

Town of East Fishkill

**ZONING BOARD OF APPEALS**

April 23, 2024

Chairperson Drummond called the Zoning Board of Appeals to order with a roll call. Those present were Alberto Paratore, Aziz Ahsan, Rocco Limitone, 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 that the next meetings would be Tuesday, May 28, 2024, and Tuesday, June 25, 2024. The May 28<sup>th</sup> meeting will be held at the East Fishkill Fire District Headquarters, 2502 Route 52. It is Grievance Day at the Town Hall.

**MOTION** made by Aziz Ahsan, seconded by Alberto Paratore, to approve the minutes of the meeting held March 26, 2024, as amended. Voted and carried unanimously.

Chairperson Drummond went through the procedures for the meeting. She stated that the first part of the meeting is a Public Hearing, which is an application 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 these applications, or they are applications that the Board has seen before, but needed additional information. 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 4096 – Camille Riggio (6457-04-680444, 685419)**

Camille Riggio, 228-230 Lake Walton Rd., Hopewell Junction, lot A requesting a 9’ front yard, 5’ side yard and a variance for being in the front yard for an existing garage. Lot B requesting 16’ side yard variance for a pre-existing dwelling, a 6’ side yard and front yard variance for an existing shed and a 35’ side yard and a front yard variance for an existing garage pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Brian Stokosa was present.**

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

Chairperson Drummond stated this application was before the Board last month. The houses and garages that are there were all built in the 1950’s before zoning. This has a shed and two garages in front of the dwellings, which is not what code allows now. The applicant is looking to re-align the lot lines and go from three nonconforming lots to two, less nonconforming lots. Both of the lots are still going to be nonconforming, but they do have to grant variances because they are not going to ask the applicant to move structures that have been there for more than 70 years this point. There are no new dwellings going up. They are just cleaning up the issue and making the lots less nonconforming.

Chairperson Drummond stated that this application was before the Planning Board and the Zoning Board acknowledged the Planning Board as the Lead Agency. The Planning Board has done the SEQRA review and the Negative Declaration. This Board relies on that Negative Declaration and tonight’s Public Hearing is for the neighbors to make any comments.

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

APPEAL NUMBER: 4095 & 4096

APPLICANT: Camille Riggio

NAME OF PROJECT: Lot A: a 9' front yard Variance from the requirements of the Schedule of Bulk Regulations; a 5' side yard Variance from the requirements of the Schedule of Bulk Regulations; and a Variance from the requirements of Section 194-107 and the Schedule of Bulk Regulations for an existing detached garage located in a front yard.

Lot B: a 16' side yard Variance from the requirements of the Schedule of Bulk Regulations for a pre-existing dwelling; a 6' side yard Variance and front yard Variance from the requirements of the Schedule of Bulk Regulations and Section 194-107 of the Town Code for an existing shed; a 2' sideline Variance and a front yard Variance from the requirements of Section 194-98 of the Town Code and the Schedule of Bulk Regulations for an existing 6' fence; and a 35' side yard Variance and a front yard Variance from the requirements of Section 194-107 of the Town Code and the Schedule of Bulk Regulations for an existing garage

All of the Variances for Lot A and Lot B are referred to as the "Variances".

LOCATION: 228-230 Lake Walton Rd., Hopewell Junction (the "Property")

TAX MAP NUMBER: 6457-04-680444 & 685419

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Aziz Ahsan

**WHEREAS**, the Applicant simultaneously applied to the Zoning Board of Appeals for the Variances and the Planning Board for a lot line realignment; and

**WHEREAS**, the Applicant received approval from the Planning Board for part of its lot line realignment to create two residential lots from the three existing lots; and

**WHEREAS**, each of the realigned lots would contain a primary dwelling and accessory structures; and

**WHEREAS**, this is an Unlisted action under SEQRA; and

**WHEREAS**, the Planning Board declared itself Lead Agency under SEQRA and issued a Negative Declaration at its April 16, 2024 Meeting;

