

A Regular Meeting of the Zoning Board of Appeals was held on Thursday, January 11, 2024 at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 pm.

PRESENT: Christian Mahood- Chair
Stephen Tudhope
Dustin Cichon
Tom Voorhees

ATTORNEY: David Hou

OTHERS: Town Councilperson, Kim Roberts; Jason Carnicelli, 9020 Route 5 and 20, Bloomfield, NY

Minutes were taken by Katrina Allen.

Mr. Mahood opened the meeting at 7:00 pm.

MINUTES

MOTION

Mr. Tudhope moved, seconded by Mr. Cichon to approve the minutes of the December 14, 2023 Zoning Board of Appeals meeting, as submitted.

APPROVED

Mr. Mahood – aye; Mr. Cichon – aye; Mr. Tudhope – aye; and Mr. Voorhees – abstain.

McCABE AREA VARIANCE PUBLIC HEARING SECOND APPEARANCE

An area variance application by Beth McCabe, 3897 Rush Mendon Road, Mendon, NY, consisting of .6 acres, for a two-unit dwelling, whereas code requires the minimum lot area shall be 5 acres for apartment houses/multiple dwellings and therefore requires an area variance. Zoned RS-30. Tax account no. 216.11-1-6.

MOTION

Mr. Cichon moved, seconded by Mr. Tudhope to reopen the Public Hearing at 7:01

APPROVED

Mr. Mahood – aye; Mr. Cichon – aye; Mr. Tudhope – aye; and Mr. Voorhees – aye.

Mr. Mahood welcomed Beth McCabe to the table.

Ms. McCabe said it used to be an assisted living facility. She wants to live in the front with her kids and rent out the back for income. She does not need all seven bedrooms.

Mr. Mahood asked the Board if there were any comments or questions.

Mr. Tudhope asked if Ms. McCabe had spoken with any of her neighbors. She said no, as it is

just the wedding chapel and the Trump guy, and they were all there when it was an assisted living facility. She cannot imagine they would have any issues.

Mr. Cichon said he had spoken with all her neighbors and the general concern was to ensure it would all be off-street parking. Ms. McCabe said it will all be off-street parking.

Mr. Cichon asked how many spaces were available. Ms. McCabe said there are at least four. They had a pine tree removed and that added another two spaces.

Mr. Mahood asked if the spots are grass or gravel. Ms. McCabe said she is having the driveway paved, so it will be asphalt.

Mr. Mahood asked the applicant about the layout of the house. Ms. McCabe said it seems like there was a lot of additions done in the past. There will be separate entrances and porches.

Mr. Cichon said the applicant's neighbor to the east is concerned about noise as they have a two-year-old. Ms. McCabe said she has three kids, and they do not want parties. She is looking for a family to rent as her little children go to bed at 8 pm.

PUBLIC COMMENT

None

MOTION

Mr. Tudhope moved, seconded by Mr. Voorhees to close the Public Hearing at 7:07 pm.

APPROVED

Mr. Mahood – aye; Mr. Cichon – aye; Mr. Tudhope – aye; and Mr. Voorhees – aye.

SCHELL AREA VARIANCE PUBLIC HEARING

An area variance application by Brian Schell, 466 Parrish Road, Honeoye Falls, consisting of 5 acres, for a carport, with a side setback of approximately 8 feet, whereas code requires a 20-foot side setback and therefore requires an area variance. Zoned RA-1. Tax account no. 231.01-1-1.3.

MOTION

Mr. Voorhees moved, seconded by Mr. Tudhope to reopen the Public Hearing at 7:07 pm.

APPROVED

Mr. Mahood – aye; Mr. Cichon – aye; Mr. Tudhope – aye; and Mr. Voorhees – aye.

Mr. Schell was welcomed to the table.

Mr. Schell said he has already bought the thing and cannot return it. He is trying to see what he can do to help his neighbors. He used to have pine trees and said he could not see Richard [Gagnier] come and go. Mr. Schell said he took the trees down about two years ago, and he could replace them. It would cost money and time, but he could replace them.

Mr. Schell said he could push the carport back, so it is not in the front of the house. He said he cannot put it in the back, because that would need a lot of grading and cost a lot of money.

Mr. Mahood stated he checked out the property, and there are no trees or any boarder. Mr. Schell said there is a mature tree line with cottonwood and brush.

A discussion followed regarding the trees on the property.

Mr. Voorhees asked what the height of the trees would be. Mr. Schell said they would be 2-3 feet at \$50 a pop.

The spacing and number of trees was discussed.

Mr. Cichon asked Mr. Schell if he had spoken with his neighbor, Mr. Gagnier, since the last meeting. Mr. Schell said he had planned to speak with him today, but his step-mother is 94 and he had to go to Greece to see her.

