chairperson Drummond stated they have already conducted the Public Hearing and it has been closed. They have received all the information they needed in order to move forward with this application.

APPEAL NUMBER: 4056

APPLICANT: Kimberly Korners Corp.

NAME OF PROJECT: Special Permit pursuant to Section 194-87 of the Town Code to Allow a Caretaker Apartment in a Shopping Plaza

LOCATION: 1610 Route 82, Lagrangeville (the “Property”)

TAX MAP NUMBER: 6559-03-327315

ZONING DISTRICT: B-1

Resolution offered by Zoning Board Member ­­­­­­­­­­­­­­­­­­­­­­­­­­­­­Rocco Limitone

**WHEREAS,** the Applicant has applied for permission for a caretaker’s apartment in the Kimberly Korners Shopping Center; and

**WHEREAS,** the Applicant previously applied for and was granted approval for a caretaker’s unit pursuant to Decision & Order Number 3705, but the Applicant never constructed the caretaker’s unit; and

**WHEREAS,** because it previously failed to complete the caretaker’s unit, the Applicant needed to apply to the ZBA again; 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,** this is a Type II Action under SEQRA, and no further review is required;

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

approves the request from Kimberly Korners Corp. for a Special Permit for a caretaker’s unit

pursuant to Section 194-87 of the Town Code subject to the Applicant rectifying any existing

violations and obtaining approval from the Dutchess County Department of Health for the sanitary

system related to the caretaker’s unit.

**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.(Adjourned until May 23)

Chairperson Drummond asked if there was anyone present for this application. Since there was no one, the adjourned Public Hearing was not opened and will be adjourned until May 23, 2023, or until the Building Department is comfortable with all the information once it is reviewed.

**PUBLIC HEARINGS:**

**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.

**Steven Silverstein and Kate Zvonkovic were present.**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, 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. This house was built around 1772. It is on the corner of Woodmont and Rushmore. The existing house is less than 1500 sq. ft. When it was built and because of the way that roads were used, it is very close to the roadway. The applicant is asking for more livable space in the house. They are also working with the curve of the road and keeping with the frontage that is there already. These are not heavily trafficked roads, which is why they are asking for something that needs a front yard variance. The addition is 1448 sq. ft. They also discussed gas tanks on the property. Mr. Silverstein stated there is a 2 1/2-foot stone wall all the way around the site and the tanks are not visible from the roadway. He did have a photo to show the Board.

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

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

Tracy Marek, 7 Rushmore Road, stated she works from home and wanted to know what type of construction it would be and how long it was going to go on. She stated that she is an attorney and both her and her husband work from the home. She needed to know if she needed to find somewhere else to hold her hearings. Mr. Silverstein stated there are still several approvals they need. Right now, they are hiring the engineer to start the septic system approval. The earliest construction would start would be in the fall of 2023. They are adding on to the house between the house and the existing barn. They do believe that the barn will buffer a lot of the noise and there is a hill behind the barn that should buffer the noise as well. The barn is at a higher elevation. Chairperson Drummond asked if he knew how far away the neighboring house was from the barn and Mr. Silverstein stated he did not have the survey, so he did not know. This is a wood frame, stick build and they will work within the regulations of the Town. Ms. Marek stated she is not against this, but just wanted more information about it. She wanted to know if they were connecting the barn and the house and Chairperson Drummond stated no. This is just an addition to the house. It will be a one-story addition. Ms. Marek stated there are some trees between the houses but not a lot and she was unsure of the distance. Chairperson Drummond stated they would probably want to close it in as soon as possible because they don't want materials exposed in the winter. Mr. Limitone stated that construction is not as loud as it used to be because so many of the tools are quieter.

Chairperson Drummond asked if there was anyone else 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: 4057

APPLICANT: Nancy Zvonkovic

NAME OF PROJECT: A 17’ side line Variance from the requirements of the Schedule of Bulk Regulations for a proposed 1448 sf. addition

LOCATION: 70 Miller Hill Rd., Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6554-00-301998

ZONING DISTRICT: R-3

Resolution offered by Zoning Board Member Alberto Paratore­­­­­­­­­­­­­­­­­­­­­­­­­­­

**WHEREAS,** the house on the Applicant’s property is believed to have been built in 1772; and

**WHEREAS,** the Applicant is applying for an addition to make the house more livable as the existing house is only approximately 1,500 square feet; 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 April 25, 2023, and

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on April 19, 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 existing house;

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 Nancy Zvonkovic for a 17’ side line Variance from the requirements of

the Schedule of Bulk Regulations for a proposed 1448 sf. 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 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 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.**

**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. This shed was already there when the applicant purchased the property. The applicant has stated that the shed is in decent shape but would need a new roof. Mr. Pallone stated he did put a new roof on it already. Chairperson Drummond stated since the shed has been there so long the neighbors are all aware of it and they have not received any complaints yet. Chairperson Drummond stated she did get a neighbor letter that will be read in.

