

Town of East Fishkill

**ZONING BOARD OF APPEALS**

August 27, 2024

Chairperson Drummond called the Zoning Board of Appeals to order with a roll call. Those present were Alberto Paratore, Aziz Ahsan, Art Mahony, 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 there was going to be no actions on items number seven and eight from tonight's agenda.

She also stated that this Thursday will be a community meeting regarding the Town's Master Plan that they have been working on for almost a year. It is at the Community Center at 6 PM for anyone who's interested.

Chairperson Drummond stated that the next meetings would be Tuesday, September 24, 2024, and Tuesday, October 22, 2024.

**MOTION** made by Aziz Ahsan, seconded by Art Mahony, to approve the minutes of the meeting held July 23, 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 are Public Hearings, which are applications that this Board has already had the opportunity to review. Neighbors are then noticed and have the opportunity to tell the Board anything they may not be aware of. They know the property better than the Board may. The next part of this meeting will be reviews. These are generally the first time this Board has had the chance to see these applications, or they are applications that the Board has seen before but needed additional information. She stated all applicants are here because they are asking for something that is not allowed by code and the Board

needs to consider if there is some special circumstance for each individual property that would require a special consideration and a variance. 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 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 an 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.**

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

Chairperson Drummond stated there is a lot going on at this site. The last time they came in the Planning Board had not taken any action. She asked Mr. Stokosa for an update as to what is going on with the Planning Board.

Mr. Stokosa stated that they had a Public Hearing. They went over the air station and the vacuum station in the front and the existing sign. They discussed some bollard locations. They discussed the location of the ice chest, the dumpster, and the refuse enclosure. They do have some maintenance issues with grass areas behind the dumpster and there will be a notation on the site plan to ensure that the vegetation behind there is being maintained. They discussed putting signage limiting parking time up in the front where the vacuum station and air station will be. The site is very active with a lot of traffic in and out. There were concerns regarding parking along Lake Drive and there will be no parking signs installed along Lake Drive. They will do their best to keep people from parking on Lake Drive. As part of that approval, the applicant was working with the Town Engineer, and they came up with an employee parking schedule to see if additional spaces could be leased from neighboring businesses on both sides. That was written into the Site Plan Approval, and they were granted Site Plan approval with that

condition. The Public Hearing was closed out and now they are back before this Board. Attorney Cunningham verified they have Site Plan approval, and they received a Negative Declaration from the Planning Board on SEQRA, subject to the condition that the Zoning Board of Appeals approves their variances.

Chairperson Drummond asked how many employees were there at any given time. Mr. Stokosa was unsure of the exact number. He currently has four or five spaces at Archway Plaza that he has a lease agreement for, and they do show three in the back where the refuse enclosure is. He did ask the applicant to provide peak employee count between Dunkin and the gas station so they could coordinate that number with the Town Attorney. Mr. Stokosa stated they are going to work with the town attorney to try to maximize the lease agreement with any of the neighbors that they can.

Chairperson Drummond asked if there were any comments or questions from Board members.

Mr. Ahsan stated he did a site visit, and it is a very tight spot. He does believe having employees park off-site will give a little bit more room for turning radius for customers and activities on site. That is a positive development. Mr. Stokosa stated with this proposal they are not increasing any retail space. They are just repositioning an existing air station and adding a new vacuum station as well as trying to accommodate parking with the neighbors. It is a very busy site.

Chairperson Drummond asked why they were increasing the cooler space if they are not increasing the retail space, and they did not need the cooler before. Mr. Stokosa stated storage is very tight with the Dunkin and the deli as far as refrigeration. Having the extra space could stretch out their time between deliveries if they had the option of storing a little more.

Mr. Ahsan asked if the air hoses were going to be long enough to go out onto the road or not. That was one of the prior complaints that people were pulling the hoses out onto the roadway and using them there. Mr. Stokosa stated his assumption is that a parking space is 20 feet deep so the air hoses probably going to be around that 20-foot length. The air was originally located in the back where there is not that much of a visual presence, and they are also hoping moving it to the front of the building where it can be seen will make people less likely to pull it out onto the roadway.