PUBLIC COMMENT

Richard Gagnier, 478 Parrish Road, said he understands Mr. Schell wants this structure up to store his boat, because where he was stored before had been vandalized. He wants to put up this \$1,500 structure and said he, himself, has a boat he has shrink wrapped each year. Mr. Gagnier said this is for a variance on a one-acre parcel where the setback is 20-feet.

Mr. Gagnier said Mr. Schell used to have property in the back, but he sold it because of the multiple taxes, and he needs an easement to get back there. Mr. Gagnier said Mr. Schell claims to have hardship, but he wants to do it as cheaply as possible. Without the trees, he is concerned about the drainage. He took them down and now said he will replant them, but now it will be years until they are grown to buffer.

Mr. Gagnier said he has no objection to Mr. Schell storing his boat, but this structure is ugly. He could put this in the back, but he wants to do it cheaply. Yes, it costs more money to put in in the back, but it can have a negative effect on the home if it is in the front.

Mr. Hou asked Mr. Gagnier if his objection would still be the same if it was an addition to his house as opposed to a carport and the variance was the same. Mr. Gagnier said if it matched the house, he would not have an objection, and he does see the irony in that.

Mr. Hou asked Mr. Gagnier if it is the appearance or the structure? Mr. Gagnier said Mr. Schell is trying to do it on the cheap.

Mr. Cichon said to Mr. Gagnier that not everyone has the means he has. Mr. Gagnier said he objects to that.

Mr. Mahood asked if there were any more comments or anyone online. There were none.

Mr. Mahood asked the Board if there were any other questions or comments. There were none.

MOTION

Mr. Tudhope moved, seconded by Mr. Cichon to close the Public Hearing at 7:22

APPROVED

Mr. Mahood – aye; Mr. Cichon – aye; Mr. Tudhope – aye; and Mr. Voorhees – aye.

Mr. Mahood asked the Board if it was ready to move on the McCabe Are Variance. The Board was ready.

The Board reviewed the McCabe Determination.

Mr. Cichon asked if there can be a condition to require all parking be off-street. Mr. Hou said it can be added. Ms. McCabe said that will not be a problem.

Mr. Mahood reviewed the draft determination.

MOTION

Mr. Tudhope moved, seconded by Mr. Voorhees to approve the McCabe Area Variance

APPROVED

Mr. Mahood – aye; Mr. Cichon – aye; Mr. Tudhope – aye; and Mr. Voorhees – aye.

MCCABE AREA VARIANCE DETERMINATION

Stephen Tudhope moved, seconded by Tom Voorhees, that the area variance requested by Beth McCabe, 3897 Rush Mendon Road, for property located at 3897 Rush Mendon Road, with tax account no. 216.11-1-6, Zoned RS-30, to divide the residence into a multiple dwelling consisting of two units, front and back, where the applicant will occupy the front unit and create a long-term rental in the back unit, where the Mendon Zoning Code Section 270-27A requires multiple dwellings to have a minimum of five (5) acres and the property is only 0.6 acres, be **approved** based on the following:

WHEREAS, Jason Carnicelli, on behalf of the property owner, appeared before the Zoning Board of Appeals at the public hearing on December 14, 2023, and said public hearing was continued to January 11, 2024; and

WHEREAS, members of the public were given the opportunity to comment during the public hearings; and

WHEREAS, this application was sent to the County Planning Board for review under General Municipal Law 239-m and the application was returned as a local matter with no comment;

NOW, THEREFORE, BE IT RESOLVED that this application constitutes a Type II action under SEQRA and no further environmental review is required;

AND BE IT FURTHER RESOLVED, that the Zoning Board of Appeals has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and hereby **grants** the application based on the following findings of fact:

1. The requested benefit **cannot** be achieved by other feasible means, because the alternative would be that house could not be split into two units.
2. The request **is** substantial, because it does substantially exceed the amount of minimum acreage required, 0.6 vs. 5 acres.
3. The request will **not** have an undesirable change in the neighborhood, because it was formerly a rental.
4. The requested variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, because it is an internal change to the building.
5. The difficulty **was** self-created, because it is the applicant’s desire to divide the home into a multiple dwelling, which is creating this request for the variance.

AND BE IT FURTHER RESOLVED, that this approval is conditioned upon the following conditions (if any):

- Adequate off-street parking for both units shall be provided.

The foregoing Resolution was offered by Stephen Tudhope and seconded by Tom Voorhees at a meeting of the Zoning Board of Appeals held on January 11, 2024.

