A Regular Meeting of the Zoning Board was held on Thursday, January 8, 2015 at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, New York, 14472 at 7:00 p.m.

PRESENT: Kevin Wright

 Meribeth Palmer

 Bruce Peckham

 Liz Sciortino

 Don Thorp

ATTORNEY: Jeffrey Clark

OTHERS: 6

Minutes were transcribed by Mary Fletcher.

Mr. Wright began the meeting at 7:00 p.m.

Mr. Wright moved to amend the agenda to approve the December 11, 2014 and November 13, 2014 minutes.

**SHONE AREA VARIANCE PUBLIC HEARING**

Tom and Michele Shone, 7 Morgan Chase, Honeoye Falls, NY, appeared before the Board for an area variance at said property, located near Boughton Hill and Hunt Club, consisting of 3.86 acres and bearing Tax Account No 224.03-1-47, located in an RA-1 zone, for an existing 12’ x 20’ shed with a side setback of 14’ from the property line, whereas Town Code requires a side setback of 20 feet.

Mr. Wright stated that the affidavit of posting of the sign was in the file and waived the reading of the public notice, which was also in the file.

Mr. Wright asked if everyone had seen the property. Mr. Thorp stated he had not received the information for the meeting but knew where the property was.

Mr. Wright stated that documents have been submitted from the Hurwitz law firm. A discussion followed regarding what submitted information the applicants had seen. Ms. Shone reviewed the letter she had not seen, and commented on the contents regarding the covenants. A discussion followed.

Ms. Shone stated they were here to ask for an area variance for a shed on their property. Mr. Wright asked if they constructed the shed. Ms. Shone stated this was an existing shed on their property on Chamberlain Road. Ms. Shone stated that when they purchased the property on Morgan Chase, they moved the shed to that location. Ms. Shone stated that the shed was placed on a crushed stone pad at the Morgan Chase location prior to construction of the existing home and receipt of the Certificate of Occupancy in 2004. She stated she assumed everything was in compliance.

Ms. Shone stated they do not have a permit for the shed. Ms. Shone stated they were careful about placement of the home to avoid removing any trees. Ms. Shone stated she and the builder discussed the placement of the shed to achieve easy access on level ground and avoid the conservation easement area. Ms. Shone stated they found a spot where they could slide the shed in without taking any trees down and have it be as far back as it could go until the drop off. Ms. Shone stated the shed has been there for 10 years. Ms. Sciortino asked what prompted the notification. Ms. Shone stated she received a letter from the Town. Ms. Shone stated Mr. Przysinda, a neighbor, had surveyed his property for landscaping and noticed the shed was too close to the property line and sent a letter to the Town.

A discussion followed about the location of the shed on the Shone’s property on Chamberlain Road.

M.s Shone stated when they first purchased the property on Morgan Chase, there were no neighbors near them. Ms. Shone stated the shed went from an agricultural area on their Chamberlain Road property, to an undeveloped suburban area, which became a developeda suburban area as the number of homes on Morgan Chase increased.

A discussion followed regarding the gravel pad. Mr. Shone stated it is a 6 inch deep gravel pad.

Mr. Wright stated that the ZBA can only grant the minimum variance necessary and asked if it would be possible to move the shed slightly further onto the property, thus minimizing the degree of variance they are seeking. The board reviewed pictures of the shed on the property. Mr. Wright asked if the Shones would consider moving the shed sideways.

Ms. Shone stated trying to move the shed a foot or two would require a truck which would interfere with the landscaping. Mr. Shone stated moving the shed a foot or two would require moving it off the pad and/or adding onto the pad and that the depth of the pad would make it difficult to move. A discussion followed.

A discussion followed regarding the topography of the lot and the location of the conservation easement.

Ms. Shone stated it’s hard to know where the conservation easement is and that they treat all of the marsh area as part of the conservation easement. Mr. Shone stated there isn’t any flat land on the lot.

Mr. Wright asked which neighbors would be able to see the shed. Ms. Shone stated 9 Morgan Chase and maybe 8 Morgan Chase. A discussion followed regarding winter and summer views.

Ms. Shone stated they tried to paint it so it doesn’t stand out. Mr. Wright stated there is a private road and asked if they can see it. Mr. Shone stated maybe if you look really hard. Mr. Shone stated there are neighborhood trails on the other side of marsh.

Ms. Shone stated the shed has electric but no water or gutters.

Mr. Shone stated they keep lawn equipment and tools in the shed. Mr. Shone stated there are no cars or boats stored in the shed.

Mr. Wright asked if this would change the character of the neighborhood. Ms. Shone stated no.

Mr. Wright asked if there are alternative methods to achieve what they want to achieve. Ms. Shone stated there is no reasonable alternative.

Mr. Wright asked if the degree of the variance is substantial. Ms. Shone stated no, about 25%.

Mr. Wright asked if there will be any effects on the physical or environmental conditions. Mrs. Shone stated no.