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

Attorney Cunningham stated they still have to draft the decision.

**MOTION** made by Aziz Ahsan, seconded by Art Mahony, to close this Public Hearing and reserve the decision to the September 24, 2024 meeting. Voted and carried unanimously.

**ADJOURNED PUBLIC HEARING - Appeal 4115 – Jorge Pacheco (6456-01-480881)**

Jorge Pacheco, 71 Van Vlack Rd. Hopewell Junction, requesting a 13' side yard variance for an existing chicken coop, 18' rear yard variance for an existing greenhouse and a 20' rear yard variance for an existing pergola pursuant to Section 194-107 of the Zoning Ordinance and the Schedule of Bulk Regulations.

**Jorge Pacheco was present.**

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

Chairperson Drummond stated there is nothing in the explanation that references the bridges. Clerk Keenan stated that what was published in the newspaper did reference the bridges. Chairperson Drummond explained to the applicant that during discussion they were made aware of multiple bridge crossings on this property. This is to allow him and his dogs to get to different parts of his backyard. These are not just little flat passageways. These are very nice-looking bridges made from trees that have fallen on the property. They are anchored to the ground so that they would not wash away in any flooding condition. There are multiple things going on with the property. There is a floodplain on the property. She stated if this application does get approved, he will need to get a Floodplain Development Permit. She knows he has been in conversation with Rick Witt from the Building Department.

She stated they have received one e-mail from a concerned citizen. They state that there are a lot of people on this road living on small lots with roosters. They stated that the roosters start making noise at 4:30 AM and it goes on all day long. The e-mail asked to please inform the applicant that the roosters are a nuisance and what the laws are as far as owning them. Chairperson Drummond stated when Matt was out there, he did not see that this applicant had any roosters. Mr. Pacheco stated that all of his neighbors have roosters, but he does not now.

Chairperson Drummond stated for an educational point everyone needs 10 acres to have a rooster, but chickens are allowed.

Chairperson Drummond stated they did express concerns about how well these bridges were anchored and secured. The applicant was asked to find an engineer that might come out and give a report on the

stability and weight limits. The applicant did turn in a letter stating how these things were constructed as well as photos but there was no engineer report. She asked Mr. Pacheco why there was no engineer report. He stated that the cost to bring in an engineer is too high for him. The lowest one started at \$1600. He did try multiple structural engineers and that was the least expensive one to do that for him. Chairperson Drummond stated her concern is the bridge that is on the property line all the way in the back. Mr. Pacheco stated that the anchors in use can hold up to 750 pounds and there is one at every corner so it will definitely not move. Chairperson Drummond asked how close the closest house is, and he stated it is all trees behind him.

Mr. Ahsan asked who owns the property behind his house and Mr. Pacheco stated it is a right-of-way owned by the house to his right. Chairperson Drummond stated the paperwork says Grapehouse LLC and she asked what that was. Mr. Pacheco stated that a company from Queens purchased it and they buy and then auction off houses. It is all wetland back there.

Mr. Ahsan stated his concern is that the applicant constructed these bridges and may sell the property next month to somebody who then could get injured, and the town is questioned as to why it was approved without any verification or certification. That is why he was asking for something from a professional. There are questions as to how much weight they can take and how sturdy they are secured. By the Zoning Board giving approval it means that they complied with the regulations and rules of the Town of East Fishkill and that is his concern. Mr. Pacheco stated there is no way you could get a tractor back there. Mr. Ahsan stated he did understand the applicant did a good job building them, but he needs a professional independent analysis. Mr. Pacheco stated he gave them Google information stating the weight that the Cedar tree can hold. Chairperson Drummond stated it is always questionable as to whether Google information is accurate or not. Mr. Ahsan stated the next owner will be relying on this Board's approval. Mr. Pacheco stated he can remove the one that is on the property line but the other two are well attached and won't move.

Chairperson Drummond reread the variances as presented. She asked if all three bridges were noticed for variances as all three are too close to the property lines. Clerk Keenan stated the one for the pergola was. Chairperson Drummond stated the other two would definitely need them.

