

Town of Lake Luzerne
Zoning Board of Appeals Minutes

December 14, 2023

After reciting the pledge of allegiance, Chairman Matthew Palitsch called the Zoning Board of Appeals meeting to order at 7:10pm with the following present: Burgess Ovitt, Rayl Zubal, Michael Bordeau, Kayla Jarrell, Zoning Enforcement Officer Karen Putney, Deputy Zoning Enforcement Officer Kristopher Kassay, and Town Attorney Mary Kissane. Also present: Thomas Varmette, James Miraglia, Kenneth Smuk, and Amy Smuk.

Chairman Palitsch opened the Zoning Board of Appeals meeting with the following items on the agenda.

- I. Public Hearing: Area Variance 2023AV-6
Owner/Applicant: Thomas Varmette
Location: 877 East River Drive
Parcel Number: 305.12-1-6
Lot Size: 0.20 Acres
Town Zone: HR (Hamlet Residential)
APA Land Use Classification: Low Intensity

- II. Public Hearing: Area Variance 2023AV-5
Owner/Applicant: James Miraglia and Suzanne Roberts
Location: 49 Valeria Drive
Parcel Number: 298.8-1-13
Lot Size: 0.42 Acres
Town Zone: RU (Residential Rural)
APA Land Use Classification: Rural Use

- III. New Application: Area Variance 2023AV-8
Owner/Applicant: Amy and Kenneth Smuk
Location: 22 Squire Circle
Parcel Number: 292.11-1-7
Lot Size: 1.12 Acres
Town Zone: HR (Hamlet Residential)
APA Land Use Classification: Moderate Intensity

- IV. Accept minutes: September 14, 2023, and November 9, 2023

- V. Old/new business

I. Public Hearing: Area Variance 2023AV-6

877 East River Drive owner Thomas Varmette seeking variance for shoreline setback of existing attached deck.

Required shoreline setback is 75 feet and the current setback is 30 feet.

SEQR: Shoreline setback- Type II exempt per 617.5 (c) (16)

County Planning: No County Impact determination has been received.

APA Land Use Classification: Low Intensity, the APA has determined that there is no violation regarding the shoreline setback and no permit is necessary from their agency.

Matthew Palitsch made a motion to close the Public Hearing for Area Variance application 2023AV-6 at 7:14 PM, seconded by Rayl Zubal. All in favor: 5, Opposed: 0, carried.

In reviewing the application, Mr. Varmette confirmed that it is his intention to add a door to the shoreline side of the dwelling as an additional means of egress as the close proximity to the County Road has resulted in municipal snowplows burying the front door access.

Matthew Palitsch made a motion to approve Area Variance application 2023AV-6, seconded by Burgess Ovitt. All in favor: 5, Opposed: 0, carried.

II. Public Hearing: Area Variance 2023AV-5

49 Valeria Drive owners James Miraglia and Suzanne Roberts seeking retaining wall variances for side yard setback, shoreline setback, length, and height of proposed retaining wall.

SEQR: Shoreline setback and side yard setback- Type II exempt per 617.5 (c) (16)
Height and length of retaining wall- Type II exempt per 617.5 (c) (12)

County Planning: Referral to County Planning is not required.

Matthew Palitsch opened the Public Hearing for Area Variance application 2023AV-5 at 7:25 PM.

New dimensions of the proposed retaining wall have been submitted as follows:

Required shoreline setback is 75 feet and the proposed shoreline setback is now **37.36 feet**.

Side yard setback requirement is a minimum of 20 feet and the proposed side yard setback is now **4.94 feet**.

Retaining wall maximum height without an engineered design is 6-feet and the proposed height is now **9.5 feet**.

Maximum length of a retaining wall is 25 feet, and the proposed length is now a total of **108 feet**.

APA Land Use Classification: Rural Use, applicant has submitted a jurisdictional inquiry and a variance from the APA is required.

APA will be conducting a site visit on December 21, at 10 AM to review the variance request.

Matthew Palitsch made a motion to leave the Public Hearing open for Area Variance application 2023AV-5, seconded by Burgess Ovitt. All in favor: 5, Opposed: 0, carried.

III. New Application: Area Variance 2023AV-8

22 Squire Circle owners Amy and Kenneth Smuk are seeking relief from the requirement to face the good side of a fence toward the neighboring property. The Town of Lake Luzerne's Zoning Ordinance requires the finished side of a fence to face toward neighboring property.

Applicants explained they set fence posts one foot from the property line but decided to install the fence panels with the good side facing inward due to trespassing dispute with neighbors.

Applicants stated that neighbors interrupted installation of fence and did not want the employees from the contracted fence company to trespass without proof of insurance which could not be provided on the day of installation.

SEQR: Exempt per 617.5 (c) (12)

County Planning: Referral to County Planning is not required.

APA Land Use Classification: Moderate Intensity, applicant has been advised to submit jurisdictional inquiry.

A revised Variance Application was submitted to the Zoning Board of Appeals and read into the record. The only changes made were within the five questions under Variance Standards.

Matthew Palitsch made a motion to accept Area Variance application 2023AV-8 as complete as amended, seconded by Rayl Zupal. All in favor: 5, Opposed: 0, carried.

Matthew Palitsch made a motion to set the Public Hearing for Area Variance application 2023AV-8 on January 11, 2024, at 7:05 PM, seconded by Michael Bordeau. All in favor: 5, Opposed: 0, carried.

IV. Accept Minutes

Burgess Ovitt made a motion to accept minutes from September 14, 2023, seconded by Rayl Zupal. All in favor: 5, Opposed: 0, carried.

Rayl Zupal made a motion to accept minutes from November 9, 2023, seconded by Michael Bordeau. All in favor: 5, Opposed: 0, carried.

V. Old/New Business

The Town of Lake Luzerne will be the recipient of a \$45,000 grant from New York State to amend their Zoning Ordinance and regulations.

Training for Planning and Zoning Board of Appeals members is available by attending the Zoning and Planning Conference in Saratoga on January 31, 2024.

Matthew Palitsch made a motion to go into executive session to discuss current litigation, seconded by Burgess Ovitt. All in favor: 5, Opposed: 0, carried.

Matthew Palitsch made a motion at 8:03 PM to adjourn after the executive session, seconded by Rayl Zupal. All in favor: 5, Opposed: 0, carried.

Respectfully submitted,
Kristopher Kassay