A Regular Meeting of the Zoning Board of Appeals was held on Thursday, June 25, 2020, at the Mendon Community Center, 167 North Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Daniel Bassette

 Stephen Maxon

 David Cook

 Stephen Tudhope

ABSENT: Dustin Cichon

ATTORNEY: David Hou

OTHERS: Town Councilman John Hagreen and Dimitri Stefanou

Minutes were taken by Michelle Booth.

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

**KRUKOWSKI AREA VARIANCE PUBLIC HEARING**

Charles Krukowski, 3565 Rush Mendon Rd, Honeoye Falls, consisting of 1.1 acres, for a garage at said property, with a side setback of approximately 1 foot, whereas code requires a 20-foot side setback and therefore requires an area variance. Zoned RA-1. Tax account no. 215.02-1-17.

Mr. Bassette opened the public hearing.

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

Mr. Krukowski gave a description of his plans. He explained the property line issue and stated that Mr. Stefanou has agreed to this, and he is the owner of abutting property.

Mr. Tudhope asked why he chose this area and not someplace else on the property. Mr. Krukowski explained with his garage it is the best placement on the property.

Mr. Cook asked about the blacktop driveway that goes over the property line. Mr. Krukowski stated it has been that way for as long as he can remember and he actually had no idea until recently.

Mr. Bassette asked what the building would be used for. Mr. Krukowski said he will store his boat in the building and also use it for some wood working projects.

Mr. Bassette asked if there would be any change in character in the neighborhood. The applicant stated no.

Mr. Bassette asked if there were alternative methods to achieve what they desire. The applicant stated no.

Mr. Bassette asked if this was a significant request. The applicant stated no.

Mr. Bassette asked if this would have any physical or environmental effects in the neighborhood. The applicant stated no.

Mr. Bassette asked if this was a self-created difficulty. The applicant stated no.

**PUBLIC COMMENT**

1. Dimitri Stefanou, representative for Red Barn Farm of Mendon, Rush Mendon Rd, Honeoye Falls, was in attendance. He supports the variance and thinks it will be beneficial.

**MOTION**

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

**APPROVED**

Mr. Bassette – aye; Mr. Maxon– aye; Mr. Cook – aye; and Mr. Tudhope - aye.

**COOK AREA VARIANCE PUBLIC HEARING**

Mark Bayer, Bayer Landscape Architecture, PLLC and Josh Raymore representing Laura Cook, 142 Chamberlain Rd, Honeoye Falls, consisting of 33.69 acres, for the construction of a new barn that has a decorative cupola with a total height of approximately 39 ft., whereas code allows a maximum height of 35ft. for an accessory structure. Zoned RA-1. Tax account no. 215.04-1-12.3.

Mr. Bassette opened the public hearing.

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

Mr. Bassette asked if everyone was familiar with the property. The Board confirmed they are.

Mr. Bayer explained the need for the area variance.

Mr. Bassette asked why the Cook’s would not use the existing barn instead of demolishing it and starting over. Mr. Bayer explained their need for a larger, more efficient barn.

Mr. Bassette asked how many horses are on the property. Mr. Bayer estimated six horses, some pigs, cats and dogs.

Mr. Tudhope asked what the cost of the building is. Mr. Bayer explained that he is only the architect and he does not know the cost.

Mr. Cook asked if they would be boarding horse. Mr. Bayer stated no.

Mr. Cook asked why they could not build a barn that could meet code. Mr. Bayer explained the cupola is there to allow natural lightening into the main area of the barn.

Mr. Maxon asked if the cupola assists in ventilation. Mr. Bayer stated it might, but they want it for the lighting.

Mr. Bayer explained the barn is lower than most ordinary barns, the cupola is the only part that does not meet the code.

Mr. Bassette asked if there would be any change in character in the neighborhood. The applicant stated no.

Mr. Bassette asked if there were alternative methods to achieve what they desire. The applicant stated no.

Mr. Bassette asked if this was a significant request. The applicant stated no.

Mr. Bassette asked if this would have any physical or environmental effects in the neighborhood. The applicant stated no.