Mr. Ahsan asked where the greenhouse was and Mr. Rickett stated it is the garden.

Chairperson Drummond stated she believes the bridge on the property line should come down as it doesn't go to anywhere on his property. She asked him how high the other bridge was. Mr. Pacheco stated it is approximately 3 feet wide, it is 2 feet over the water and when he sticks a measuring stick into the mud and pushed it as far down as he can, it measures 3'7" to its top. Chairperson Drummond asked how tall the fencing was and he stated it was 4 feet high. He stated it is attached to the trees on each side. Chairperson Drummond stated trees don't last forever so that's not a secure way to anchor them. The applicant stated they have two anchors on each side as well.

Mr. Ahsan stated he still has an issue with the bridges. He feels one of them should be advertised as it is a structure on the property. Chairperson Drummond stated that is not the applicant's fault. He did say he would take down the bridge way in the back, but they still have to deal with the garden bridge.

Chairperson Drummond stated it only takes him to 3 feet of his property, so she is unsure why he needs that bridge. Mr. Pacheco stated it looks nice and it is a way for him to walk to that side of the garden.

Mr. Ahsan stated he does agree that it looks nice but it is still the issue of needing structural certification. He asked if the Town would be issuing a CO and Mr. Rickett stated the Town will not issue anything on a bridge without a PE letter. Chairperson Drummond told the applicant he would not be able to close this out without a letter from an engineer. Mr. Pacheco asked if he could just remove those bridges. Mr. Mahony stated that would be the easiest. Mr. Pacheco stated he is not able to afford the money to bring in an engineer at this point so he will have to take the bridge down.

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

Attorney Cunningham stated it should read a 21-foot rear yard variance.

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

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

APPEAL NUMBER: 4115

APPLICANT: Jorge Pacheco

NAME OF PROJECT: (i) A 13’ side yard variance for an existing chicken coop; (ii) an 18’ rear yard variance for an existing greenhouse; and (iii) a 21’ rear yard variance for an existing pergola all from the requirements of Section 194-107 of the Zoning Ordinance and the Schedule of Bulk Regulations.

LOCATION: 71 Van Vlack Rd. Hopewell Junction (the “Property”)

TAX MAP NUMBER: 6456-01-480881

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Aziz Ahsan

**WHEREAS**, approximately 60% of the Applicant’s property is located in the flood plain; and

**WHEREAS**, there are streams that run through the Property; and

**WHEREAS**, in order to make the Property safer for himself, his family, and his animals, the Applicant installed small bridges with accessory structures; and

**WHEREAS**, the applicant has agreed to remove 2-foot bridges; and

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

**WHEREAS**, the Legal Notice was published in the Southern Dutchess News on July 17, 2024; and

**WHEREAS**, the Zoning Board of Appeals held a Public Hearing on July 23, 2024, which was continued on August 27, 2024; 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 community as the Property will remain residential in nature;

The desired result could not be achieved by other means due to the existing streams on the Property;

The Variances are substantial;

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 Jorge Pacheco for (i) a 13’ side yard variance for an existing chicken coop; (ii) an 18’ rear yard variance for an existing greenhouse; and (iii) a 20’ rear yard variance for an existing pergola all from the requirements of Section 194-107 of the Zoning Ordinance and the Schedule of Bulk Regulations on the condition the applicant applies for and receives a flood plain development permit.

**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                Absent

Board Member Alberto Paratore              Aye

Board Member Art Mahony                    Aye

Chairperson Norma Drummond              Aye

**PUBLIC HEARINGS:**

**PUBLIC HEARING – Appeal 4117 – Kristina Djeljosevic (6558-01-319615)**

Kristina Djeljosevic, 124 Sandy Pines Blvd., Hopewell Junction, requesting a 1’ height and front yard variance for an existing 58” high fence pursuant to Section 194-98 and the schedule of bulk regulations.