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

Chairperson Drummond read the letter from Michael O'Brien. He was in support of this application.

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

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

APPEAL NUMBER: 4059

APPLICANT: Anthony Pallone

NAME OF PROJECT: Request for an 11’ rear line Variance from the requirements of the Schedule of Bulk Regulations and Section 194-107 of the Zoning Ordinance for an existing 10’ x 8’ (80 s.f. shed)

LOCATION: 43 Saddle Ridge Dr. Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6457-04-780261

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member ­­­­­­­­­­­­­­­­­­­­­­­­­­­­­Aziz Ahsan

**WHEREAS,** a prior owner of the Property placed the shed on the Property approximately three decades ago; and

**WHEREAS,** the Applicant has replaced the roof on the shed; and

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

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on April 19, 2023; and

**WHEREAS,** the Zoning Board of Appeals held a Public Hearing on April 25, 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 as the Property will remain residential in nature;

The desired result cannot be achieved by some other means due to the shed being placed in this location prior to the Applicant purchasing the Property;

The Variance could be deemed substantial, but the shed is remaining in the same place it has been in for the past three decades;

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 of Anthony Pallone for an 11’ rear line Variance from the requirements of the

Schedule of Bulk Regulations and Section 194-107 of the Zoning Ordinance for an existing 10’ x 8’

(80 s.f. shed).

**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

**PUBLIC HEARING – 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.**

**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. Chairperson Drummond stated that the applicant was also before this Board in April of 2022. At that time, he got approval for the 2-foot-high variance for a 6-foot fence. That was approved; however, the contractor installed the fence 6 inches closer to the property line than he should have. That needs to be cleared up as well as the fact that the applicant would like additional panels to extend this further into his front yard. She stated that the purpose of having a fence 2 feet in from the property line is for maintenance purposes without needing to go on the neighbor's property to maintain it. Everyone should have the expectation that the professional will install it where it belongs. The Board's intent is not to have the applicant move the fence, but they do have to hear from the neighbors to make sure there are no objections.

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

APPEAL NUMBER: 4060

APPLICANT: Nicholas Barbaria

NAME OF PROJECT: Request for a 1’ sideline Variance from the requirements of the Schedule of Bulk Regulations for a 6’ fence

LOCATION: 24 Prentiss Dr., Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6557-03-150030

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member ­­­­­­­­­­­­­­­­­­­­­­­­­­­­­Rocco Limitone

**WHEREAS,** the Applicant previously received a 2’ height Variance from the ZBA in 2022 to allow a 6’ fence pursuant to Appeal Number 4029; and

**WHEREAS,** the Applicant’s fence is partially installed, and he intends to install additional fence panels to complete the fence; and

**WHEREAS,** the fence will be located approximately 1.5 feet away from the Property line; and

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

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on April 19, 2023; and

**WHEREAS,** the Zoning Board of Appeals held a Public Hearing on April 25, 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 as the Property will remain residential in nature;

The desired result cannot be achieved by some other means due to the location of the existing fence which this proposed fence will connect to;

The Variance is not substantial as it is only approximately 6 inches less than what is permitted by the Town Code;

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 of Nicholas Barbaria for a 1’ sideline Variance from the requirements of the

Schedule of Bulk Regulations for a 6’ fence.

**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

**CERTIFICATION**

**PUBLIC HEARING – 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.**

**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. The applicant is looking to use the shed in the front of the house to keep woodworking supplies. The Board has made it very clear that this is not a business. Ms. McDuffie stated she is retired. Chairperson Drummond stated that the applicant has informed the Board that she has a sloped lawn and there is already a shed in the backyard, and the septic is in the backyard. Because of the slope, there is no convenient place for this to go in the backyard. Chairperson Drummond stated the biggest issue they have is that this would be visible to anyone driving past. Right now, there is a pod on the property. They did speak about screening and landscaping and the applicant had agreed to that. She did ask Ms. McDuffie what color the shed would be, and Ms. McDuffie stated it will match the house. Chairperson Drummond stated the other issue is that the applicant does not want to cut down any trees. She is looking to fit it into the landscape of what is there now.