**WHEREAS**, the Legal Notice was published in the Southern Dutchess News on March 20, 2024; and

**WHEREAS**, the Zoning Board of Appeals held a Public Hearing on March 26, 2024 and April 23, 2024; and

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

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

The desired result cannot be achieved by some other means due to the existing layout of the three lots;

The Variances could be deemed substantial, but the proposal decreases the existing nonconformities;

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 by Camille Riggio as follows:

Lot A: a 9' front yard Variance from the requirements of the Schedule of Bulk Regulations; a 5' side yard Variance from the requirements of the Schedule of Bulk Regulations; and a Variance from the requirements of Section 194-107 and the Schedule of Bulk Regulations for an existing detached garage located in a front yard.

Lot B: a 16' side yard Variance from the requirements of the Schedule of Bulk Regulations for a pre-existing dwelling; a 6' side yard Variance and front yard Variance from the requirements of the Schedule of Bulk Regulations and Section 194-107 of the Town Code for an existing shed; a 2' sideline Variance and a front yard Variance from the requirements of Section 194-98 of the Town Code and the Schedule of Bulk Regulations for an existing 6' fence; and a 35' side yard Variance and a front yard Variance from the requirements of Section 194-107 of the Town Code and the Schedule of Bulk Regulations for an existing 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

Board Member Art Mahony                      Aye

Chairperson Norma Drummond              Aye

**REVIEWS:**

**REVIEW - Appeal 4098 – Lisa Gruson (6455-00-763215)**

Lisa Gruson, 723 Hortontown Rd., Hopewell Junction, requesting a 20’ side line variance for a proposed 22x18 (396sf) detached garage pursuant to Section 194-107 of the Zoning Ordinance and the Schedule of Bulk Regulations.

**Alex Alaimo was present.**

Mr. Alaimo stated this is a very long lot. The house is right in the middle of the lot. They wish to have a garage on the property and the best place is at the end of the existing driveway, which is on the side of the house. It is within a 30-foot sideline setback. Beyond that point the grade dips into the backyard. The adjacent property is just a driveway with a very wooded area between them. The house is not visible from the South.

Chairperson Drummond asked why the garage was not placed closer to the house. Mr. Alaimo stated they would have to extend their driveway or do extensive regrading. There is a small patio in the backyard and the garage behind the house would disrupt that. Mr. Alaimo handed out photos of the site. Chairman Drummond stated she believed there was a big tree with roots that would be disturbed if they moved closer to the house as well. The photos included the location of the tree and showed the slope of the backyard.

Chairperson Drummond asked if the applicant has spoken to the neighbors. Mr. Alaimo said he did not believe so. Chairperson Drummond suggested doing that prior to the next meeting. She asked if there were any other structures on the property. Mr. Alaimo stated he did not believe so. There is a patio in the back, and it would be to the right of the photo. Chairperson Drummond asked what the garage would look like and Mr. Alaimo stated it would match the house. He stated it would be a one bay garage with a small overhang.

Mr. Ahsan asked where the septic fields are located. Mr. Alaimo stated he is unsure, but he believes it is in the backyard as the front yard slopes towards the road.

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

Mr. Rickett asked if the owner has come in to get an application for the siding. Mr. Alaimo said yes, the contractor came in to get the permit for the siding.

Chairperson Drummond asked if there was an existing garage already and Mr. Alaimo said no.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the May 28, 2024, meeting. Voted and carried unanimously.

