

ZONING BOARD OF APPEALS MEETING MINUTES – FINAL
WEDNESDAY, JANUARY 25, 2023

MEMBERS PRESENT:

Phillip Zemke, Chairman
Fred Couse
Rocco Mancini
Jake Stortini (arrived 7:15 p.m.)

MEMBERS ABSENT:

Travis McHale

ALSO PRESENT:

Bill Jeffway, Town Board Liaison

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

Public Hearings:

1. **Andrew Jones/Melinda Fishman Area Variance** – Mr. Jones and Ms. Fishman were present for their area variance application for a front setback from the required 85 feet to 35 feet for a detached garage on property located at 165 Brooklyn Heights Road, tax grid number 6371-00-943239 consisting of 1.968 acres located in the A3A zoning district. Chair Zemke read the legal notice that was posted in the paper and sent to neighboring landowners. Mr. Fishman said we submitted the application for a variance so that we can construct a two story 24'x20' garage. The first story will be for a car and the second story for storage. The variance is required because the southwest corner of the garage is 35 feet from the road and 85 feet is required. We are proposing to build the garage on what is currently our vegetable garden because it is the only usable part of the property where we can do construction and create a driveway to come in. On the road side of the construction site, there is a quick drop off from the land down to the road. On the east side of the site, there is a 50 foot long rock ledge which would require major excavation to remove it and then just on the other side of the rock ledge is the septic field. We are constrained as to where we can place the garage. We considered the southern acre that we purchased and did a lot line adjustment, but it's never been cleared. The other consideration is that we want to bring a driveway through the southern acre to the construction site. Mr. Fishman said Glenn Butler, Highway Superintendent, said the driveway meets sight distance requirements and will not require a culvert of any kind. There is a shed on the property which we will demolish once the garage is built as the garage will perform the function of the shed which is storage of gardening equipment. There is a propane tank behind the shed and our plan is to get a new tank and bury it.

Chair Zemke read a letter from Frederick Cozzolino, an adjacent landowner, in support of the garage and variance. Mr. Zemke said there was a previous variance granted for this property for an addition for the house and a garage. Mr. Fishman said they did not build that garage. The previous variance was granted but it has expired. Mr. Mancini visited the site and said he thinks where they want to put the garage is the best place for it.

Mr. Mancini motioned to close the public hearing for the Fishman/Jones area variance application. Mr. Couse seconded.

Phillip Zemke, Chair	Aye	Travis McHale	Absent
Fred Couse	Aye	Jake Stortini	Absent
Rocco Mancini	Aye		

Motion carried 3-0.

Chair Zemke said at the December meeting, the board determined this area variance to be a Type II action under SEQRA requiring no further review.

The board completed the Findings and Decision as follows:

1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties. No.
2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance. No. The rock ledge on the property prevents them from moving the garage back.
3. Whether the requested variance is substantial. No. It is only one corner of the garage that is too close to the line.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood? No.
5. Is the alleged difficulty self-created? No. The best place for the garage is where it is proposed due to property constraints caused by the rock ledge and the location of the septic fields.

The determination of the ZBA based on the above factors is that the benefit to the applicant does outweigh the detriment to the neighborhood for the reasons stated above. There were no conditions.

Chair Zemke motioned that the ZBA accept the Findings and Decision for the Fishman/Jones area variance. Mr. Couse seconded.

Phillip Zemke, Chairman	Aye	Travis McHale	Absent
Fred Couse	Aye	Jake Stortini	Absent
Rocco Mancini	Aye		

Motion carried 3-0.

Applications:

1. **Joseph Varlaro Area Variance** – Mr. Varlaro was present for his area variance application to construct a detached garage having a front setback of 60 feet where 85 feet are required on property located at 11 Molland Drive, tax grid number 6470-00-406449 consisting of 5.998 acres in the A3A zoning district. Mr. Varlaro said he is proposing to build a garage/pole barn. The rock bank that jets up 31 feet on a sloped elevation prevents us from moving the garage back any further without almost impossible excavation. Mr. Varlaro pointed out the proposed location on the photos. He said the property flattens off at the top but there is a swamp and power lines up there and that area would place the garage too far from the house. The power line right of way cuts the property in half. The proposed area for the garage is flat without too many trees. Mr. Varlaro said

he thinks the previous owner was prepping for a building but never built it. To get the 85-foot setback, the building would be considerably into the rock bank. The building meets the side setbacks. There is a dirt pathway leading to the garage off the existing driveway. There is no change to the existing driveway. There will be three garage doors altogether. The side of the garage is 15 feet to the rock wall.

