

# **TOWN OF NORTHEAST ZONING BOARD OF APPEALS MINUTES SEPTEMBER 19, 2024**

The regularly scheduled monthly meeting of the Town of North East Zoning Board of Appeals (“ZBA”) took place September 19, 2024 at 7:30pm 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, Jeffrey Stark, Patti-Lynch –VandeBogart and Judith Carlson, secretary to the Board. Also present were Wesley Chase of Chase Surveying, Erin Haab, Michele Haab, Dave Haab and Kevin Webb.

**John Kevin Webb**

**Public Hearing for area variances**

**144 Skunks Misery Road**

**Tax Parcel # 7170-00-082854**

7:30 pm - Carlson read the Public Hearing Notice into the record.

Chair Schroeder entertained a motion to open the Public Hearing. Stark so moved; VandeBogart seconded; all voted in favor and the motion passed.

Wesley Chase from Chase Surveying reviewed the project and plans with the Board. Webb owns 46.36 acres on the West side of Skunks Misery Road. He bought the property in May of this year. There are no structures other than an equipment shed on his property. NML Farm LLC owns a total of 79.21 acres on the East side of Skunks Misery Road. Webb has become the contract vendee of 0.98 acres of the 79.21 acres on the East side. In 2021 finding that there was nothing to rent or buy, he restored the historic house that sits on the 0.98 acres. He then negotiated a purchase contract with NML, becoming a contract vendee of the 0.98 acres. Under the terms of the contract, he has three years to fix the house , pay the remaining cash , and get permission from the Town to create the lot consisting of the 0.98 acres and his land on the West side of the road. There is a large barn in back of the house on the land that NML owns. NML wants access to the barn and the gravel driveway that leads to it.

Chair Schroeder asked Chase what NML wanted to do with the barn and the rest of the land. Chase stated that he did not know. He knew they wanted to keep the barn and have access to the barn. Chair Schroeder asked if anyone knew how much tillable crop land NML owned. Is it their intention to store hay or crops in the barn? Chair Schroeder asked Chase if he would get a statement to that effect from NML. Chair Schroeder stated that they would not be bound by it,

but it is an important question. Chair Schroeder asked David Haab if the barn was in good condition. Haab replied that the upper part of the barn is in good shape. The Haabs added on to the barn twice when they owned it. The barn has a little issue in one part of the roof, but basically the barn is in good shape. Chair Schroeder asked if the driveway ends at the barn or does it proceed past the barn. Dave Haab replied that the driveway ends at the barn but you can continue by going on either side of the barn to the hay field.

Chair Schroeder asked how much tillable land NML owned. After much discussion, Webb had information that on Skunks Misery Road on the current property that he owned (the 46.36 acres), 14 of the 46.36 are tillable and on the 79.21 acres that NML owns there are 18 tillable acres. All in all between the two there are 32 tillable acres.

Chase pointed out that on the land on the West side of Skunks Misery Road there are federal wetlands where you can see the wet spot. There is also some pasture, fields, and woods that turn into a steep slope to the west. Chase stated that since the residence will be on the 0.98 acre lot, it is one tax parcel so therefore there would not be a second residence there.

Stark asked Chase if the Planning Board permits you to join the 0.98 acres with the 46.36 acres across the road and since there is already one house on this property, could another house be put on the joined parcels.

Chair Schroeder stated as long as you have five acres per dwelling unit you can put additional houses. You cannot subdivide them. Chair Schroeder continued, saying that if you had fifty acres you could put ten houses assuming they are good building lots. There is nothing in the Zoning Law that says you can only have one residence per parcel.

Stark asked Chase if he had ever seen in the Town of North East a lot created on either side of a public road. Chase replied that back in the day a lot of old farms and parcels were bisected by a road. Chair Schroeder mentioned several farms that were bisected by a road as follows: Benekes, the Kaplan Farm, Swenson's, the Booth Farm, Four Brothers, the Pulver Farm, the Doar Farm, Pleasant view Farm, and Silamar Farm.

Stark had several questions directed to the applicant. He did not see anywhere in the application a statement of what the side and backyard requirements are and what kind of variances the applicant was looking for. Discussion ensued on the above topic. The Board was directed to the North East Zoning table on the survey map. Chase reviewed the table with the Board.

Stark addressed Chase: stating that you are now saying that the 0.98 acre parcel is going to need a 23.9 ft. variance, and the larger parcel needs a 16.5 front yard variance. Chase stated that all the others are rear yard variances.

Greenwood stated that we are being asked to give a front yard variance to NML for the barn. Chase replied yes.

Stark asked if anyone had a copy of the referral from the Planning Board. Discussion followed. Chase stated that the Planning Board's intention was specifically for the Zoning Board to review the project and the variances at their meeting on September 19th.

Stark continued that NYS Town Law states that if the Planning Board refers a matter like this to the Zoning Board of Appeals ..."In reviewing such application the Zoning Board of Appeals shall request the Planning Board to provide a written recommendation concerning the proposed variance".

Stark stated that we need a signature on the application from NML. Chase replied that he would have the attorney sign the application. Stark stated if they want to give us a copy of the power of attorney and sign it that is an option also.

Stark asked if Webb was going to have a driveway. Webb stated that the Planning board had also addressed this issue. Currently, NML has no problem with Webb using the existing driveway. Webb currently maintains the driveway. The Planning Board advised Webb to go to the Town Superintendent of Highways and apply for a driveway permit just in case NML does not want him to use the existing driveway. According to Webb, the Town Superintendent of Highways said that there is room for a driveway and he will notify the Planning Board of same.

Stark asked how much Webb had invested in the house. Webb stated that the house had always been structurally sound. The house is habitable now. Webb has invested around \$120,000 in cash plus work such as repairing leaks, refinishing floors, painting the interior and exterior, replacing windows etc; Webb did get a permit for a wood stove.

The Haab's said that they are in full support of Kevin and his accomplishments with the house. Michelle Haab said that NML was going to tear the house down. It is an historic 1850 house. The barn would be there but the house would be gone.

Greenwood asked if Webb had a functioning septic. Webb replied that there is a cesspool, a pre-septic version of a septic.

Stark asked what is left on his purchase contract. Webb replied that he put down \$20,000 and has \$30,000 left to pay.

Stark stated that for us to grant an area variance we have to determine whether the benefit can be achieved by other means feasible to the applicant. Stark asked why not a long term lease like 100 yrs. or a 1,000 year lease.

Chase stated that it would be virtually impossible to get any financing if you do not own the land the house is on making it impossible to keep the house up if some sort of emergency arises. Chase felt that would be a hardship.

Stark made a motion to refer the application back to the Planning Board, get a letter of recommendation from the Planning Board to the ZBA and a signed application by NML. VandeBogart seconded; all voted in favor and the motion passed.

Chair Schroeder read a letter of support from Alison Stolzman who owns property at 182 Skunks Misery Road. She wrote supporting the application and the approval of the variances.

Chair Schroeder made a motion to recess the hearing until October 17<sup>th</sup> at 7:30pm. Stark seconded; all voted in favor and the motion passed.

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

Greenwood made a motion to accept the minutes of August 15<sup>th</sup> as presented. VandeBogart seconded; all voted in favor and the motion passed.

8:35pm - Schroeder made a motion to close the meeting. Stark seconded; all voted in favor and the motion passed.

Respectfully submitted,



Judith A. Carlson

Zoning Board Secretary

Town of North East (Approved) 10/17/24

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OCT 22 2024

TOWN OF NORTH EAST  
TOWN CLERK