**REVIEW - Appeal 4099 – Michael Scherer (6455-02-828765)**

Michael Scherer, 499 Shenandoah Rd., Hopewell Junction, requesting a 9' front yard variance for a proposed 20'X20' (400sf) deck, pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Michael Scherer was present.**

Chairperson Drummond stated they have seen this property before. Mr. Scherer said yes, but not by him. He has just purchased the house within the last year. They would like to put the deck around the pool. The stairs to the deck would require a variance. Chairperson Drummond asked why they could not be cut into the deck. Mr. Scherer stated to get enough steps to go down he would have to go approximately ten feet in. Where the deck is level with the door is probably nine feet high from the driveway. Underneath the one addition is a basement and the sewer line comes out under there. He cannot take it back because the supports are there. Chairperson Drummond stated she did not realize it was that high up. She stated they have to make the deck as large as it is to get over the sewer line and Mr. Scherer said yes. The steps will come into the driveway. The driveway is straight up to the left of the house.

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 May 28, 2024 meeting. Voted and carried unanimously.

**REVIEW - Appeal 4101 – Gabriella Rose LTD (Flory's) (6356-04-635231)**

Jamy Flory, 1997 Route 52., Hopewell Junction, requesting a 76' front yard variance, 3' side yard variance for a proposed vacuum station, 67' front yard, 6' side yard variance for an air station, 10' side yard variance for a cooler, 10' side yard variance for a ice chest, a 10' side yard variance for a propane cage and a 12% maximum lot coverage variance pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Brian Stokosa was present.**

Chairperson Drummond stated there was a lot going on with this site. She asked what the cooler was for. Mr. Stokosa stated they were running out of storage space for cool items in the store and they would like to see if there is the opportunity to gain some additional space. Chairperson Drummond asked if they had everything on their property or if there was overflow to another lot. Mr. Stokosa stated it is all on their property, but it is right on the line. Chairperson Drummond asked if they were before the Planning Board as these things are not on their site plan. Mr. Stokosa stated no. Attorney Cunningham stated that the applicant would have to go before the Planning Board at the same time. They would probably declare lead agency for this application as well. Mr. Stokosa stated they wanted to get a feel for the Board before they went further.

Mr. Rickett asked if Mr. Stokosa had given the office information on the size of the cooler. Mr. Stokosa stated it will be a custom-made cooler that conforms to the space they have available. It will be panelized with the condenser on top. It will fit into the shaded area they show on their map. Chairperson Drummond asked what the big thing on the map was and Mr. Rickett stated there is a propane tank there for propane exchange. There is also a refuse container there as well. Mr. Stokosa stated there are two footings that were placed in the front that had nothing built on them and that is where they want to put the vacuum station. Chairperson Drummond asked where the air station was currently, and Mr. Stokosa stated this on the refuse enclosure. Right now, people are parking on Lake Drive and running the air hose to fill the car out on the roadway. Sometimes they will hook it back up and sometimes they leave it stretched across the parking lot. They are going to try to move it up front.

Chairperson Drummond asked what the cooler would look like. Mr. Stokosa stated it would probably be the same color as the refuse enclosure, but it will be custom-built. Mr. Limitone asked if it would be like the one in Mahopac and Mr. Stokosa said yes. Mr. Limitone stated you cannot tell which one is the refuse container and which is the cooler. Chairperson Drummond asked where the deliveries and drop off were made. Mr. Stokosa stated there is a rear service door and that is where the deliveries are made. Chairperson Drummond asked if the fence enclosure would affect sight distance for anyone. Mr. Stokosa stated the refuse enclosure is set back. He stated cars pulling out will have adequate sight distance. He does understand this is a big ask.



Mr. Rickett stated the biggest issue over there is parking right now. Part of the issue is that the plaza next door is redoing their septic to connect to the Town septic. People are parking all over Lake Drive on the opposite side and on this side.

Chairperson Drummond stated they are asking for an ice chest and a propane cage, both of which are there. The air station they are just looking to move up front. She asked why they need a variance for that. Mr. Stokosa stated since it has a footing, so it will be considered a structure. Mr. Rickett stated it is a state requirement that they have. Chairperson Drummond asked if having it up front was going to be more problematic for blocking cars. Mr. Stokosa stated that people are not coming onto the site and parking on the roadside and that is worse than coming into the parking lot. Mr. Limitone stated essentially all they are doing is adding the cooler. All of the other things are pre-existing. Mr. Stokosa stated there are two concrete square footings in the front next to the sign. One would be an air station and one would be a vacuum. So, they will be adding the vacuum station in the front and the cooler in the back. Mr. Rickett stated the air station is just being relocated from the back to the front. The vacuum and the cooler are the only two new things. Chairperson Drummond asked how big the cooler was. Mr. Stokosa stated it is approximately a 5 x 8 walk-in.