Mr. Bassette asked if this was a self-created difficulty. The applicant stated yes.

There was no public comment.

**MOTION**

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

**APPROVED**

Mr. Bassette – aye; Mr. Maxon– aye; Mr. Cook – aye; and Mr. Tudhope - aye.

**COOK USE VARIANCE PUBLIC HEARING**

Mark Bayer, Bayer Landscape Architecture, PLLC and Josh Raymore representing Laura Cook, 142 Chamberlain Rd, Honeoye Falls, consisting of 33.69 acres, for the construction of a new barn that will include a living quarter for an animal caretaker, whereas code permits only one single family dwelling per lot. Zoned RA-1. Tax account no. 215.04-1-12.3.

Mr. Bassette opened the public hearing.

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

Mr. Bayer described the need for the use variance.

Mr. Maxon asked what specifically is the hardship they will have without this approval. Mr. Bayer stated there is no actually hardship, but it would save money by allowing someone to be able to stay on the premises when the Cook’s are traveling.

Mr. Bassette explained the four criteria needed to be able to approve the variance.

Mr. Cook asked if they care for the animals when they are home. Mr. Bayer says they mostly do but they have to travel from Naples so they do get help also.

Mr. Maxon said it seems to be a self-created difficulty. There are bedrooms in the main house that could be used.

Mr. Bassette stated this is not unique to the neighborhood and seems self-created. He stated that because they do not meet all four criteria parts, the Board would not be able to approve it.

Mr. Bayer stated the area variance is the most important part. They can find another way to solve the issue.

Mr. Cook asked about the site view from the neighborhood. Mr. Bayer said it isolated and would fit into the neighborhood.

There was no Public Comment.

**MOTION**

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

**APPROVED**

Mr. Bassette – aye; Mr. Maxon– aye; Mr. Cook – aye; and Mr. Tudhope - aye.

**MINUTES**

**MOTION**

Mr. Maxon moved, second by Mr. Tudhope, to approve the minutes from June 11, 2020 as submitted.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon– aye; Mr. Cook – aye; and Mr. Tudhope - aye.

**KRUKOWSKI AREA VARIANCE DETERMINATION**

Mr. Maxon moved, seconded by Mr. Cook, that the area variance requested by Charles Krukowski, 3565 Rush Mendon Rd, Honeoye Falls, consisting of 1.1 acres, bearing Tax Account No. 215.02-1-17, located in an RA-1 zone, for a garage at said property, with a side setback of approximately 1 foot, whereas 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 Krukowski, the property owner appeared before the Zoning Board of Appeals at the public hearing on June 25th, 2020.
2. Section 260-106 of the Mendon Zoning Code states RA-1 has a side setback of 20 feet. The applicant is requesting a side setback of approximately one (1) foot.
3. The proposed location places the structure in an embankment, replacing the existing retaining walls. This same embankment makes it difficult to place the structure to the rear of the residence.
4. While the adjacent lot is large enough to be built upon, it is a flag lot, with the part nearest the road being thinner than the part farther back. The portion nearest the applicant is the ‘pole’ portion of the flag, and would not meet setbacks to be built upon. The applicant states this portion of the neighboring parcel is never used for farm access.
5. The applicant intends to use this structure to more easily store equipment and have a workshop.
6. Dimitri Stefanou, representing owner of neighboring lot, spoke to the board and had no issues with the application.
7. Members of the public were given the opportunity to comment 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 terrain prevents placing the structure in a different location.
2. The request **is** substantial, as it is a 95% reduction of the required setback.
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 the impacted area is too small.
4. The request will **not** have an undesirable change in the neighborhood, as the adjacent land is currently unused, and unlikely to be used in the future for anything more than a driveway.
5. The difficulty **was** self-created, as it is the applicants desire for the structure that is causing this difficulty.
6. This is a Type II action under SEQR

**APPROVED**

Mr. Bassette – aye; Mr. Maxon– aye; Mr. Cook – aye; and Mr. Tudhope - aye.