Mr. Wright asked if this is a self-created difficulty. Ms. Shone stated she has been told it is.

Mr. Wright asked if there were comments from the public.

Richard Przysinda, 9 Morgan Chase, stated he was in attendance with his attorney Jayme Hurwitz, of Hurwitz Law, P.C.

Mr. Hurwitz stated Mr. Przysinda has made overtures to the Shones on an informal basis to address this and other concerns with the neighboring properties. Mr. Hurwitz stated the Shone cannot see the shed from their home and that Mr. Przysinda can see it from the office in his home. Mr. Hurwitz reviewed Mr. Przysinda’s concerns. Mr. Hurwitz stated it was glib to dismiss the neighbors’ petition. Mr. Hurwitz stated they had provided photos showing different footprint options for the shed’s location. Mr. Hurwitz stated there are covenants that govern the shed that are over and above Town Code, but he did understand that the Board can only deal with the Town Code.

Mr. Hurwitz stated that the shed has no permit and no electrical permit. Mr. Hurwitz stated he felt the Board could not grant a variance under the existing circumstances.

Mr. Przysinda stated that if you drive through the neighborhood, there are no sheds in side yards visible from the road that interfere or obstruct views except this one. Mr. Przysinda stated that he has talked to all the neighbors, and they are fully supportive of the Board taking the covenants into consideration. Mr. Przysinda stated he wants to protect the panoramic views. Mr. Przysinda stated the shed is in the conservation restricted area.

Mr. Wright asked Ms. Shone to show him the conservation easement line. Ms. Shone stated the line is straight for drawing purposes and that the line is along the edge of the slope.

A discussion followed.

Mr. Hurwitz stated they just want the Shones to comply with the code. Mr. Przysinda stated what hasn’t been discussed is that the Shones are putting the house up for sale. Mr. Przysinda asked if the Shones moved the shed before, would they take the shed with them when they move now or leave it.

Mr. Wright stated that was not a fair discussion for this Board.

Mr. Hurwitz stated that no variance is appropriate under the circumstances, especially since this is a self -created difficulty.

Mr. Thorp asked if changing the appearance of the shed would improve the situation. Mr. Przysinda stated he was not sure it would because it was the placement of the shed that interfered with his view of the drumlins. Mr. Przysinda stated it was partially the appearance because the shed is about 25 years old.

Mr. Wright stated the criteria for accessory buildings does not address the appearance of a shed relative to the primary residence.

Mr. Hurwitz stated the location of the shed is the primary concern, and the appearance is salt in the wound. Mr. Hurwitz stated that if a new shed were to be in the same place, Mr. Przysinda would have the same concerns about the location.

Ms. Shone stated she has read the petition signed by neighbors and stated she is not sure what the neighbors were told when they signed it.

A discussion followed regarding covenants. Mr. Wright stated the only issue the ZBA can talk about is the location of the shed.

Mr. Shone stated that Mr. Przysinda had just sought relief from a conservation easement for his own shed. Mr. Przysinda stated he did not place it there. Mr. Wright stated relief from a conservation easement is done by the Planning Board.

Mr. Przysinda stated he was told by Tom Voorhees that this was the first hurdle that had to be cleared and then the Shones would have to go to the Planning Board. Mrs. Shone stated she was told the same information.

Mr. Wright stated he was not aware of the conservation easement issue and that the public hearing should be continued until this was resolved.

There were no further comments from the public.

**MOTION**

Ms. Sciortino moved, seconded by Mr. Peckham, to continue the Shone area variance public hearing.

**APPROVED**

Mr. Wright – aye; Mr. Thorp – aye; Ms. Sciortino - aye; Mr. Peckham – aye; and Ms. Palmer – aye.

Mr. Wright stated that as long as the public hearing is open, the Board can accept additional information.

Mr. Wright stated he will talk to the Code Enforcement Officer and with the Planning Board about how they will proceed. Mr. Wright stated the hearing might be able to continue in two weeks. Mr. Przysinda stated he would be out of town. Mr. Shone stated he would also be out of town. A discussion followed. Mr. Wright stated the public hearing would be continued at the February 12, 2015 meeting.

**MINUTES**

Mr. Wright moved, seconded by Ms. Sciortino, to approve the minutes of the November 13, 2014 meeting, as amended.

**APPROVED**

Mr. Wright – aye; Mr. Thorp – aye; Ms. Sciortino - aye; Mr. Peckham – aye; and Ms. Palmer – aye.

**MINUTES**

Mr. Wright moved, seconded by Ms. Sciortino, to approve the minutes of the December 11, 2014 meeting, as amended.

**APPROVED**

Mr. Wright – aye; Mr. Thorp – aye; Ms. Sciortino - aye; Mr. Peckham – aye; and Ms. Palmer – aye.

A discussion followed.

The meeting adjourned at 8:10 pm