Chairperson Drummond verified that the Planning Board knows that the refuse enclosure goes right up to the property line. Mr. Ahsan asked what would prevent people from taking the hose and filling their cars on Lake Drive. Mr. Stokosa stated that is what they are doing now. He does believe there are no parking signs along the edge of Lake Drive. They do believe having it in the front of the property will make people feel more like they're being watched and less likely to do that. Chairperson Drummond stated they will be losing two parking spaces for the store for the air and the vacuum station. Mr. Stokosa stated it would be a shared space. He stated usually the air station is in a parking stall. Chairperson Drummond stated as a courtesy most people do not normally park there. In this case there is not a lot of parking on the site. The likelihood is that someone is going to have to wait to use the air. Mr. Ahsan's concern is that they will continue to fill up on Lake Drive.

Chairperson Drummond asked why they need the cooler. Mr. Stokosa stated they have always been short on space because they do share the cooler with Dunkin' Donuts.

Chairperson Drummond stated there is not a lot of parking on the site and her concern is the loss of parking spaces. She stated there always seems to be someone getting air at Stewart's on Route 376 and Stewart's has a lot more parking. Mr. Rickett stated this location is also quite busy depending on the time of day. Mr. Stokosa suggested having a sign with less than five-minute time limit parking for those parking spaces. Mr. Ahsan stated there is parking in the back for the air filling station. Chairperson Drummond stated that is labeled for employee parking.

Chairperson Drummond asked Mr. Stokosa if they were already exceeding the floor coverage and he stated he believed they were. This was a redevelopment of an existing gas station that was originally

close to 100% coverage so when they built this they did decrease it some, but they were still over the 12%.

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 28th, 2024 meeting. Voted and carried unanimously.

Attorney Cunningham stated that this application will need an amended site plan so this will have to go before the Planning Board. The Zoning Board would have to adjourn the Public Hearing until after the Planning Board is finished.

**AMENDED MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the June 25, 2024, meeting. Voted and carried unanimously.

**REVIEW - Appeal 4102 – Richard Conboy (6458-03-305478)**

Richard Conboy, 23 Larchmont Dr., Hopewell Junction, requesting a 10' side yard variance for an existing 10'X14' (140sf) detached garage, pursuant to Section 194-107 of the Zoning Ordinance and the Schedule of Bulk Regulations.

**Richard Conboy was present.**

Mr. Conboy stated that the garage has been there for a very long time. He was getting a permit for it as a shed and was informed that because of the garage doors on it, it is a garage and not a shed. Chairperson Drummond asked when the shed was built and Mr. Conboy said in 2006. It was a replacement for an existing shed that was there prior to him purchasing the home. Chairperson Drummond asked if he had recently replaced the roof and Mr. Conboy said yes. He also replaced the siding.

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 May 28, 2024, meeting. Voted and carried unanimously.

**REVIEW - Appeal 4103 – Gerard James (6357-02-529865)**

Gerard James, 22 Sunset Blvd., Hopewell Junction, requesting a 750 sf size variance for a proposed 30'X50' (1500 sf) detached garage, pursuant to Section 194-107 of the Zoning Ordinance and the Schedule of Bulk Regulations.

**Gerard James was present.**

Chairperson Drummond asked why he needed such a large garage. Mr. James stated he is a contractor, and he has two of everything and no place to put anything. He has two vehicles, one Kubota, gang boxes, a 16-foot trailer, log splitter and woodchipper. Chairperson Drummond asked if this was for his private use or for his business use. Mr. James stated he is semiretired, so this is all for personal use. He does not want to get rid of all of his equipment yet. Chairperson Drummond asked what the footprint of the house was. Mr. Rickett stated the footprint of the house is 1044 square feet. He is allowed either a 626 or 750 square foot variance. He needs the greater of the two.