**Mr. Djeljosevic was present.**

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

Chairperson Drummond stated they did review this last month. They essentially have a 5-foot fence in their front yard. It is 5 1/2 feet back to the property line. It does not go all the way to the road. She asked how far it is from the roadway and Mr. Djeljosevic stated it was approximately 25 feet from the road. Chairperson Drummond stated it is a black cast iron fence so one can see through it. It is not impacting anyone's sight distance, and it is not blinding white along the side of the road. The fence has been up for

approximately a year. They did ask the applicant at the last meeting to get some measurements on to the survey and they do have a new survey for this meeting. Chairperson Drummond stated it looks like the fence goes all the way to the front yard on the survey. Mr. Djeljosevic stated it does not. Chairperson Drummond asked if it goes all the way across the front of the yard and he said yes. Chairperson Drummond stated the map shows it at approximately 5 feet off the road. Mr. Rickett stated it is about 5 feet off the road. The applicant stated there is no way it is only 5 feet off the road. Chairperson Drummond asked why they would have a fence to the middle of their yard. Mr. Rickett stated it was originally in the right-of-way. The applicant did move it back but not 25 feet back. Chairperson Drummond stated the right-of-way is only 10 feet wide so if it is just off of the right-of-way it's not 25 feet from the road. Mr. Djeljosevic stated they did not have this argument last time so he's not having it now so please just come out and measure it. Chairperson Drummond stated now they have a survey. Mr. Djeljosevic stated all of that information was on the past survey. They had just asked him to measure how far the fence was from the property line on the neighbor side. He stated all the other information was already on the last survey.

Mr. Ahsan stated that measurement has to be from the edge of the property line up from the edge of the road because there is a right-of-way that is not owned by homeowners. Mr. Djeljosevic provided pictures to the Board from before and after the fence was moved. Chairperson Drummond stated that it is not current on the survey. The applicant did move it out of the right-of-way. Chairperson Drummond asked why he needs a fence in the front yard. Mr. Djeljosevic stated there are other people in the development who have fences in the front yard. She asked if they were 5-foot-tall fences or 4-foot-tall fences. Mr. Djeljosevic stated they were 5-foot-tall fences. Chairperson Drummond stated they are talking about his property not other people's property at this point.

Mr. Ahsan asked what type of fence it was, and Mr. Djeljosevic stated it is a black aluminum fence. Mr. Ahsan asked if it was right up against the tree and Mr. Djeljosevic stated it has been relocated two behind the trees.

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

Chairperson Drummond read a letter from neighbors dated Friday, August 2 that read that they are not opposed to a fence that complies with the Town Code. However they do not feel that this variance should be granted as the hardship is self-imposed because the homeowner chose not to follow the Town

Code. They have had talked with and have heard neighbors commenting negatively about the appearance of the fence and they feel that approval of this fence would negatively impact the property value of the nearby residents. This letter was from George and Jill Nohigh at 117 Sandy Pines Blvd. Chairperson Drummond again asked the applicant why he needed a fence in the front yard. He stated that he has four children ages six and under. Chairperson Drummond asked if the fence went across the driveway and the applicant said no. She asked if they had play equipment in the front or just in the backyard. The applicant stated it is on the side yard. She stated that the applicant does have a large parcel and only a small part of it is fenced in. Mr. Djeljosevic stated there is a lot of wetlands so that is one of the reasons for having the fence in the back.

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

Chairperson Drummond stated her recommendation would be to close and reserve their decision as they need to take into account the neighbors' concerns.

**MOTION** made by Aziz Ahsan, seconded by Art Mahony, to close this Public Hearing and reserve their decision until the September 24, 2024 meeting. Voted and carried unanimously.

**PUBLIC HEARING – Appeal 4118 – Elena & Patrick McHugh (6459-19-697164,705159,711154)**

Elena & Patrick McHugh, 9 Godstrey Rd., Wappingers Falls, requesting a 10' rear line variance for an existing 12'x20' (240sf) shed and a front yard variance for second shed 7'x8' (56 sf) pursuant to Section 194-107 and the Schedule of Bulk Regulations.

