

**TOWN OF POUND RIDGE
ZONING BOARD OF APPEALS MINUTES
Meeting of June 17, 2020 at 7:00 p.m.
Zoom Video Link: <https://us02web.zoom.us/j/89404954938>
Dial in: 929-205-6099 Meeting ID: 894 0495 4938**

The meeting was called to order at 7:00 p.m. by Chairman Tom Smith. Also present were Rob Knorr, AnnMarie Fusco, Larry Brotmann, Lisa Smith, John Loveless, Counsel, Karen Taft, Administrator, and Marilyn Shapiro, Conservation Board Liaison.

Mr. Smith explained that the applicant first presents his/her case before the Board. Board members, as well as members of the public, may ask questions. The hearing is then normally closed, and the Board members discuss the application. After the hearing is closed, neither the public nor the applicants are normally allowed to comment.

Mr. Smith stated that the Board usually votes at the meeting, but if there is an issue to be resolved, a decision could be held off until the following meeting.

Adoption of Minutes from the Meeting of April 15, 2020

Mr. Brotmann made a motion to adopt the minutes, and Mr. Knorr seconded. All Board members voted in favor.

DAVID SULLIVAN AND SARAH STELTER, 36 Scofield Road, Pound Ridge, NY, also known as Block 10263, Lot 71. Application for approval to legalize two prefabricated wood frame sheds that are located 15' and 22' from the rear property line. According to Section 113-37 of the Code of the Town of Pound Ridge, a 75' rear yard setback is required in an R 3-A zoning district. Therefore, two rear yard variances are requested, one for 60' and one for 53'.

Mr. David Todd Sullivan appeared at the meeting on his behalf. He stated that at the closing on his house, he had received a new survey that included the shed structures. He had believed they were in compliance.

A neighbor had contacted Mr. Jim Perry, Building Inspector, stating that contractors were doing work on the property despite the order issued by the Governor that all construction cease during the time of the Covid Pandemic.

Mr. Sullivan addressed the five standards required for granting an area variance:

1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of an area variance?

Mr. Sullivan stated that two neighbors have comparable sheds on their properties, with substantial screening.

2. Can the benefit sought by the applicant be achieved by some method that is feasible for the applicant to pursue other than an area variance?

The sheds were existing when they purchased the property.

3. Is the requested area variance substantial?

It is substantial, but the distance is consistent with the setbacks on the neighboring properties.

4. Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

It will not since adjoining neighbors have similar existing sheds and there is not disturbance to the neighbors.

5. Is the alleged difficulty self created?

It is not self-created since the structures were existing when they purchased the property.

Ms. Taft noted that a letter had been received from the Lietos, neighbors at 25 Ebenezer Lane in support of the application.

Ms. Fusco asked the size of the smaller plastic shed that is 15' from the rear property line. Mr. Sullivan replied that it is 60 sq. ft., and the larger one that is 22' from the rear line is 240 sq. ft. She asked if there was water supplied to the sheds. Mr. Sullivan replied there is no running water. He said that electricity to the larger shed was part of the pool permit.

Mr. Knorr asked if the sheds had foundations. Mr. Sullivan replied that neither shed was set on a foundation.

Mr. Knorr questioned the standard addressed relating to the benefit being sought by the applicant to be achieved by some method that is feasible for the applicant to pursue other than an area variance. He believed there was a location to the north or east of the property that would not require a variance. Mr. Knorr mentioned the grass area on the narrow side of the pool.

Mr. Smith suggested the area by the metal fence. Mr. Knorr agreed and said that locating the shed in that area would not require a variance. Mr. Smith stated that the larger shed had been turned into a pool house, and he wouldn't want to see it any closer to the pool.

Since the denial from the Building Department stated two separate variances, there was discussion about separating the two variances.

Mr. Knorr mentioned that Mr. Sullivan has maintained his property well, but he believed there are other locations to put the sheds. He was concerned that if this application were approved, and another resident, who didn't maintain his property as well, made a similar application that was denied, it would be considered arbitrary and capricious. Ms. Smith stated that she had the same concern.

Mr. Loveless said that every application before the Board is different from the others. The Board's decisions are based on their interpretation, and therefore are not arbitrary and capricious.

Mr. Sullivan stated that the sheds have been in place for nine years.

Mr. Knorr noted that the neighbor's complaint was generated because construction was being done during the period of the pandemic when construction was banned. The complaint did not involve the legality of the sheds.

Ms. Fusco made a motion to close the public hearing, and Mr. Knorr seconded. All Board members voted in favor.

Deliberations and Decision –

Mr. Brotmann made a motion to approve both variances as indicated on the denial from the Building Inspector, and Mr. Smith seconded the motion.

The votes were as follows:

Mr. Brotmann – aye
Mr. Knorr – nay
Ms. Smith – nay

Mr. Smith – nay
Ms. Fusco – nay

The motion did not pass.

Mr. Knorr made a motion to approve the existing 240 sq. ft. shed, stating that it was in the best location on the property, and to deny the variance for the 60 sq. ft. shed. He stated that the property is well maintained, and an adjoining neighbor had supported the application. He suggested that the smaller shed either be eliminated or moved from its present location. Ms. Smith seconded the motion.

Mr. Smith mentioned that a well-maintained property shouldn't be a factor in the decision process. Ms. Fusco suggested evergreen plantings to the rear of the shed. Mr. Sullivan replied that plantings wouldn't survive since there are existing forsythia and oak trees in the area. He said that there would not be lighting in the rear of the structure.

Mr. Loveless stated that the Board could approve the larger shed and deny the smaller one. He suggested that the applicant could either legalize the smaller shed or return to the Board for a different variance, citing that it would be a different application.

With Mr. Knorr making the motion, and Ms. Smith seconding, the voting was as follows:

Mr. Smith - aye

Mr. Knorr - aye

Ms. Fusco - aye

Ms. Smith - aye

Mr. Brotmann - abstained

Mr. Smith made a motion to close the hearing, and Ms. Fusco seconded. All Board members voted in favor.

Respectfully submitted,

Karen Taft, Administrator
Zoning Board of Appeals