



## **ZONING BOARD OF APPEALS MINUTES**

**Meeting on Wednesday, November 20, 2024 at 7:00 pm**

The meeting was called to order at 7:03 pm by Chairman Tom Smith. Also present were board members Joe Gunset, Hilary Kao, Lisa Smith, Counsel John Loveless, Conservation Board Liaison Marilyn Shapiro, and Administrator Nicole Engel.

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 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.

Mr. Kao made a motion to approve the minutes from November 20, 2024. Ms. Smith seconded. All in favor.

**Richard Rubino**, 245 Upper Shad Road, Pound Ridge, NY 10576, also known as Block 9317, Lot 83, Zone R-3A. The application for approval to construct a two-car, one-story garage located 12' from the front property line is disapproved on the following grounds: Section 113-37 of the Code of the Town of Pound Ridge requires a 60' front yard setback. The proposed structure will require a 48' front yard variance.

Present: Architect Richard Vail, Owner Rose Rubino

Architect Richard Vail addressed the five points with the board members. On whether an undesirable change will occur in the character of the neighborhood or a detriment to nearby properties will be created, Mr. Vail sees no undesirable change or detriment. He explained there are many examples in the neighborhood where property owners have detached garages. On whether the benefit sought can be achieved by a feasible alternative other than a variance, Mr. Vail said, "The existing residence, (circa 1750) predates zoning regulations, and like many homes of this era, it was constructed very close to the road." On whether the variance requested is substantial, he believes it is. However, given that the existing residence encroaches the front yard setback, if the owners would like

a garage that's reasonably close to the house, they understand they need to ask for relief from the front setback requirement. On whether there will be an adverse effect on the physical or environmental conditions of the neighborhood, Mr. Vail said, "No, the proposed garage will be constructed where there is already a developed parking area, additionally, the foundation will be minimal. It's a concrete slab floor, with 42" deep footings, so there won't be a lot of excavation required." Finally, on whether the alleged difficulty is self-created, Mr. Vail said, "Yes, in that my client's desire to have a second garage bay for their property.

The Board discussed Richard Rubino's variance request. Mr. Smith asked if there were any questions from the audience or letters received. There were no letters received for this application.

Mr. Kao made a motion to close the public hearing. Ms. Smith seconded. All in favor. The Board closed the public hearing.

**Deliberation:**

The board members examined the proposed location of the garage and its proximity to the road. They noted that the house was already close to the road, making it difficult to place the garage elsewhere on the property. Ms. Smith expressed appreciation that the applicant had moved the proposed garage location closer to the house and away from the property line.

The Board discussed the character of the neighborhood, with some members noting that other houses in the area were also close to the property line. However, Ms. Smith cautioned against using this as justification for approving the variance.

The Board then focused on landscaping plans to mitigate the visual impact of the garage. They discussed the proposed arborvitae plantings and considered alternatives. Mr. Vail offered to incorporate more native plantings instead of arborvitae. The Board agreed to recommend 6-8 native evergreen plantings to be incorporated into the existing landscaping along the side and rear of the structure.

The Board also addressed the lighting on the garage, specifying that the lights should be directed onto the ground and not off the property line.

Mr. Smith moved to approve the application with the following conditions: 1) Lights on the front of the garage to be directed onto the ground and not off the property line, 2) 6-8 native evergreen plantings to be incorporated into the existing plantings along the side and rear of the structure, to be implemented and maintained.

Ms. Smith seconded the motion. The motion passed unanimously.

Application approved.

**Regina Berryman**, 10 Ebenezer Lane, Pound Ridge, NY 10576, also known as Block 10263, Lot 69, Zone R-3A. The application for approval to install fencing that will enclose approximately 1.85 acres of the 2.571-acre property is disapproved on the following grounds: Section 113-38(3) of the Code of the Town of Pound Ridge states that, except for dry stone walls, open horizontal board farm fencing, or post and rail fencing, fences may not enclose more than 50% or a maximum of two acres, whichever is less, on any property zoned R-2A or higher. In order for this application to move forward, a variance will be required. It should be noted that if any portion of the enclosure includes a wire component, additional variances will be required.

Paul Faulkner represented Regina Berryman, who was requesting a variance to install fencing that would enclose more than 50% of their 2.57-acre property. The current code limits fencing to 50% or a maximum of 2 acres, whichever is less.

Present: Paul Faulkner on behalf of Regina Berryman

In addressing the five points, Mr. Faulkner explained that the proposed fence would match existing fences on neighboring properties. He stated that the fence was needed to keep deer out of the property, as they had already destroyed newly planted trees. He said that the variance was not substantial and would not adversely affect the neighborhood's physical conditions.

On whether an undesirable change will occur in the character of the neighborhood or a detriment to nearby properties will be created, Mr. Faulkner said that the fence will replicate the fence that is already existing on two side of the property. On whether the benefit sought can be achieved by a feasible alternative other than a variance, he answered, "The goal is to beautify the property and we need to keep deer off of the property in order to achieve that." He said that aesthetically, this is the best use of the property in keeping deer away from the plantings. Mr. Faulkner does not believe the variance requested is substantial. He said, "From 50%, it's not a huge change to where we're going." On whether there will be an adverse effect on the physical or environmental conditions of the neighborhood, Mr. Faulkner does not believe there will be since there will be no effect on water or lighting. Finally, he agreed the difficulty was self-created was a possibility since they want to protect their plantings, which are attracting the deer.

Ms. Smith was in strong opposition, stating that they had never granted a variance for this type of request before and that it could set a precedent. She emphasized that the code exists to allow wildlife movement and that there were alternative solutions, such as fencing only a portion of the property or specifically protecting gardens. "There's no compelling reason for this request other than their desire to plant a garden. And there are other ways to achieve this like fencing in the garden." Additionally, Ms. Smith noted there would be a change in the neighborhood since the deer would be forced onto the neighbors' properties.

Mr. Gunset pointed out that the proposed fence would align with existing fences and potentially look more aesthetically pleasing than a fence that strictly adhered to the 50% rule by cutting across the yard.

The Board discussed potential alternatives, such as fencing a smaller portion of the property or exploring different configurations that would comply with the 50% rule. Mr. Smith suggested that there might be ways to achieve 50% coverage without making the back portion of the yard unusable.

Neighbor Ryan Callahan (6 Scofield Road), spoke in support of the application, stating that it would not affect his view and that the Berryman family had always been respectful of the area.

Mr. Smith motioned to close the public hearing. Ms. Smith seconded. All in favor.

**Deliberation:**

After a brief deliberation, the Board determined that the application did not sufficiently meet the criteria for granting a variance, particularly in demonstrating that there were no feasible alternatives.

Mr. Gunset moved to deny the application. Ms. Smith seconded the motion. All in favor.

Application denied.

Mr. Kao moved to adjourn the meeting. Ms. Smith seconded the motion. All in favor.  
Meeting adjourned.