

TOWN OF NORTH EAST

ZONING BOARD OF APPEALS MINUTES

February 15, 2024

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals, ("ZBA"), took place February 15, 2024 at 7:00pm in the North East Town Hall, 19 N Maple Ave., Millerton, NY. ZBA members present were Chairman Julie Schroeder, Vice-Chairman Edith Greenwood, Karen Pitcher, Judith Carlson, secretary to the Board, and Patti Lynch- Vandebogart. Jeff Stark was absent. Also present were Charles Weinstock, Walter Chatham of Chatham Architects, Chris Kennan, and Jeffery Rothschild, attorney at Law, representing Edward Chanda.

Charles Weinstock
Public Hearing for an area variance
31 Winchell Mountain Road
Millerton, NY 12546
Parcel # 7171-00-177913

7:00pm – Chair Schroeder entertained a motion to continue the hearing on the application of Charles Weinstock which began on January 18, 2024. Pitcher so moved; Vice-Chair Greenwood seconded; all voted in favor and the motion passed.

Chair Schroeder explained that there were several exhibits to introduce into the record:

- Exhibit A –copy of a Skynova Pro Septic LLC bill. Received by e-mail January 18, 2024. Indicating the septic tank was pumped at the site on 10/25/2023.
- Exhibit B – received by e-mail January 22, 2024 – undated and unsigned drawing of Weinstock’s septic system from Mr. Chanda’s contractor.
- Exhibit C – received by e-mail February 6, 2024 a chart – Separation Distances from Wastewater System Components. Dutchess County

Department of Health. The measurement that was emphasized on Chart is that a septic tank should be 10 ft. from a dwelling.

- Exhibit D – architectural drawings of two alternative plans for the addition. (Scheme A) – represents an addition to the back. This would require moving the septic system. (Scheme B) – represents an addition to the east.

Weinstock instructed the Board to look at Exhibit “D” (Scheme A and Scheme B) Scheme A is the version of a northern addition. In introducing Scheme A Weinstock stated that there is no way to build to the back without intruding further on the side yard. Chair Schroeder asked the question as to what he meant by that. Weinstock believes that more of the view is obstructed with an addition to the rear. Weinstock introduced exhibit “E” – a photograph taken from Mr. Chanda’s back porch. It is a representation of what Mr. Chanda would see from his porch.

Chatham states that if they were to honor the 10 foot minimum between the dwelling and the septic tank they could build 1’ beyond where the porch is now. Chair Schroeder asked if they had heard back from the Dutchess County Board of Health about the septic. Weinstock said he had not and that Mike Segelken, Code Enforcement Officer, looked in the building files and there was nothing on the septic.

Weinstock noted that the question of feasibility is what is really on the Board’s mind. Weinstock went on to say that there will be a variance either way. The variance will be slightly different. Weinstock believes that there are considerable losses in terms of feasibility of building to the back. The thing that drew him to this property was the beautiful back yard. That will be stopped by building to the rear. The view would be cut-off. Chatham and Weinstock feel that these are real losses and they have to be factored into feasibility.

Jeffery Rothschild, attorney at law, representing Ed Chanda, gave his input. He believes, after Weinstock’s introduction of Scheme A (the addition to the North) and Scheme B - (the addition to the East) that there is still a substantial change. Rothschild stated: I believe you are going from 44’ which already does not comply with the zoning code which requires 50’.

Rothschild continues...

To go any closer whether it is a variance of 39.5 or 30.8 is a substantial variance from the 50' requirement. The problem Rothschild has is that he was retained to represent Mr. Chanda after the letter signed by Mr. Chanda was written. When Rothschild was told of what happened, the thing that was most glaring to him was that Mr. Weinstock purchased the property in November of 2023. The Town of North East Code Enforcement Officer rejected his application for a building permit in December of 2023. This tells Rothschild that Weinstock knew all along that he had a plan to expand the house. If Rothschild was representing Weinstock on the purchase and he knew that Weinstock wanted to do this expansion, he would have made the contract contingent on getting the variance. Rothschild would have gone to Mr. Chanda who is selling the property to Weinstock. Rothschild would say to Mr. Chanda that we are going to show you the plans, but we want you to consent to the variance (do not oppose it) and the contract would be contingent upon that. Rothschild would want written assurance. Rothschild expressed that this is the definition of a self-created hardship. Weinstock is buying from the very person who is opposing him. Rothschild said that the most glaring part of this is that this should have been addressed before Weinstock purchased the property. Rothschild does not understand how Weinstock got to this point where it was not addressed prior to purchase.