Following discussion thereon, the following roll call vote was taken and recorded:

Dustin Cichon	Aye
Christian Mahood	Aye
Stephen Tudhope	Aye
Thomas Voorhees	Aye

Approved: 4 Ayes, 0 Nays

Christian Mahood, Acting Chairperson of the Zoning Board of Appeals, hereby certifies that the foregoing Resolution was duly adopted at a meeting of the ZBA duly convened and held on January 11, 2024, a quorum being present.

Christian Mahood, Acting Chairperson
Zoning Board of Appeals

MICHELLE BOOTH, Town Clerk of the Town of Mendon, hereby certifies that the foregoing Resolution was duly filed in her office on January __, 2024.

Michelle Booth, Town Clerk
Town of Mendon

Mr. Mahood asked the Board if it was ready to move on the Schell Area Variance. The Board was ready.

The Board discussed other locations for the carport.

Mr. Schell said he needs it to be where he is proposing. He said he will get it as close to the house as he can.

The well line and electric locations were discussed.

Mr. Cichon made a motion to approve. There was no second.

MOTION

Mr. Tudhope moved, seconded by Mr. Voorhees to deny the Schell Area Variance

APPROVED

Mr. Mahood – aye; Mr. Cichon – nay; Mr. Tudhope – aye; and Mr. Voorhees – aye.

SCHELL AREA VARIANCE DETERMINATION

Stephen Tudhope moved, seconded by Tom Voorhees, that the area variance requested by Brian Schell, 466 Parrish Road, for property located at 466 Parrish Road, with tax account no. 231.010-01-1.3, Zoned RA-1, to build a carport which would result in a side setback of 8 feet from the eastern property line, where a 20-foot side setback is required, be **denied** based on the following:

WHEREAS, Brian Schell, the property owner appeared before the Zoning Board of Appeals at the public hearing on December 14, 2023, and said public hearing was continued to January 11, 2024; and

WHEREAS, Section 260-106 of the Mendon Zoning Code states side setbacks in RA-1 zoned districts shall be no less than 20 feet from the property line, and the applicant is seeking a variance of 12 feet which would result in a side setback of 8 feet from the property line; and

WHEREAS, the ZBA received correspondence from a resident in opposition to the application and members of the public were given the opportunity to comment during the public hearing; and

WHEREAS, this application was sent to the County Planning Board for review under General Municipal Law 239-m and the application was returned as a local matter with no comment;

NOW, THEREFORE, BE IT RESOLVED that this application constitutes a Type II action under SEQRA and no further environmental review is required;

AND BE IT FURTHER RESOLVED, that the Zoning Board of Appeals has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and hereby **denies** the application based on the following findings of fact:

1. The requested benefit **can** be achieved by other feasible means, because there are other design options, such as temporary covers, or it could be moved behind the property.
2. The request **is** substantial, because it requests a 60% reduction in the required 20’ variance.
3. The request **will** have an undesirable change in the neighborhood, because it doesn’t follow the aesthetics of the property.

- 4. The requested variance **will not** have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, because it is a small structure.
- 5. The difficulty **was** self-created, because it is the applicant’s desire to construct the carport which is creating this request for the variance.

AND BE IT FURTHER RESOLVED, that this approval is conditioned upon the following conditions (if any):

The foregoing Resolution was offered by Stephen Tudhope and seconded by Tom Voorhees at a meeting of the Zoning Board of Appeals held on January 11, 2024.

Following discussion thereon, the following roll call vote was taken and recorded:

Dustin Cichon	Nay
Christian Mahood	Aye
Stephen Tudhope	Aye
Thomas Voorhees	Aye

Approved: 3 Ayes, 1 Nay

Christian Mahood, Acting Chairperson of the Zoning Board of Appeals, hereby certifies that the foregoing Resolution was duly adopted at a meeting of the ZBA duly convened and held on January 11, 2024, a quorum being present.

 Christian Mahood, Acting Chairperson
 Zoning Board of Appeals

MICHELLE BOOTH, Town Clerk of the Town of Mendon, hereby certifies that the foregoing Resolution was duly filed in her office on January _____, 2024.

 Michelle Booth, Town Clerk
 Town of Mendon

GENERAL DISCUSSION

Mr. Schell said he is very disappointed and has no other alternatives.

The Board discussed there are no upcoming agenda items, and the following Zoning Board Meetings are canceled:

- 1/25/24
- 2/8/24
- 2/2/24

MOTION

Mr. Tudhope moved, seconded by Mr. Cichon to adjourn the meeting at 7:48 pm.

APPROVED

Mr. Mahood – aye; Mr. Cichon – aye; Mr. Tudhope – aye; and Mr. Voorhees – aye.

For full meeting information, please visit the Town of Mendon's YouTube page:

<https://townofmendon.org/community/youtube/>