

TOWN OF MILAN ZONING BOARD OF APPEALS MEETING MINUTES - FINAL  
WEDNESDAY, APRIL 28, 2010

Members Present:

Jack Grumet, Chairman  
Rocky Mancini  
John Schneider  
Philip Zemke

Members Absent:

Guy Russell

Also Present:

Chairman Grumet opened the meeting at 7:00 p.m.

**Public Hearings:**

1. **James Foti** – James Foti was present for the public hearing for his area variance application to construct a 24 x 28 garage approximately 66 feet off of the front property line where 80 feet are required on property located at 1 Tribune Lane, tax grid number 6571-00-560279 in the Highway Business zoning district. Chairman Grumet read the legal notice which was posted in the paper and sent to neighboring landowners. Mr. Foti explained that there are wetlands on the property so if he moved the garage back, the location would be better but the garage would be in the wetland buffer. Chairman Grumet said he contacted the DEC and they said it would be difficult if not impossible to get a permit to locate the garage within the wetland buffer zone. It could not be moved closer to the commercial building given the 8 foot separation that is required by law. They discussed moving it back to the buffer line but there is a certain symmetry lining up with the other buildings on the property where it is proposed now and it would still require a variance in that location. Also, if the garage is moved back, it would completely block the window in the house. Mr. Foti said the proposed 30 x 40 building and associated parking that is shown on the site plan will not be built. He will pour a slab foundation which is mandatory for a garage. Chairman Grumet said when Board members did their site visit, we looked at alternative locations and this proposed spot seems to be the best location. This lot has severe constraints due to the geography of the lot, the other buildings, and the wetlands. Mr. Zemke said the only other option would be to attach the garage to the commercial building. Mr. Foti said he did not consider that because the garage will be used in conjunction with his residence and will have nothing to do with the commercial aspect of the lot. Mr. Foti said this proposal is also the most economical way to build the garage and since the DEC seems unable to grant a variance for the garage to be built in the buffer zone, there is not much in the way of alternative locations. Chairman Grumet said the location now minimizes the variance as much as is practically possible while maintaining the integrity of the lot and allowing Mr. Foti to have a garage.

Since there was no one present for the public hearing, Mr. Zemke motioned to close the public hearing. Mr. Mancini seconded. All aye. Motion carried 4-0.

Chairman Grumet read the proposed Area Variance Findings & Decision which stated the Dutchess County Department of Planning responded that this is a “Matter of Local Concern”, this is a Type II action under SEQRA with no further action required, an undesirable change would not be produced in the character of the neighborhood or a detriment to nearby properties because this is a mixed use lot which predates zoning and this would not increase the mixed use - the lot will still be part residential and part commercial; the benefit cannot be achieved by a feasible alternative as the Board considered different options and concluded this is the minimum variance that can be granted; the variance is not substantial; the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood as adding a garage to a mixed use, pre-existing lot will not have an adverse effect; and the alleged difficult was self-created because the applicant desired to place a garage on his property but the lot is so constrained that there is no feasible alternative to the proposed location. The ZBA determined that the benefit to the applicant does outweigh the detriment to the neighborhood or community.

Mr. Mancini motioned that the Zoning Board of Appeals accept the Findings and Decision for the Foti Area Variance as presented. Mr. Schneider seconded. All aye. Motion carried 4-0.

**Administrative Items:**

- **Approval of Minutes:** Mr. Zemke motioned that the Zoning Board of Appeals accept the minutes of the March 24, 2010 meeting as amended. Mr. Mancini seconded. All aye. Motion carried 4-0.

Mr. Zemke motioned to adjourn the meeting at 7:20 p.m. Mr. Mancini seconded. All aye. Motion carried 4-0.

The next ZBA meeting will be held on Wednesday, May 26, 2010 at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk  
Planning and Zoning

cc: Catherine Gill, Town Clerk  
Town Board