A Regular Meeting of the Zoning Board of Appeals was held on Thursday, January 25, 2018, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Bruce Peckham

 Daniel Bassette

 Liz Sciortino

Clayton Lacey

ABSENT: David Cook

ATTORNEY: Jeff Clark

OTHERS: Councilperson John Hagreen

Minutes were taken by Michelle Booth.

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

**SPINDLER AREA VARIANCE PUBLIC HEARING**

Paul Spindler, 135 Taylor Road, Honeoye Falls, NY, consisting of 17 acres, bearing Tax Account No. 216.03-1-3.111, located in an RA-1 zone, to subdivide said lot into two parcels which will result in a 27-foot setback from the existing pond, whereas Town Code requires a 50-foot setback.

Mr. Peckham stated that the affidavit of posting of the sign was in the file and waived the reading of the public notice.

The Board was familiar with the application and location.

Mr. Peckham opened the Public Hearing.

The Board reviewed the drawings and application.

The Spindler’s bought the property about 3 ½ years ago. They would like to sell it now and believe that subdividing a part of the land will allow them to lower the price on the house. They believe it will sell quicker.

Mr. Peckham asked if this was a run-off pond or spring fed? Mr. Spindler says it is man-made.

Mr. Peckham asked if removing the fence is an option? Mr. Spindler said no.

Mr. Peckham asked if he could fill in a portion of the pond? Mr. Spindler said no, because of the natural ecology.

Mr. Peckham described the fence as a white cedar fence that provides substantial barrier from the pond.

Mr. Bassette asked if there are any plans to develop on this parcel? Mr. Spindler said no.

Mr. Peckham raised some concern that granting an area variance would violate safety issues with the code. He says set backs are meant for safety, regarding ponds.

There was discussion regarding the safety of future homeowners.

Ms. Sciortino commented that it would be future homeowners’ common sense to deal with the pond safety, including retention of a fence.

Mr. Peckham asked if they would be disconnecting the electric that runs to the pond? Mr. Spindler confirmed this.

Mr. Peckham asked if the request will have an undesirable change to the neighborhood. Mr. Spindler stated no.

Mr. Peckham asked if the request could be achieved by any other means. Mr. Spindler stated no.

Mr. Peckham asked if the request is substantial. Mr. Spindler stated no.

Mr. Peckham asked if the request would have any adverse physical or environmental effects. Mr. Spindler stated no.

Mr. Peckham asked if the request was self-created. Mr. Spindler stated yes.

**MOTION**

Mr. Lacey moved, seconded by Ms. Sciortino, to close the Public Hearing.

**APPROVED**

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

**MINUTES**

**MOTION**

Ms. Sciortino moved, seconded by Mr. Bassette, to accept the minutes of the November 9, 2017 meeting as submitted.

**APPROVED**

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

**SPINDLER AREA VARIANCE DETERMINATION**

Ms. Sciortino moved, seconded by Mr. Peckham, that the area variance requested by Jane Spindler, 135 Taylor Road, Honeoye Falls, NY, consisting of 17 acres, bearing Tax Account No. 216.03-1-3.111, located in an RA-1 zone, to subdivide said lot into two parcels which will result in a 27-foot setback from the existing pond, whereas Town Code requires a 50 foot setback, be approved based on the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Paul Spindler, the property owner appeared before the Zoning Board of Appeals at the public hearing on January 25, 2018.

2. The applicant would like to subdivide their property such that their pond is 27 feet from the proposed property line, while Section 200-8Q of the Mendon Zoning Code says all ponds shall not be any closer than 50 feet to any property line.

3. The requested subdivision would create a lot with a thinner area at the road and a larger area in the rear.  The pond is located in the rear portion, approximately 400 feet from the road.

4. The majority of the pond will be further than 50 feet from the edge of the property.  Due to the shape of the pond and the proposed subdivision, a relatively small portion of the pond is under 50 feet from the proposed property line.  The closest portion of this is 27 feet from the proposed property line.

5. The pond already exists, and there are no planned changes to the landscape. One alternate method to meet the setback requirement is to fill in a portion of the pond, Mr. Spindler feels this is undesirable for environmental reasons.

6. There is an existing fence along the proposed property line, separating the two lots.

7. No members of the public commented during the public hearing.

CONCLUSIONS OF LAW

1. The requested benefit cannot be achieved by other feasible means, as filling the pond or relocating the fence are not feasible.

2. The request is not substantial, as there remains adequate buffer between the pond and the relevant property line.

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 makes no changes to the land itself.  Allowing this variance also prevents more destructive methods the property owner could use to meet the code.

4. The request will not have an undesirable change in the neighborhood, as it is merely moving lines on paper.  No physical changes are being done, or proposed.

5. The difficulty was self-created, as the property owner is subdividing their own property and could

move the proposed property lines such that a variance was not needed.

6. This is a Type II action under SEQR.

**APPROVED**

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

**MOTION**

Ms. Sciortino moved, second by Ms. Mr. Lacey, to adjourn the meeting.

**APPROVED**

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