**Matthew Albano and the new owner were present.**

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

Chairperson Drummond stated the McHugh's sold the house and the new owner was here for the variance. There was a shed in the backyard that was placed so the back of it was in the air. The owner

stated that there is a slope of the land under it, which is why there was a void, but he put lattice fencing around it and buried the edge of it approximately 10 inches down so critters could not dig underneath it. Chairperson Drummond stated that this was something that was very unusual to see and sometimes unusual issues give a very negative impression. This was a relatively easy fix and gives a much more positive impression.

Chairperson Drummond asked if there were any questions or comments from Board members.

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

Chairperson Drummond stated there was a letter sent in last month from Mr. Seay in favor of this.

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

APPEAL NUMBER: 4118

APPLICANT: Elena & Patrick McHugh

NAME OF PROJECT: A 10' rear line Variance from the requirements of Section 194-107 of the Town Code and the Schedule of Bulk Regulations for an existing 12'x20' (240 s.f.) shed

LOCATION: 9 Godstrey Rd., Wappingers Falls (the "Property")

TAX MAP NUMBER: 6459-19-697164,704159,711154

ZONING DISTRICT: R-1/3

Resolution offered by Zoning Board Member Alberto Paratore

**WHEREAS**, the Property consists of multiple tax parcels; and

**WHEREAS**, the shed that is the subject of this application was installed by the prior owners; and

**WHEREAS**, the Applicant agreed to move a smaller shed on the Property out of the front yard, which removed the need for a second variance; and

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

**WHEREAS**, the Legal Notice was published in the Southern Dutchess News on August 21, 2024 and

**WHEREAS**, the Zoning Board of Appeals held a Public Hearing on August 27, 2024; 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 community as the Property will remain residential in nature;

The desired result could not be achieved by other means;

The Variance is not substantial given the size of the Property;

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 Elena & Patrick McHugh for a 10' rear line Variance from the requirements of Section 194-107 of the Town Code and the Schedule of Bulk Regulations for an existing 12'x20' (240 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 Aziz Ahsan

The votes were as follows:

Board Member Aziz Ahsan	Aye
Board Member Rocco Limitone	Absent
Board Member Alberto Paratore	Aye
Board Member Art Mahony	Aye
Chairperson Norma Drummond	Aye

**PUBLIC HEARING - Appeal 4120 – Peter Corsino (6357-01-2207060)**

Peter Corsino, 9 Marion Ave., Wappingers Falls, requesting an 18’ side yard variance for an existing 11’X11’ (121sf) pergola pursuant to Section 194-107 and the Schedule of Bulk Regulations.

**Peter Corsino and Mrs. Corsino were present.**

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

Chairperson Drummond stated this application also has a sale of the property involved. They did spend a lot of time at the last meeting discussing other structures on the property as opposed to the pergola. For the record the pergola is visible from the road, but it is very tastefully done and very nice. They did get sidetracked with a discussion regarding a canvas structure and a temporary container that had been there for a long time. She does understand at this point that they have both been removed.

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 Art Mahony, to close this Public Hearing. Voted and carried unanimously.

APPEAL NUMBER: 4120

APPLICANT: Peter Corsino

NAME OF PROJECT: An 18' side yard Variance from the requirements of Section 194-107 of the Town Code and the Schedule of Bulk Regulations for an existing 11'X11' (121 s.f.) pergola

LOCATION: 9 Marion Ave., Wappingers Falls (the "Property")

TAX MAP NUMBER: 6357-01-220760

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Aziz Ahsan

**WHEREAS**, the pergola is secured to the ground and part of the pool area; and

**WHEREAS**, the Applicant has had a long-term shipping container and fabric carport located at the Property;  
and

**WHEREAS**, the Applicant is moving and discovered the need for the Variance during the municipal search process; and

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

**WHEREAS**, the Legal Notice was published in the Southern Dutchess News on August 21, 2024; and

**WHEREAS**, the Zoning Board of Appeals held a Public Hearing on August 27, 2024; 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 community as the Property will remain residential in nature;

The desired result could not be achieved by other means as the pergola is anchored into the Property;

The Variance is 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 by Peter Corsino for an 18' side yard Variance from the requirements of Section 194-107 of the Town Code and the Schedule of Bulk Regulations for an existing 11'X11' (121 s.f.) Pergola subject to the fabric carport and storage container being removed from the Property. After a

site inspection on 8/20/24 it has been confirmed both structures were removed.