Chair Zemke said the application looks complete and straightforward and the board members agreed.

Chair Zemke motioned that the board declare this area variance application to be a Type II action under SEQRA requiring no further review. Mr. Couse seconded.

Phillip Zemke, Chairman	Aye	Travis McHale	Absent
Fred Couse	Aye	Jake Stortini	Absent
Rocco Mancini	Aye		

Motion carried 3-0.

Chair Zemke motioned that the board set the date of the public hearing to be held at the February 22, 2023 ZBA meeting. Mr. Couse seconded.

Phillip Zemke, Chairman	Aye	Travis McHale	Absent
Fred Couse	Aye	Jake Stortini	Absent
Rocco Mancini	Aye		

Motion carried 3-0.

Mr. Varlaro said the board is welcome to visit the site and should just call him and let him know when.

- 2. Martin Area Variances** – Mr. and Mrs. Martin were present for their application for three area variances to bring into compliance an existing 8’x12’ foot having a front setback of 20 feet and a side setback of 40 feet, to construct a 12’x24’ shed having a rear setback of 30 feet, and for lot coverage from the allowed 5% to 9% on property located at 156 Indian Road, tax grid number 6571-02-791621 consisting of 0.45 acres in the A5A zoning where 50 feet is required for the side and rear setbacks and 85 feet is required for the front setback. Mr. Martin said we built the 8’x12’ shed that is existing. We are proposing to build a 12’x24’ storage shed. He said their son is living in the house now and planning to live there long term. Mr. Martin said could move the smaller shed off of the property if it’s an issue because his son really wants the bigger one. Mrs. Martin said she would rather not get rid of the shed. It’s a storage shed for equipment. She would like to keep the application as it is for both sheds and lot coverage. Mr. Martin showed where the parking pad is on the property. He said there is also a small woodshed but it’s on the neighbor’s 20 foot right of way. The neighbor is okay with the shed being there.

Chair Zemke said the application looks complete. We will schedule the public hearing with the application as it has been presented for both sheds and lot coverage.

Chair Zemke motioned that the board declare this area variance application to be a Type II action under SEQRA requiring no further review. Mr. Couse seconded.

Phillip Zemke, Chairman	Aye	Travis McHale	Absent
Fred Couse	Aye	Jake Stortini	Aye
Rocco Mancini	Aye		

Motion carried 4-0.

Chair Zemke motioned that the board set the date of the public hearing to be held at the February 22, 2023 ZBA meeting. Mr. Mancini seconded.

Phillip Zemke, Chairman	Aye	Travis McHale	Absent
Fred Couse	Aye	Jake Stortini	Aye
Rocco Mancini	Aye		

Motion carried 4-0.

Administrative Items:

Mr. Couse motioned that the Zoning Board of Appeals accept the minutes of the December 28, 2022 meeting as presented. Chair Zemke seconded.

Phillip Zemke, Chairman	Aye	Travis McHale	Absent
Fred Couse	Aye	Jake Stortini	Abstain
Rocco Mancini	Aye		

Motion carried 3-0-1.

Discussion Items/Correspondence:

- A discussion was held at a previous meeting about the possibility of appointing an alternate to the ZBA who would fill in as needed if the board was lacking a quorum for a meeting. This was discussed with the Town Board who decided against alternates, opting instead to appoint ZBA members who could commit to attending most meetings. The reason behind this is an alternate would have to attend all the meetings anyway in order to be able to make informed decisions if called upon to fill in for an absent member.
- Bill Jeffway has been appointed by the Town Board as the new liaison for the ZBA.

Chair Zemke motioned to adjourn the meeting at 7:40 p.m. Mr. Mancini seconded.

Chair Zemke	Aye	Travis McHale	Absent
Rocco Mancini	Aye	Jake Stortini	Aye
Fred Couse	Aye		

Motion carried 4-0

Town of Milan Zoning Board of Appeals Meeting Minutes – Final – 01-25-2023

The next meeting will be held at the Milan Town Hall on Wednesday, February 22, 2023 at 7:00 p.m.

Respectfully submitted,

Karen Buechele, Clerk
Zoning Board of Appeals

cc: Catherine Gill, Town Clerk
Town Board