A Regular Meeting of the Zoning Board of Appeals was held on Thursday, February 7, 2019, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Daniel Bassette

Clayton Lacey

Liz Sciortino

Stephen Maxon

ABSENT: David Cook

ATTORNEY: David Hou

OTHERS: None

Minutes were taken by Michelle Booth.

Mr. Bassette opened the meeting at 7:00 p.m.

**GASCON AREA VARIANCE PUBLIC HEARING**

David Gascon, 20 Courtenay Circle, Pittsford, NY for property located on Mendon Ionia Road, Honeoye Falls, consisting of 72.84 acres, bearing Tax Account No. 216.04-1-10.1, located in an RA-1 zone, to build a 5,000 square foot permanent farm market, whereas Town Code states said structure shall not exceed 2,400 square feet of floor area.

Mr. Bassette acknowledged the affidavit of posting of the sign and waived the reading of the public notice.

Mr. Gascon explained that they were approved by the Planning Board and need a variance for the square footage of the building.

Mr. Maxon stated that this is a three-phase process and asked which phase the structure would be built in. Mr. Gascon answered that it will be built during the third phase.

Ms. Sciortino asked if this property was located in a water district. Mr. Gascon confirmed that it is.

Mr. Bassette asked about how long it would be before they build. Mr. Gascon stated about 5 years.

Mr. Bassette asked if he could make the building any smaller and how it would affect his business. Mr. Gascon stated that it would hinder the amount of people that could fit inside the building, which would in hurt his sales.

Mr. Maxon asked if this property was right across from the golf course. Mr. Gascon confirmed that is was.

Ms. Sciortino asked what the name of the winery will be. Mr. Gascon stated Cap Fall.

Mr. Lacey asked Mr. Gascon what his inspiration was for the winery. Mr. Gascon stated that he started making wine with his in-laws and enjoyed it.

Ms. Sciortino asked what kind of grapes that they would be growing. Mr. Gascon stated they would use Viniferous Grapes.

Mr. Bassette opened the Public Hearing.

There were no comments.

**MOTION**

Mr. Maxon moved, second by Mr. Lacey, to close the Public Hearing.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon - aye and Mr. Lacey – aye

Mr. Bassette asked if the benefit could be achieved by any other means. Mr. Gascon said no.

Mr. Bassette asked if the request is substantial. Mr. Gascon said no.

Mr. Bassette asked if the request will have any adverse physical or environmental effects. Mr. Gascon said no.

Mr. Bassette asked if the request will have an undesirable change in the neighborhood. Mr. Gascon said no.

Mr. Bassette asked if the difficulty was self-created. Mr. Gascon said no.

**CLOEN AND CORNELL AREA VARIANCE DETERMINATION**

Ms. Sciortino moved, seconded by Mr. Maxon, that the area variance requested by Carol Cloen and Wendy Cornell, 215 Sibley Road, Honeoye Falls, NY consisting of 0.8 acres, bearing Tax Account No. 221.04-1-2, located in an RS-30,000 zone, to build a carport 12’ wide adjacent to the existing garage which would result in a 10’ side setback, whereas town code requires a 15’ side setback, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Carol Cloen, the property owner, appeared before the Zoning Board of Appeals at the public hearing on February 7, 2019.
2. The applicant is requesting to build a carport that would have a side setback of 10 feet. The carport would have dimensions of 24 feet by 12 feet and would house a 21-foot travel trailer. Section 260-106 of the Mendon Zoning Code requires a side setback of 15 feet in the RS-30 district.
3. There is an existing tree line along the property’s eastern edge that would provide a degree of screening.
4. The applicant stated that the carport would be placed upon a gravel base, next to the existing garage. She also asserted that the condition of her yard prevented her from putting the carport in another location on her property.
5. Letters in opposition to the requested variance were received from Andrea Johnson of 221 Sibley Rd and William Fisher of 227 Sibley Rd.
6. Andrea Johnson and Margaret Conklin commented during the public hearing. No additional comments were made.
7. This application is exempt from County Planning Board review under General Municipal Law 239-m pursuant to an agreement dated January 24, 1994 between the County and the Town which exempts matters set forth therein from further County review.

**CONCLUSIONS OF LAW**

1. The requested benefit **can** be achieved by other feasible means, such as placing the carport behind the garage or to the west of the house.
2. The request is **not** substantial, as it is for approximately 5 feet of relief.
3. Upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as it involves a small section of land.
4. The request will **not** cause an undesirable change in the neighborhood, as the existing tree line provides adequate screening to neighbors, and Town Code 260-8 (G) permits travel trailers to be parked on their own beside buildings with only a 10-foot setback.
5. The difficulty **was** self-created, as the applicant can store her travel trailer in another location.
6. This is a Type II action under SEQR

**CONDITIONS OF APPROVAL**

1. The side of the carport facing the neighbor will be covered such that no poles are exposed, instead of only half covered as the provided images show.

**MOTION**

Mr. Lacey moved, second by Mr. Maxon, to approve the variance.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon - aye and Mr. Lacey – aye.