**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 Ate Mahony

The votes were as follows:

Board Member Aziz Ahsan                      Aye

Board Member Rocco Limitone              Absent

Board Member Alberto Paratore            Aye

Board Member Art Mahony                   Aye

Chairperson Norma Drummond            Aye

**PUBLIC HEARING – Peter Albis (6355-00-488210)**

Peter Albis, 57 Thistle Ln., Hopewell Junction, requesting a 25’ side yard and a 11’ rear yard variance for an existing 15’X22’ (330sf) outdoor kitchen pursuant to Section 194-107 and the Schedule of Bulk Regulations.

**Debra Albis was present.**

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

Chairperson Drummond stated this application was before the Board last month. They did discover last month that this property has a beautiful backyard with beautiful stonework. They do believe that the outdoor kitchen was installed in 2008 and has been there for a while. Now that they are moving this came up in the municipal search. It is not visible to the neighbors.

Chairperson Drummond asked if there were any questions or comments from Board members.

Mr. Ahsan asked about the questions they have regarding the retaining wall. Mr. Rickett stated all of those issues have been resolved.

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 Art Mahony, to close this Public Hearing. Voted and carried unanimously.

APPEAL NUMBER: 4121

APPLICANT: Peter Albis

NAME OF PROJECT: A 25' side yard Variance and an 11' rear yard Variance from the requirements of Section 194-107 of the Town Code and the Schedule of Bulk Regulations for an existing 15'X22' (330 s.f.) outdoor kitchen (the "Variances")

LOCATION: 57 Thistle Ln., Hopewell Junction (the "Property")

TAX MAP NUMBER: 6355-00-488210

ZONING DISTRICT: R-1

Resolution offered by Zoning Board Member Art Mahony

**WHEREAS**, the outdoor kitchen was installed around 2008; and

**WHEREAS**, the Applicant applied for the Variances after a municipal search was completed, in order to ensure that all work done at the Property had obtained the necessary permits and approvals; and

**WHEREAS**, the Property has a retaining wall designed by a professional engineer to prevent mud slides; and

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

**WHEREAS**, the Legal Notice was published in the Southern Dutchess News on August 21, 2024; and

**WHEREAS**, the Zoning Board of Appeals held a Public Hearing on August 27, 2024; 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 community as the Property will remain residential in nature;

The desired result could not be achieved by other means;

The Variances are substantial;

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 Peter Albis for a 25' side yard Variance and an 11' rear yard Variance from the requirements of Section 194-107 of the Town Code and the Schedule of Bulk Regulations for an existing 15'X22' (330 s.f.) outdoor kitchen.

**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	Absent
Board Member Alberto Paratore	Aye
Board Member Art Mahony	Aye
Chairperson Norma Drummond	Aye

**REVIEWS:**

**REVIEW – Appeal 4109 – Elizabeth Scheuer (6557-02-771998)**

Elizabeth Scheuer, 53 Phillips Rd, Hopewell Junction, requesting a 7’ front line variance for a proposed addition pursuant to the Schedule of Bulk Regulations. (Applicant asked for August Review)

Chairperson Drummond stated this application is not being heard this evening.

**REVIEW - Appeal 4116 – Edrex Fontanilla & Chutrudee Somberg (6456-01-268872)**

Edrex Fontanilla & Chutrudee Somberg, 46 Harrigan Rd., Hopewell Junction, requesting a 2' side yard variance for a proposed (600sf) deck pursuant to Section 194 and the Schedule of Bulk Regulations.

Chairperson Drummond stated this application was not being heard tonight.

**REVIEW – Appeal 2216 – Shenandoah Farm, LLC (+666-00-135831)**

Shenandoah Farm, LLC, 270 Jackson Road, Hopewell Junction, is requesting an extension on their Soil Mining Permit for Shenandoah Farms, which was granted by the Zoning Board of Appeals on July 8, 2008, pursuant to Section 194-75 of the Zoning Ordinance. (Permit was originally issued 7/8/08, renewed through October 27, 2024).