Mr. James stated he has Central Hudson power lines behind him so no one will see it. It will be set back behind the two houses that are on the property now. All you will see from the road would be the 30-foot front. He has spoken to three neighbors already and they do not have a problem with it.

Chairperson Drummond stated usually when you see 50-foot length it is to store an RV. Mr. James stated he has two vehicles, and his girlfriend has a vehicle. His stepdaughter lives in the accessory unit, and they have three vehicles. He also has the 16-foot trailer.

Chairperson Drummond asked what the finish of this garage would be. Mr. James stated it will be a metal building on a slab. It will be a light gray with a dark gray 4-foot bottom around it. It will have a dark gray roof. Chairperson Drummond asked what color his house was, and Mr. James said the house is gray. The pool deck is also a light gray.

Mr. Ahsan asked if there was an existing garage. Mr. James stated 18 years ago it was made into an accessory unit and he has a CO for it. Mr. Ahsan stated it is still labeled as a garage on the survey. Chairperson Drummond stated the existing driveway goes to the old garage. She asked how they would get to the new garage. Mr. James stated he did have a new survey done that does show a new driveway on it that will lead to the new garage. Mr. Ahsan stated he would like to see everything on one survey, so it is all listed in one place.

Mr. James stated if he got the garage approved, he would be taking down the shed that is in the back. The surveyor came on Friday and gave him the new survey on Monday.

Chairperson Drummond asked what the distance from the patio to the side yard was. Mr. Rickett stated it is a concrete slab with a fabric structure on it. The fabric structure will be coming down if this garage is approved. He does not believe it is more than the 15-foot setback. Mr. James stated that the concrete pad was a basketball court when he purchased the house. Mr. James stated he believes it is six or seven feet from the property line. It will not getting dug up. Mr. Rickett stated if the surveyor puts the distance on it, it can be added to the variance and the applicant will not have to worry about removing it. Mr. Ahsan stated it could be removed or covered with dirt. Mr. James stated he could do either. Attorney Cunningham stated it would be just as easy to get the measurements and add it to the variances for the Public Hearing.

**MOTION** made by Aziz Ahsan, seconded by Rocco Limitone, to advertise and set this for Public Hearing for the May 28, 2024, meeting. Voted and carried unanimously.

**REVIEW - Appeal 4104 – Keith McManus (6655-03-302484)**

Keith McManus, 50 Nathan Hale Dr., Hopewell Junction, requesting a 26' rear yard variance for an existing 2 tier deck 55'X15' (825sf) deck, pursuant to the Schedule of Bulk Regulations of the Zoning Ordinance.

**Keith McManus was present.**

Chairperson Drummond asked if there was a deck there now and Mr. McManus said yes. There was an existing deck when he bought the house, and it was in very rough shape. He rebuilt the deck, but he then found out that the original deck did not have a permit. He thought it did because it was on the Title Insurance when he purchased the home.

Chairperson Drummond asked why this was being considered side yard and the applicant stated his property is like a pie slice. This is behind the house. Chairperson Drummond stated this is a rear yard variance.

Mr. Rickett stated this came up on a municipal search when Mr. McManus was trying to sell.

Chairperson Drummond asked how long the deck has been there. Mr. McManus stated he has a survey from 1991 that showed it and he replaced it approximately five years ago.

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 May 28, 2024 meeting. Voted and carried unanimously.

**ADJOURNMENT**

**MOTION** made by Aziz Ahsan, seconded Rocco Limitone, to adjourn the Zoning Board meeting at 7:55 PM. Voted and carried unanimously.

Respectfully submitted:

Julie J. Beyer

Meeting Secretary