A Regular Meeting of the Zoning Board of Appeals was held on Thursday, September 12, 2013, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Don Irvine, Vice Chair

 Bruce Peckham

 Don Thorp

 Liz Sciortino

ABSENT: Kevin Wright

 Doug Jones

OTHERS: None

Minutes were taken by Bonnie Toomey.

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

**LOPEZ DETERMINATION (BARN)**

Ms. Sciortino moved, seconded by Mr. Peckham, that the area variance requested by Christopher and Amy Lopez, 2332 State Route 444, Bloomfield, NY 14469, for a property on Taylor Rd., comprised of two parcels totaling 6.8 acres in a RA-1 zone, which are part of Tax Account Nos. 216.03-1- 5.2, to house 5 horses in a pre-existing 5-stall barn with a front setback of approximately 40 feet and a side setback of approximately 24 feet instead of the 100 feet required by code be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Christopher Lopez appeared before the Zoning Board of Appeals at the public hearing on August 22, 2013.
2. The pre-existing non-conforming barn (built around 1940) is on part of the DeLuccio property at 185 Taylor Rd. The DeLuccio property is on both the north side (the homesite) and the south side (the barn site) of Taylor Rd. The Lopez have a contingent offer to buy 6.8 acres on the south side of Taylor Rd. Their offer is contingent on their ability to house 5 horses in the 5 stall barn.
3. The barn was used to house horses for an extended interval from its construction in the 1940’s until the De Luccios bought the property from the previous owners around 2000. Before that, it was the center of activity for a volunteer youth horseback riding and training activity known as the Mendon Pony Club sponsored by the previous owners.
4. The barn has 5 original finished stalls, is outfitted for grooming and hay storage, and clearly has had historically, as its principle use, the stabling of up to 5 horses.
5. No members of the general public appeared at the public hearing.

**CONCLUSIONS OF LAW**

1. The benefit Christopher and Amy Lopez are attempting to achieve cannot be achieved by other means.
2. The granting of this variance will not create an undesirable change in neighborhood character or to nearby properties.
3. The request is substantial.
4. The request will not have adverse physical or environmental effects.
5. The difficulty is self-created.
6. This is Type II action under SEQR.

**ADOPTED**

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

**WILMOT AREA VARIANCE DETERMINATION**

Mr. Peckham moved, seconded by Sciortino, that an application by Paul Wilmot, 162 Smith Road, Pittsford, NY, for an area variance at said property, northwest of the W. Bloomfield Road intersection, consisting of 7.25 acres (after it is subdivided) and bearing Tax Account No. 205-1-12.2, located in an RA-5 zone, to construct a primary residence with a height of approximately 41 feet, whereas Town Code allows a height of 35 feet be approved subject to the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Mr. Craig Jensen, CJS Architects, Rochester, NY appeared before the Zoning Board of Appeals on August 22, 2013.
2. Mr. Wilmot is constructing a colonial style residence at 162 Smith Road, Town of Mendon which will serve as his principal residence.
3. The requested height variance arises by design which is deemed architecturally appropriate for a colonial revival style house.
4. Mr. Jensen pointed out that the home is a considerable distance from the highway (roughly 375 feet based on the map provided for the file), and the higher peaked elevation would not be distinguishable from the road.

**CONCLUSIONS OF LAW**

1. The benefit Mr. Wilmot is attempting to achieve could be accomplished by a design change, but said design alteration would not be the most appropriate for the appearance of the home.
2. The granting of this variance will not create an undesirable change in neighborhood character or to nearby properties.
3. The request is not substantial.
4. The request will not have adverse physical or environmental effects.
5. The difficulty is self-created.
6. This is a Type II action under SEQR.

**ADOPTED**

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

**FOUNTAIN AREA VARIANCE DETERMINATION**

Mr. Peckham moved, seconded by Mr. Irvine, that the area variance requested by Rose Fountain, 33 Woodridge Drive, Mendon, NY, for an area variance at said property, consisting of 0.926 acres, located in an RS-30,000 zone, to construct a privacy fence in the front yard, which fronts Mile Square Road, which, when placed on the existing retaining wall, will have a maximum height of approximately 5 feet 21 inches, whereas code states that no fence in a front yard shall be more than 4 feet above ground level be approved subject to the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Rose Fountain appeared before the Zoning Board of Appeals at the public hearing dated August 22, 2013.
2. The need for the variance arises due to the fact that the lot on which her principle residence at 33 Woodridge Drive is located abuts two dedicated roads in the Town of Mendon – namely Woodridge Drive and Mile Square Road. Both sides of the home meet the definition of “front yard” per current code.
3. Ms. Woodridge wishes to construct a privacy fence along the actual backside of the home, which is the side that faces Mile Square Road. The fence will be built atop an existing retaining wall, hence the proposed 6’9” (5' 21”) height.
4. The distance from the rear of the home to Mile Square is considerable and well beyond the setback required by code. In addition the back yard is heavily treed and not easily visible from the highway.
5. It is noted that revisions to the town code are currently before the Town Board, which if approved, would eliminate the condition under which this variance arises.
6. Members of the public in attendance voiced no opposition to the application.

**CONCLUSIONS OF LAW**

1. The benefit Ms. Fountain is attempting to achieve cannot be achieved by any other means.

The granting of this variance will not create an undesirable change in neighborhood character or to nearby properties.

1. The request is not substantial.
2. The request will not have adverse physical or environmental effects.
3. The difficulty is not self-created.
4. This is a type II action under SEQR.

**ADOPTED**

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

**MINUTES**

**MOTION**

Mr. Thorpe moved, seconded by Mr. Irvine, to approve the minutes of the August 22, 2013 meeting as amended.

**ADOPTED**

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

**MOTION**

Mr. Irvine moved, seconded by Ms. Sciortino, to adjourn the meeting at 7:22 p.m.

**ADOPTED**

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