Weinstock replied that he could not speak to that. His lawyer did not advise him on this. He did not have a specific plan when he bought the property. At the time he was purchasing they were discussing putting the 3rd bedroom on the second floor, but because of his age decided that this was not feasible. He was attracted to the house and thought it had a lot of charm and that he thought he could come up with a plan that was acceptable by everyone. All of the considerations of the alternative to the north are unacceptable to him. Rothschild suggested he build to the west. Weinstock expressed that there is a steep slope there. Chatham added that they were afraid to go to the West because there is quite a bit of drop-off. It can be done, but it is very expensive.

Chair Schroeder stated that Weinstock put the cart before the horse just by purchasing it...

Chair Schroeder asked a question concerning Mr. Chanda's garage. When the Board did the site visit they noticed a window in the second story of Mr. Chanda's garage. Weinstock stated that this is a living space. Chair Schroeder expressed that in that case the view would be looking directly down on the addition to the East. Weinstock replied that they would be looking over it.

Chair Schroeder pointed out that the standards the Zoning Board considers are very objective so we cannot lay the controversy all to Mr. Chanda's objections.

Chair Schroeder stated that what they are proposing is directly adjacent to Chanda's house and that the beauty of putting it to the north is that the far view from Chanda's is minimally affected.

Chair Schroeder asked if there were any comments from the Board.

Chair Schroeder stated that in light of the submitted information, I feel the hearing should be recessed, the meeting opened with discussion to see how everybody feels about the matter.

Chair Schroeder made a motion to recess the Public Hearing until March 21st at 7:00pm. Greenwood seconded; all voted in favor and the motion passed.

Chair Schroeder requested escrow money for consultant's fees in the amount of \$1,500.00 for legal fees and possibly engineering fees.

Chair Schroeder made a motion to open the meeting. Vice Chair Greenwood seconded; all voted in favor and the motion passed.

The Board discussed Scheme A and Scheme B.

Vice-Chair Greenwood introduced into the record the five point summary of area variance criteria:

1. Whether benefit can be achieved by other means feasible to applicant – Board will have to discuss.
2. Undesirable change in neighborhood character or detriment to nearby properties – Chair Schroeder stated that it is a non-conforming lot – It does not fit into the character of the neighborhood.
3. Whether request is substantial –the Board responded yes.

4. Whether request will have adverse physical or environmental effects – was answered no. Chair Schroeder stated that it is not going to affect the drainage.
5. Whether alleged difficulty is self-created. Yes.

Chair Schroeder said that before we proceed she would like to talk to the attorney for the town.

The Board discussed granting Scheme A the addition to the rear (North).

The Board reviewed SEQR. (The EAF) and Chair Schroeder listed it as a Type 2 action reference: 617B #16.

Vice – Chair Greenwood made a motion that this was a Type 2 action under SEQR and not subject to further review. Lynch-Vandebogart seconded; all voted in favor and the motion passed.

Chair Schroeder will call the Town lawyer after receipt of escrow in the amount of \$1,500.00.

Minutes of January 18, 2024 approved: Vice-Chair Greenwood made a motion to accept the minutes as written; Pitcher seconded; all voted in favor and the motion passed.

8:30pm – Vice-Chair Greenwood made a motion to adjourn the meeting; Lynch-Vandebogart seconded; all voted in favor and the motion passed.

Respectfully submitted,



Judy Carlson

Zoning Board of Appeals Secretary

Date Approved: April 18, 2024