**GOODMAN AREA VARIANCE DETERMINATION**

Mr. Lacey moved, seconded by Ms. Sciortino, that the area variance requested by Charles Goodman, 7 Bosworth Field, Mendon, NY consisting of 1.65 acres, bearing Tax Account No. 217.010-1-4.1, located in an RA-1 zone, to build an attached 4 car garage where one corner will be approximately 16 feet from the side setback, whereas town code requires a 20 foot side setback, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Charles Goodman, the property owner, appeared before the Zoning Board of Appeals at the public hearing on February 7, 2019.
2. The applicant is requesting to build a 4 car garage, such that one of it’s corners is approximately 16 feet from the closest property edge. Section 260-106 of the Mendon Zoning Code states RA-1 districts has a side setback of 20 feet.
3. Due to the curve of Bosworth Field, the property lines for this lot are not parallel, and the structure is more aligned with the southern border then the northern. As such, the encroachment into the setback is for a corner of the proposed structure, and not the entire side.
4. The applicant states there is an existing septic tank, which prevents moving the desired structure.
5. The applicant states there are existing multi-car garages in the neighborhood, and as such this usage would not be out of place.
6. Jeff Clark, the neighbor closest to the planned construction, submitted a letter dated February 9th 2019 stating he has no issues with the requested variance.
7. No members of the public commented during the public hearing.
8. This application is exempt from County Planning Board review under General Municipal Law 239-m pursuant to an agreement dated January 24, 1994 between the County and the Town which exempts matters set forth therein from further County review.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means, as the existing septic system prevents relocation of the garage.
2. The request is **not** substantial, as it is at most 4 feet of relief.
3. Upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as it involves such a small section of land.
4. The request will **not** have an undesirable change in the neighborhood, as there are already a number of multi-car attached garages in the area.
5. The difficulty **was** self-created, as the applicant chose to have enough vehicles that they needed the additional space.
6. This is a Type II action under SEQR

**MOTION**

Mr. Maxon moved, second by Ms. Sciortino to approve the variance.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon - aye and Mr. Lacey – aye

**MINUTES**

**MOTION**

Mr. Maxon moved, second by Ms. Sciortino, to approve the February 7, 2019 minutes as amended.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon – aye; and Mr. Lacey – aye

**GENERAL DISCUSSION**

There was a brief discussion about Mr. Gascon’s application. Mr. Lacey believes the variance is substantial.

**GASCON AREA VARIANCE DETERMINATION**

Ms. Sciortino moved, seconded by Mr. Maxon, that the area variance requested by David Gascon, 20 Courtenay Circle, Pittsford, NY for property located on Mendon Ionia Road, Honeoye Falls, consisting of 72.84 acres, bearing Tax Account No. 216.04-1-10.1, located in an RA-1 zone, to build a 5,000 square foot permanent farm market, whereas Town Code states said structure shall not exceed 2,400 square feet of floor area, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. David Gascon, the property owner, and Matthew Cassavaugh, his consultant, appeared before the Zoning Board of Appeals at the public hearing on February 21, 2019.
2. The applicants Special Use Permit request to the Planning Board was filed on August 7th 2018. At that time, the requested permanent farm market conformed to the code. On October 15th 2018, the Zoning Code was changed, such that the requested permanent farm market no longer conformed.
3. The applicant is requesting a 5000 square foot permanent farm market. Section 260-43A of the Mendon Zoning Code states a permanent farm market “shall not exceed 2,400 square feet of floor area”. The previous Mendon Zoning Code Section 200-26(18)(a) stated a permanent farm market “shall not exceed 5000 square feet of floor area”.
4. Across the street from the applicant’s property is the Mendon Golf Club, which is a similarly sized structure, with a similar amount of traffic.
5. The applicant stated they intend to use the permanent farm market to sell wine produced from the grapes grown on site.
6. No members of the public commented during the public hearing.
7. Comments for this project were received from the County Planning Board and reviewed by the Town Planning Board.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means, as the footage is needed to adequately sell the product produced on site.
2. The request **is** substantial, as it is more than twice the existing limit.
3. Upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as it only impacts a portion of the property already used for farming.
4. The request will **not** have an undesirable change in the neighborhood, as there are similarly sized structures, with similar uses, on neighboring properties.
5. The difficulty was **not** self-created, as the request was permitted when it was made, but became nonconforming when the Zoning Code was changed, an act the applicant had no control over.
6. This is a Type II action under SEQR

**MOTION**

Ms. Sciortino moved, second by Mr. Maxon, to approve the variance.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon - aye and Mr. Lacey – aye

**GENERAL DISCUSSION**

There was some discussion regarding training. Mr. Bassette offered to speak with the Town Supervisor about getting some local training on some topics that everyone would be interested in. Ms. Sciortino stated that they did not need to do that because the training at Burgundy Basin is a great and they have a lunch included.

**MOTION**

Mr. Maxon moved, second by Mr. Lacey, to adjourn.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon - aye and Mr. Lacey – aye