**Daniel Jackson was present.**

Chairperson Drummond stated they have to do this every two years. The last time they were here the DEC permit was getting ready to expire. Mr. Jackson stated that has been renewed. Chairperson Drummond asked how long that cycle was, and Mr. Jackson said every five years. He stated he did bring over copies for the records.

Chairperson Drummond stated that the Building Department was able to go to the site and do an inspection. There are no complaints on file and everything for their storm water management and everything else appears to be as it should be.

Chairperson Drummond asked for the record what exactly is being mined there. Mr. Jackson stated it is gravel. Chairperson Drummond stated it is important for people to know that there are not many places that gravel can be mined from anymore, so it is really important for places like this to continue being open. Mr. Jackson stated this is primarily for septic systems. It is used occasionally for builders or someone who needs bank run, but 90% of it is for septic.

**MOTION** made by Aziz Ahsan, seconded by Art Mahony, to advertise and set this for Public Hearing for the September 24, 2024, meeting. Voted and carried unanimously.

**REVIEW - Appeal 4122 – Susan Brophy (6458-01-380524)**

Susan Brophy, 34 Larchmont Dr, Hopewell Junction, requesting a 2' side yard variance for an existing 6' fence on the property line pursuant to Section 194-98 and the Schedule of Bulk Regulations.

**Susan and Mr. Brophy were present.**

Chairperson Drummond stated she walks past this property all the time. There are a lot of fences in this yard. Mrs. Brophy stated they have a lot of weird fences that have been there since they purchased the house, and they would like to make it one nice coherent fence. Chairperson Drummond stated she does not see a 6-foot-high fence there. Mrs. Brophy stated the front of the house has the chain-link, which was original, and she would love to get rid of it. She would love to put up a vinyl fence. Chairperson Drummond stated they would love to see that gone as well. Mrs. Brophy stated the small wood thing that covers the garbage was put up by the last owners. The new vinyl fence will incorporate that. Chairperson Drummond stated this is written as an existing fence and it is not. Mrs. Brophy stated the neighbors have a brown fence that is covered with vines. She never noticed it until they removed the trees from that area. She would like to put the fence up so she does not see the neighbor's stuff. She stated Mid Hudson Fence will not put it up until they have the variance in hand, and it will go on the property line. Chairperson Drummond asked why it had to go on the property line. Mrs. Brophy stated she wanted it on the property line so the neighbors don't put their stuff on her property. They have a shed and whatever grows on their side will end up growing up in over her fence. Chairperson Drummond asked if they had talked to the neighbor about this. Mrs. Brophy stated she has spoken to them and it has not gotten any further. Chairperson Drummond asked if they had a variance to have their shed that close to the property line. Mr. Rickett stated that is on his comment letter from today's site visit. Mrs. Brophy stated that they moved in a year after she did and they have dogs on their property at the time. Chairperson Drummond stated the applicant has a dog that barks at her all the time. Mrs. Brophy thinks the shed was originally for the dogs. They have been doing some work for the last few weeks, but the property is an eyesore. She would like her white vinyl fence to go to the property line and then the wood

fence to go down towards the back, so it is easier to clean and maintain. There is a ton of poison ivy back there and she is allergic to it.

Mr. Ahsan asked who owns the wire fence. Chairperson Drummond stated some have bars across the top and some have just stakes. Mrs. Brophy stated that is all the neighbor's property. Chairperson Drummond stated she thought they were stakes alongside the pool and Mrs. Brophy stated they put stakes in for the dog and it is just temporary. Mr. Rickett stated that a tree came down and took out the fence as well. The applicant stated she just wants the white vinyl fence across the front and put a new black chain-link fence, with vinyl coating, around the pool. Chairperson Drummond stated that the purpose for having a fence 2 feet in is so that the homeowner can maintain the other side of it so they are only walking on their own property when they are maintaining the other side of it. Mrs. Brophy stated that the neighbor does not clean anything up out there. She would clean up anything that's there now and complained when the trees came down and Mrs. Brophy offered to pay to have the neighbor's side cleaned up some. The Brophys are constantly out there with the weed-wacker and weed killer to try to get rid of it all on their side. She is hoping that once they put their fence up the neighbor will take their fence down. Chairperson Drummond stated there is a significant difference in property maintenance from one property to the next.