**COOK AREA VARIANCE DETERMINATION**

Mr. Maxon moved, seconded by Mr. Bassette, that the area variance requested by Laura Cook, 142 Chamberlain Rd, Honeoye Falls, consisting of 33.69 acres, bearing Tax Account No. 215.04-1-12.3, located in an RA-1 zone, for the construction of a new barn that has a decorative cupola with a total height of approximately 39 ft., whereas code allows a maximum height of 35ft. for an accessory structure, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Mark Bayer, agent for Laura Cook, the property owner, appeared before the Zoning Board of Appeals at the public hearing on June 25th, 2020.
2. The applicant is requesting to build an accessory building, which includes a cupola, with a maximum height of approximately 39 feet. Section 260-8. C. (6) of the Mendon Zoning Code states no accessory building in a residential district shall exceed 35 feet in height.
3. The cupola is 10 feet square, with a peak height of approximately 39 feet. Disregarding the cupola, the highest point of the structure has a height of approximately 28 feet 2 inches.
4. The barn on which the cupola is to be built is located roughly at the center of a 33-acre lot, further from the road then the existing barn.
5. The applicant plans to use the structure to house their animals and store the associated supplies and equipment. The cupola will provide natural light for the inside of the barn, improving the living conditions of the animals inside.
6. The applicant states they are demolishing the existing barn as they require more space.
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** be achieved by other feasible means, such as changing the design.
2. The request is **not** substantial, as it is for approximately 4 feet of a cupola.
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 the cupola has no greater impact then the building itself.
4. The request will **not** have an undesirable change in the neighborhood, as it is reasonably far from the road, and is not the only horse barn that exceeds the height limit by way of a cupola.
5. The difficulty **was** self-created, as both having horses, and choosing to replace the existing barn, are entirely at the applicant’s discretion.
6. This is a Type II action under SEQR

**APPROVED**

Mr. Bassette – aye; Mr. Maxon– aye; Mr. Cook – aye; and Mr. Tudhope - Nay.

**COOK USE VARIANCE DETERMINATION**

Mr. Maxon moved, seconded by Mr. Tudhope, that the use variance requested by Laura Cook, 142 Chamberlain Rd, Honeoye Falls, consisting of 33.69 acres, bearing Tax Account No. 215.04-1-12.3, located in an RA-1 zone, for the construction of a new barn that will include a living quarter for an animal caretaker, whereas code permits only one single family dwelling per lot, be denied based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Mark Bayer, agent for Laura Cook, the property owner, appeared before the Zoning Board of Appeals at the public hearing on June 25th, 2020.
2. The applicant is requesting to use a portion of their barn as living quarters for an animal caretaker, thus adding a second dwelling to the lot. Section 260-15 B. (1) of the Mendon Zoning Code states one single-family dwelling per lot.
3. The applicant provided data claiming they would spend upwards of $5,000 a month to pay for animal care if the caretaker was not on site. In contrast to this, they expect to spend approximately $30,000 to construct the living quarters.
4. The applicant intends the animals, and by extension the barn, to remain regardless of a caretaker living on site.
5. Members of the public were given the opportunity to comment during the public hearing.
6. 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 request will **not** alter the essential character of the neighborhood, as the living space is contained within the barn and the barn would exist regardless of the living space, whether the caretaker is on site or off.
2. The alleged hardship **was** self-created, as the applicant chose to have the animals they do, and thus created the need for an animal caretaker; the applicant’s need for an on-site caretaker is self-imposed.
3. The property owner **can** realize a reasonable economic return, and has not demonstrated a substantial lack of return by competent financial evidence, as the ‘return’ for a residential property is being a place for a family to live, not reducing cost of animal care. The property can continue to provide a reasonable economic return based on existing permitted uses.
4. The particular hardship is **not** unique in that it is shared by a substantial portion of the neighborhood, as any sufficiently motivated resident could also gather enough animals to justify an on-site caretaker, and build a barn to house such person.
5. This is an Unlisted action under SEQR, but upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse environmental impact.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon– aye; Mr. Cook – aye; and Mr. Tudhope - aye.

**MOTION**

Mr. Maxon moved, second by Mr. Cook, to adjourn the meeting.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon– aye; Mr. Cook – aye; and Mr. Tudhope - aye.