

Minutes of the Zoning Board of Appeals Meeting held on October 12, 2022, at 7:30 PM

Present: Karen Ungerer, Chairwoman  
Craig Brady, Rachel Bruce, Andrew Zoumas, Edward DeJesus Jr.  
Absent: ZBA Attorney Kelly Naughton

Chairwoman Ungerer, opened the meeting with the pledge of allegiance and a moment of silence

**1. Executive Session:**

**2. Approval and Acceptance of Previous Minutes:**

Motion was offered by C. Brady, seconded by R. Bruce, to approve and accept the minutes of the meeting held on September 14, 2022. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Ungerer, Brady, Bruce, Zoumas, DeJesus Jr.
	NOES	0	

**3. New Business:**

**4. Action on Decisions:**

**A. Tina –**

Review decision for the construction of a 12' x 20' storage shed in the side yard. Whereas pursuant to Section 310-7, properties in the R-2A district are required to have a minimum side yard setback of 30 feet, and whereas pursuant to Section 210-11, accessory buildings may be permitted only in a rear yard. Said property is located in the R2A Zoning District at 30 Florance Drive, CV SBL 226-1-85.6.

**DECISION**

**Village Code § 310-11(C), Permitting Accessory Building in Rear Yards Only: Area Variance**

**Village Code § 310-12(C), Required yards and open spaces for detached accessory buildings: Area Variance**

Village Code § 310-11(C) provides that “[a]n accessory building or use may be permitted only in a rear yard.” Village Code § 310-12(C)(3) provides that “Any required yard shall be open space and entirely free of buildings other than . . . A detached accessory building occupying not more than 25% of a required yard and set back from any lot line ½ the height of such accessory building, but in no case less than six feet.” The Applicants are seeking two area variances to construct an accessory storage shed located six (6) feet from the side property line that occupies 40% of the required setback area.

Consistent with its statutory obligations under New York State Village Law § 7-712-b when considering an area variance, the Board balanced the benefit to the Applicants as weighed against the detriment to the health, safety and welfare of the neighborhood or community if the requested variance was granted. Further, as also required by statute, the Board took into consideration the following five issues in its balancing test:

1. Whether an undesirable change would be produced in the character of the neighborhood, or a detriment to nearby properties would be created, by the granting of the requested area variances.
2. Whether the benefit sought by the Applicants could be achieved by some method, feasible for the Applicants to pursue, other than area variances.
3. Whether the requested area variances were substantial.
4. Whether the requested area variances would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the difficulties professed by the Applicants were self-created.

The Board was also aware of its obligation to grant the minimum variances that it deemed necessary and adequate.

The Board began by discussing whether an undesirable change would be produced in the character of the neighborhood, or a detriment to nearby properties would be created, by the granting of the requested area variances, and whether the requested variances would have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The Board considered the character of the neighborhood, and that the adjacent properties are residential lots, some of which have storage sheds. The Board found that the storage shed would be visible from the roadway, but noted that the Applicants propose to have the shed match the façade

of the existing house on the Property. In order to maintain consistency with the character of the neighborhood and avoid adverse visual impacts, the Board determined that the granting of any variances must be conditioned upon the exterior facade of the shed matching the color of the existing house. The Board concluded that with this condition, the variances will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

Additionally, the Board weighed whether the variances to permit the storage shed in the side yard and occupy 40% of the permitted area were substantial. The Board determined that although the shed would be placed approximately 100 feet away from the street, the variances requested are large numerically. The Board found that the variances were substantial.

The Board also considered whether the alleged difficulty was self-created, and whether the benefit sought by the Applicants could be achieved by some alternative method feasible for the Applicants to pursue. The Board considered the Applicants' argument that placing the storage shed in the rear yard would not be possible, as the septic tank for the dwelling is located at the end of the driveway and the rear of the property is covered by wetlands and contains the Applicants' well. The rear yard also contains French drains that empty to the rear of the property. The Board determined that it was not feasible to locate the shed in the rear yard due to these complexities, and requiring it to be so located would be more impactful on the environment due to the location of the wetlands. The Board then determined that the alleged difficulty was self-created by the Applicants because they are requesting to construct the storage shed in the side yard, at a size that will occupy a larger portion of the required yard than permitted under the Village Code, but noted that this factor does not necessarily preclude the granting of the variances and that no one factor under the balancing test is determinative.

**CONCLUSION**

As a consequence of the Board's discussions, the Zoning Board of Appeals hereby grants the requested area variances described and discussed above, to the extent noted above, conditioned upon the exterior facade of the shed matching the color of the house and the Applicant receiving all necessary permits from the Building Department, and hereby finds that the variances as granted are the minimum variances necessary to preserve and protect the character of the neighborhood.

Per § A316-9 of the Village Code, this decision shall expire if a building permit is not obtained by the Applicants within 180 days from the date of this decision. The Board may extend this time for one additional period of 90 days if such extension is warranted by the particular circumstances.

On motion by Member R. Bruce, seconded by Member E. De Jesus Jr.:

Chairperson Karen Ungerer	AYE
Member Craig Brady	AYE
Member Rachel Bruce	AYE
Member Edward De Jesus, Jr.	AYE
Member Andrew Zoumas	ABSTAIN

**5. Public Hearings: N/A**

**6. Building Inspectors Report**

Motion was offered by C. Brady, seconded by R. Bruce, to approve and accept the Building Inspectors report and the status of all mother/daughter houses within Woodbury. Chairman Ungerer conducted a roll call of the Board which resulted in the motion being:

<b>ADOPTED</b>	AYES	5	Ungerer, Brady, Bruce, Zoumas, DeJesus Jr.
	NOES	0	

**7. Adjournment**

With no further business to discuss, a motion was offered by E. De Jesus Jr., seconded by A. Zoumas, to adjourn the meeting at 7:35 PM.

<b>ADOPTED</b>	AYES	5	Ungerer, Brady, Bruce, Zoumas, DeJesus Jr.
	NOES	0	

Jessica McClennan, ZBA Secretary