Mr. Ahsan stated if they keep the fence two feet off of the property line they can go and do the weed-wacking and clean up. Theoretically, the neighbor could come and complain that the applicant's fence is too close and they have to move it. Mrs. Brophy stated if she puts the fence two feet in on her side and the neighbor takes down her fence, which is what she is pretty sure will happen, then she will have to worry about going onto that side to do maintenance when the neighbor's dog is out loose. She also fears that anything she cuts down, even if it is on her 2 feet, the neighbor will complain about it. Mr. Brophy stated that some of what you can see in his backyard is not even his. It is a hodgepodge of cages and things from the neighbor's property that are visible on his property. There are tarps covering a lot of it.

Chairperson Drummond stated that based on the property maintenance and the non-compatibility of neighbors this is something that the Board needs to seriously consider.

**MOTION** made by Aziz Ahsan, seconded by Alberto Paratore, to advertise and set this for Public Hearing for the September 24, 2024, meeting. Voted and carried unanimously.

**REVIEW** – Appeal 4123 – Ray Gonsalves (6357-02-890540)

Ray Gonsalves, 10 Russo Dr, Hopewell Junction, requesting a 4' side yard variance for an existing 200sf carport pursuant to Section 194-107 and the Schedule of Bulk Regulations.

**Ray Gonzalves was present.**

Chairperson Drummond stated that Town Code allows for a shed and a second accessory structure. There are two issues here. There is a third accessory structure, and the third accessory structure is a metal frame on a cement base. The applicant does feel that it is not an eyesore. It is hidden behind the shed. Chairperson Drummond asked if it had solid walls and Mr. Gonzalves said no. Chairperson Drummond stated that means that it is a temporary structure which by code is only allowed on the property for six months at a time. Chairperson Drummond asked if he was going to make this a permanent structure. Mr. Gonzales stated it is secured well. Chairperson Drummond stated that does not matter as it is still canvas sides. She understands it is screened well but it is still considered a temporary structure. She stated the applicant can go for making a permanent structure since he is already before the Board, or he will have to remove it. Mr. Gonzalves stated he would like to make it a permanent structure but is asking how long he would have to do that. He stated he is in the process of moving his business to a building in Millbrook. Chairperson Drummond stated he will not be building this structure over the wintertime so they can build some time into the resolution. He will have to check with the building department to make sure his concrete base is permitted. She stated that this means the applicant would like to keep the application for this carport but the material of the carport is going to be of a permanent nature. Mr. Gonzalves said yes. Chairperson Drummond stated he will need to supply the materials, the height, etc. Mr. Gonzalves stated it is for an antique car. Mr. Rickett stated he could buy a shed with a rollup door and then he gets a variance for the setback that he needs. It would be the same as a carport. Mr. Gonzalves stated he would love to make a permanent structure as it would be more protection for the car.

Mr. Ahsan asked if this was going to be called a carport or a garage. Mr. Rickett stated they will probably change the definition after the applicant gets some ideas of exactly what he wants to build.

Chairperson Drummond stated they are going to ask the applicant to come back when he has some idea of what type structure he wants to put there. The neighbors will need to have the ability to see what he's going to put in there when they go to Public Hearing. They will need to know how big it is, what color it's going to be, how tall it is going to be, and those type of details. She asked if he could get that information by next month and Mr. Gonzalves said he believes he can.

### **ADJOURNMENT**

**MOTION** made by Aziz Ahsan, seconded by Alberto Paratore, to adjourn the Zoning Board meeting at 8:21 PM. Voted and carried unanimously.

Respectfully submitted:

Julie J. Beyer

Meeting Secretary