

ZONING BOARD OF APPEALS MEETING MINUTES - FINAL
WEDNESDAY, APRIL 27, 2016

MEMBERS PRESENT:

Rocco Mancini, Chairman
Martin Otter
Phillip Zemke

MEMBERS ABSENT:

Stephanie Fitzpatrick
Ingrid Kulick

ALSO PRESENT:

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

Public Hearings:

1. **Eiffert Area Variance** - Edward Eiffert appeared as the authorized representatives for the property owner, Scott Jones, for the public hearing for an area variance to place a swimming pool in the side yard in front of the front building line of the dwelling located at 96 North Road, tax grid number 6571-00-934671. Mr. Zemke said he wanted to clarify for the record that this variance is for the pool and pool fence and then he asked how they will get to the pool. Mr. Eiffert showed the Board where the deeded right of way to 96 North Road is on the map. That is how they will access the garage and pool area. The right of way is used by the Eiffert property, the Murphy property, and this property. Mr. Zemke asked where the equipment storage is planned for the pool filter, supplies, etc. and Mr. Eiffert said those items will be stored in the pool house. Until the pool house is built, the filter, etc. will be kept outside. When asked, Mr. Eiffert said the area for the future septic field is demarcated in case there is ever an issue with the existing septic at 96 North Road. Mr. Zemke said some Board members visited the site and noted the amount of excavation and fill that has been done already due to the rock. He said this will not be a typical ground set pool in that the pool is being carved out. He asked how the pool will be supported. Mr. Eiffert said there is no retaining wall. They will be filling in around the pool area then it will be graded out gradually as a slope. He said this won't be a typical steel or fiberglass pool wall. We are pouring a concrete wall to create the pool and then dropping a liner in it. He said there is an engineer involved and the whole structure will be architect designed and sealed. We will have a typical concrete wall with footings and "legs" coming out similar to a buttress then the soil will be filled up against it. They are getting the fill on site. The area around the columns will be stone that will be compacted such as what you would do to a house foundation. The wall will be designed in such a way that it will not require the earth to hold it up. The pool will be 3'6" deep with a standard deep end. They have not decided on a diving board. Mr. Eiffert said the pool will pretty much follow the slope of the land. Mr. Zemke asked if the engineer will be monitoring the construction and Mr. Eiffert said the engineering firm will be monitoring construction along with Steve Cole, Milan's building inspector, as the footings will need to be inspected. Mr. Zemke asked about drainage and Mr. Eiffert said we are not changing the pattern of the natural flow of the water or of the grade. All we are doing is filling in around here but the pool is following the grade. Mr. Zemke asked where the water would go if they had to drain the pool

for maintenance, etc. Mr. Eiffert said hopefully the pool will never have to be drained but if so, it will drain out of the bottom drain. Mr. Eiffert said he has started grading and moving dirt and when the variance is granted, he will move ahead. Mr. Zemke told him that if he moves an acre or more of dirt, he will need a SPEDES permit from the DEC. Mr. Eiffert said he is aware of that – he is working with the engineers on this project. Mr. Zemke said another concern is really a building permit issue but if this project alters the storm water drainage patterns and creates a temporary issue with run off and silt, there needs to be mitigation factors in place to control that. Mr. Eiffert said when the pool is done, there will be grass all around it. Mr. Otter said it looks like between the two surveys, the placement of the pool was rotated. Mr. Eiffert said it was; the designers preferred the first plan. He said Earthwise is the architect and they work with an engineer. The engineer's name will be on the building permit. The architect will be signing and sealing the drawings. Mr. Otter said he has concerns about the integrity of the structure and amount of fill required. Mr. Eiffert said this pool will stand on its own. Structurally, it does not need fill. The fill is for aesthetics.

Public comment: Joan Wyant, North Road, asked about the easement and ownership of 96 North Road and the Murphy property in the back. Mr. Eiffert described the easement and said he has an interest in 96 North Road and the Murphy property. Brian McDonald who owns property on North Road said the pool should be better presented and asked why it is being built in this location. Chairman Mancini said this is the best place to put the pool on the property given the location of the septic expansion area and the rocky topography of the property. Mr. McDonald said everything Mr. Eiffert does is a mess. His property has structures being torn down and rebuilt, there is debris all over, he has several dogs that leave the property, excavators and commercial vehicles are always parked there. Mr. McDonald said he has complained about the dogs in the past. Due to this pool, we will be looking at more of the same. He's already started grading and there are big mounds of dirt. He has no consideration as to how his property looks and never finishes anything or does the right thing. Mr. Zemke said those particular issues are beyond our control but said he does share Mr. McDonald's concerns. Mr. McDonald said there are stakes and rebars missing from his property. Mr. Eiffert finally moved the fence that was placed on Mr. McDonald's property after repeated requests from the building inspector. This pool is going to be another eyesore for the area. He will not do the right thing and make it look appropriate – he never does. It's a problem if a property owner in this area wants to sell. Every time Mr. McDonald has had a realtor come by, they said this area looks depressed. Mr. Eiffert never completes anything and it's been this way for 30 years. Mr. McDonald said he is concerned that due to this pool, runoff will come down the property, run along North Road, and encroach on his property which drains into an adjacent pond across the street. Mr. McDonald said there are additional measures that need to be taken as far as the drainage is concerned. A concrete wall will blast out. There need to be retaining walls. This pool is being put on top of a mountain of shale that needs to be chopped or drilled out, not virgin dirt. Mr. McDonald said he tries to maintain his property but due to the noise and dogs, he can't even go up to the property with his kids. He asked the

town to consider the character of Mr. Eiffert when considering this variance. Jeff Matthews, North Road, said he lives behind fire house and is in support of Mr. Eiffert installing this pool. As far as Mr. Eiffert's character, he has lived in his house for 25 years and it has been a work in progress, he is constantly doing something on the property to improve it. We don't all live in perfect places all the time. The work on the property is not done yet and Mr. Eiffert probably would not be able to say when it will be done but due to what he does for the people in and around the town of Milan, Mr. Matthews supports this pool project.

