A Regular Meeting of the Zoning Board of Appeals was held on Thursday, June 13, 2013, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Don Irvine, Chair

Don Thorp

Bruce Peckham

Liz Sciortino

ABSENT: Kevin Wright

ATTORNEY: Doug Jones Attorney

OTHERS: 4

Minutes were taken by Debbie Tvrdik.

Mr. Irvine called the meeting to order at 7:02 p.m.

**FREDERICK AREA VARIANCE PUBLIC HEARING**

Richard and Jacqueline Frederick, 394 Mendon Ionia Road, Honeoye Falls, NY approached the Board for an area variance at property directly east of their property, consisting of 4.29 acres, to construct an addition, consisting of approximately 1,680 square feet, with 840 square feet of that 1,680 square feet to be living space, to the existing barn, whereas town code requires a minimum of 1,500 square feet of living space for a two story dwelling. Zoned RA-1 and bearing tax account 223.02-1-21.112.

Mr. Frederick stated that he and his wife would like to add an addition to the existing barn across from their parcel. Mr. Frederick stated that the addition will serve as a carriage house and possible residence for his in-laws who are living in the main house with him and his wife.

Mr. Irvine stated that that the Fredericks are creating a single family residence on a separate parcel from where the home is situated. Mr. Frederick stated that the barn is on a separate parcel. Mr. Irvine stated that the Fredericks are going to create a single family residence that is going to be about half the required 1,500 sf. and that the Fredericks are only asking for 860 sf. Mr. Irvine stated that it is a separate parcel of land.

Mr. Irvine asked how the utilities are fed to the barn. Mr. Frederick stated that the barn has its own meter and that there is presently county water. Mr. Irvine stated that there is no septic at this point. Mr. Frederick agreed. Mr. Irvine asked if the septic would be sized for just the proposed addition. Mr. Frederick stated that the septic would be sized for the proposed addition only.

A discussion followed regarding the perc testing being done when they purchased the property.

A discussion followed regarding making the two properties into one parcel.

Mr. Irvine clarified with Mr. Frederick that the reason they have brought the application is to build an in-law suite and usually they are on the same parcel as the main home but this is unique.

A discussion followed regarding the pros and cons for adjoining the two parcels and conditions that could be placed on the decision.

Mr. Irvine asked Mr. Jones how the Board could put conditions on a parcel for a variance that is not on the same parcel and asked if the two parcels cannot be tied together. Mr. Jones stated that the proper way would be to have one tax number.

A discussion followed regarding the benefits of having one tax number making the application moot.

A discussion followed regarding an option to increase the addition to 1,500 sf. or adding the parcels together and calculating the 1 percent requirement and there being changes in the code allowing more flexibility with the 1 percent option.

A discussion followed regarding the concern keeping the tax bills and utility bills separate from the Fredrick’s bills.

Mr. Irvine stated that the issue is not with the Fredericks but 20 to 30 years down-the-road and with the variance running with the property.

Mr. Peckham suggested keeping the Public Hearing opened until the Fredericks explore the discussed options.

Mr. Jones explained the process for keeping the Public Hearing open.

Mr. Irvine stated that the Affidavit of the posting is in the file and that the sign was posted and that all Board members had a chance to see the property. All answered in the affirmative. Mr. Irvine asked if there were any further questions from the Board. There were no further questions.

**MOTION**

Mr. Irvine moved, seconded by Mr. Peckham, to leave the Public Hearing open.

#### ADOPTED

#### Mr. Thorp – aye; Mr. Peckham – aye; Mr. Irvine – aye and Ms. Sciortino – aye.

**PETRISAK DETERMINATION**

Mr. Irvine moved, seconded by Mr. Peckham, that the application for an area variance requested by Dennis Petrisak, 24 Island Lane, Canandaigua, NY, for an area variance for property located on Rush Mendon Road, consisting of 193.75 acres, bearing Tax Account No. 215.02-1-45.2, located in an RA-1 zone, to allow a re-subdivision of this property with an adjoining property which will result in this property having 50 feet of frontage on Rush Mendon Road, whereas Town Code requires 100 feet of frontage, be granted based on the following findings of fact and conclusions of law:

# **FINDINGS OF FACT**

1. Dennis Petrisak, 24 Island Lane, Canandaigua, NY appeared before the ZBA on April 25, 2013 and May 23, 2013.
2. Mr. Petrisak stated that in 2009 he entered into a transaction with Jonathan Freidlander (Equi Center), where he would retain ownership of a 15 acre land-locked parcel and gain ownership of another parcel that would be subdivided after the closing.
3. Mr. Petrisak stated at the time of closing he thought the road frontage requirement for a driveway was 20ft.
4. Mr. Petrisak stated issues with the bank that holds the Equi Center’s mortgage; make this variance the only viable solution for access to his 15 acre land-locked parcel.
5. Mr. Petrisak stated that if the variance was granted and the subdivision completed, only one home would be constructed on his existing land locked parcel and that nothing would be built on the subdivided parcel.
6. Mr. Petrisak stated that he is responsible for this difficulty by not checking the zoning laws.

**CONCLUSIONS OF LAW**

1. The benefit Mr. Petrisak is attempting to achieve cannot be achieved by any other means.
2. The granting of this variance will not create an undesirable change to the neighborhood.
3. The request is substantial.
4. The granting of this request will not have adverse physical or environmental effects.
5. The difficulty is self-created.
6. This is a Type II action under SEQR.

A discussion followed regarding the minutes being mailed and taking ten days to arrive to each of the Board members.

**MINUTES**

**MOTION**

Mr. Thorp moved, seconded by Mr. Irvine to approve the minutes of the May 9, 2013 meeting as amended.

#### ADOPTED

#### Mr. Thorp – aye; Mr. Peckham – aye; Mr. Irvine – aye and Ms. Sciortino – aye.

**MOTION**

Mr. Irvine moved, seconded by Ms. Sciortino to approve the minutes of the May 23, 2013 meeting.

#### ADOPTED

#### Mr. Thorp – aye; Mr. Peckham – aye; Mr. Irvine – aye and Ms. Sciortino – aye.

**DISCUSSION**

A discussion followed regarding CE classes.

**MOTION**

Mr. Irvine moved, seconded by Ms. Sciortino to adjourn the meeting.

#### ADOPTED

#### Mr. Thorp – aye; Mr. Peckham – aye; Mr. Irvine – aye and Ms. Sciortino – aye.

The meeting adjourned at 7:41 p.m.