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

APPEAL NUMBER: 4062

APPLICANT: Margaret McDuffie

NAME OF PROJECT: Request for a Variance from the requirements of the Schedule of Bulk Regulations and Section 194-107 of the Zoning Ordinance to allow a proposed 10’x 12’ (120 s.f.) shed to be located in the front yard

LOCATION: 17 Laura Lane, Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6354-00-665712

ZONING DISTRICT: R-2

Resolution offered by Zoning Board Member Al Paratore­­­­­­­­­­­­­­­­­­­­­­­

**WHEREAS,** the Applicant owns a property that is very sloped; and

**WHEREAS,** the flattest part of the Property is in the front yard; and

**WHEREAS,** the Applicant is proposing to screen the proposed shed with shrubs; and

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

**WHEREAS,** the Legal Notice was published in the Southern Dutchess News on April 19, 2023; and

**WHEREAS,** the Zoning Board of Appeals held a Public Hearing on April 25, 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 as the Property will remain residential in nature;

The desired result cannot be achieved by some other means due to the drainage issues in the backyard of the Property;

The Variance could be deemed substantial, but the shed is proposed to be placed in the area with the best drainage;

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 of Margaret McDuffie for a Variance from the requirements of the Schedule of

Bulk Regulations and Section 194-107 of the Zoning Ordinance to allow a proposed 10’x12’ (120

s.f.) shed to be located in the front yard subject to the Applicant removing the pod located on the

Property and screening the shed with a landscaping plan to be approved by the Town’s Planning

Department.

**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

**REVIEWS:**

**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. (Applicant needs more time – May 23, 2023)

**REVIEW – Appeal 4063 – Jonathan Nash (6559-03-225106)**

Jonathan Nash, 27 Ridge Road, Hopewell Junction, is requesting a 15’ rear line and a 727 sf size variance for a proposed 34’x30’ (2040 sf) detached garage pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance. Footprint of the house is 2,189 sf.

**Jonathan Nash was present.**

Chairperson Drummond asked Mr. Nash to explain exactly what he would like and why he needs such a large garage. Mr. Nash stated this will be a three-car garage with boat storage. It will have a second story as there is no attic space in his house. Chairperson Drummond asked if there was a garage on the existing house and he said he did have one, but he turned it into a family room.

Mr. Ahsan stated the original application also said there was a proposed shed as well. Chairperson Drummond stated he had a shed already and that he is moving it. Mr. Nash stated the shed will be moved but has not been done yet. The plot is there for when it is ready.

Mr. Ahsan asked if the second floor is just for storage and a work area and Mr. Nash said yes. Chairperson Drummond verified that there would be no residential space and Mr. Nash said there would be none. Chairperson Drummond asked if they were proposing plumbing in this building and Mr. Nash said no. Just electric.

Chairperson Drummond stated that according to this, the garage is much larger than the house. Mr. Nash stated he believes his house is smaller than the application says. He thinks it is approximately 1700 sq. ft. Chairperson Drummond stated then they would need the variance for the “greater than 60%”. Mr. Rickett stated they got the house size off of Dutchess County Parcel Access. They did not pull the plans. Chairperson Drummond asked if the surveyor could supply the house dimensions as the survey was done recently. She wants to make sure that they get all variances needed first time. Mr. Rickett stated they are already over 60%, which is why they are asking for the 727 sq. ft. variance, but that is based on 2,189. If the footprint is smaller, it will increase the variance needed and those numbers will need to be changed.

Chairperson Drummond asked how close the nearest neighbor was to him. Mr. Nash said probably approximately 100 feet. Chairperson Drummond asked if he has spoken to the neighbors. Mr. Nash said not yet, but he doesn't think they should have a problem with it. Chairperson Drummond asked if this was buffered from them and if there was a lot of vegetation between the properties. Mr. Nash said they would see it. Chairperson Drummond stated this will be a very large building which is why they will be given the chance to come and speak at the Public Hearing. She stated they could also write a letter if they didn’t want to come in.

Mr. Ahsan stated the applicant needs to bring in a survey with the footprint size and the distance to the property lines for the Public Hearing.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the May 23, 2023, meeting. Voted and carried unanimously.

**ADJOURNMENT**

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to adjourn the Zoning Board meeting at 7:48 PM. Voted and carried unanimously.

Respectfully submitted:

Julie J. Beyer

Meeting Secretary