Hearing no additional public comment, Chairman Mancini motioned to close the public hearing. Mr. Zemke seconded.

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| Rocco Mancini, Chairman | Aye | Martin Otter | Aye |
| Stephanie Fitzpatrick | Absent | Phillip Zemke | Aye |
| Ingrid Kulick | Absent | Motion carried 3-0 | |

Mr. Zemke said most of his questions have been answered. It is important the pool will be designed by a structural engineer and architect. He would like to add a condition to the variance that requires the construction also be supervised by a structural engineer, especially for the footings and reinforcements. Mr. Zemke's other concern is that the disturbances uphill are affecting the drainage in the area and this area has been uncovered. There should be silt barriers and other mitigation efforts to prevent erosion and to stop the mud and gravel from crossing the road, filling the pond and causing damage off this property. There needs to be a storm water plan submitted. Mr. Otter said he has no issue with the placement of the pool but is concerned about the stability of the site and whether or not the project will be finished. He would like to add a condition that before the CO is issued, the entire project, including landscaping, is completed.

The Board completed the Findings and Decision which stated that an undesirable change will not be produced in the character of the neighborhood, the benefit sought by the applicant cannot be achieved by a feasible alternative to the variance due to the topography of the property and the placement of the septic system and expansion area, the requested variance is not substantial as the required front yard setback area in the hamlet zoning district is 20 feet from the property line and the pool and fence are located 151 feet back from the property line, the variance will not have an adverse impact on the physical or environmental conditions in the neighborhood if the pool and fence are installed properly and completely finished, including landscaping, the alleged difficulty is self-created. The benefit to the applicant does outweigh the detriment to the neighborhood or community.

The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community:

1. The pool is designed by a design professional and inspected regularly during construction by a structural engineer with inspection reports submitted to the town's building inspector to prevent structural damage.
2. The applicant must submit a storm water drainage plan for during and after construction; i.e. silt fencing to prevent run off during construction, to the

town’s building inspector. This condition is to minimize run off impacts that could cause damage to other properties and to prevent mud and gravel from crossing the road or entering the pond.

- 3. Prior to the issuance of a certificate of occupancy, the pool and fence must be completely finished, including ground cover and landscaping to prevent aesthetic impacts to neighboring residents.

Mr. Zemke motioned that the Zoning Board of Appeals approve the Findings and Decision for the Eiffert area variance. Mr. Otter seconded.

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| Rocco Mancini, Chairman | Aye | Martin Otter | Aye |
| Stephanie Fitzpatrick | Absent | Phillip Zemke | Aye |
| Ingrid Kulick | Absent | Motion carried 3-0 | |

Applications:

- 1. Lawson for Turkey Hill Properties** – Jason Lawson appeared as the authorized representative for Turkey Hill properties for the special use permit application for an accessory dwelling unit and the area variance application to place a generator within the front setback area. The property is 22.88 acres located at 1135 Turkey Hill Road, tax grid number 6573-00-381510 in the A3A zoning district.

Mr. Lawson said the property owners are constructing a two story barn and are seeking a special use permit to put a two bedroom, one bath 1,260 square foot apartment on the second floor of the barn. The orientation of the building is not totally established yet but will be well within the required setbacks. They also recently decided they wanted to install a generator and a buried propane tank. Due to the topography of the property which is rolling hills with a knoll and is all open fields and the future plans for the property, they are proposing to place the generator 15 feet from the front property line where 85 feet are required. The generator, which is 90 x 33.5 x 45, will be placed on a concrete pad which will be flush with the grade, the propane tank will be buried, and the generator will provide full service to the barn and apartment. They don’t want to place the generator in the middle of an open field which is where it would have to go if it were to meet the required setbacks. Utilities will be underground except the generator. The property owners will, in the near future, be seeking a lot line adjustment with an adjacent property they also own to build another house so they don’t want the generator placed too close to the dwelling, and they also may be adding a pool. The overhead line will be gone when they put the new pole in and run all the lines underground.

Mr. Zemke motioned that the Zoning Board of Appeals set the date for the public hearing for the Lawson/Turkey Hill Properties special use permit application and area variance application for the Wednesday, May 25th ZBA meeting. Mr. Otter seconded.

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| Rocco Mancini, Chairman | Aye | Martin Otter | Aye |
| Stephanie Fitzpatrick | Absent | Phillip Zemke | Aye |
| Ingrid Kulick | Absent | Motion carried 3-0. | |

Discussion Items: None

Administrative Items:

- **Approval of Minutes:** Mr. Zemke motioned that the Zoning Board of Appeals accept the minutes of the March 23, 2016 meeting as presented. Mr. Otter seconded.

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| Rocco Mancini, Chairman | Aye | Martin Otter | Aye |
| Stephanie Fitzpatrick | Absent | Phillip Zemke | Aye |
| Ingrid Kulick | Absent | Motion carried 3-0. | |

Mr. Otter motioned to adjourn the meeting at 8:25 p.m. Mr. Zemke seconded.

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| Rocco Mancini, Chairman | Aye | Martin Otter | Aye |
| Stephanie Fitzpatrick | Absent | Phillip Zemke | Aye |
| Ingrid Kulick | Absent | Motion carried 3-0. | |

The next regular meeting will be held on Wednesday, May 25, 2016 at 7:00 p.m. at the Town Hall.

Respectfully submitted,

Karen Buechele, Clerk
Planning and Zoning

cc: Catherine Gill, Town Clerk
Town Board