

Town of Lake Luzerne

Zoning Board of Appeals Minutes

January 11, 2024

After reciting the pledge of allegiance, Chairman Matthew Palitsch called the Zoning Board of Appeals meeting to order at 7:03pm with the following present: Rayl Zubal, Michael Bordeau, Kayla Jarrell, Zoning Enforcement Officer Karen Putney, Deputy Zoning Enforcement Officer Kristopher Kassay, and Town Attorney Mary Kissane. Also present: James Miraglia, Kenneth Smuk, Amy Smuk, Kevin Hanna, Tiffanie Hunter, Renee Elliott, Richard Buys, and Terrance Dwyer.

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

I. Continuation of 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

II. Public Hearing: 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

III. New Application: Area Variance 2023AV-9

Owner/Applicant: Renee Elliott and Richard Buys

Location: 44 Harris Drive

Parcel Number: 317.16-1-50

Lot Size: 0.14 Acres

Town Zone: HR (Hamlet Residential)

APA Land Use Classification: Moderate Intensity

IV. New Application: Area Variance 2023AV-10

Owner/Applicant: Terrance Dwyer

Location: 67 Davern Drive

Parcel Number: 305.8-1-27

Lot Size: 0.23 Acres

Town Zone: HR (Hamlet Residential)

APA Land Use Classification: Moderate Intensity

V. Accept minutes: December 14, 2023

VI. Old/new business

**I. Continuation of Public Hearing: Area Variance 2023AV-5**

49 Valeria Drive owners James Miraglia and Suzanne Roberts seeking 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 not required.

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

**Matthew Palitsch initiated the continuation of the Public Hearing for Area Variance application 2023AV-5 at 7:05 PM.**

APA had conducted a site visit on December 21, at 10 AM to review the variance request. APA suggested at the site visit that the applicant select a building option that is a non-jurisdictional design, but the applicant is pursuing the submitted engineered design which would require a variance from the APA.

**Matthew Palitsch made a motion to table action on Area Variance application 2023AV-5 until applicant receives clarification from the APA,**

**seconded by Michael Bordeau. All in favor: 4, Opposed: 0, carried.**

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## **II. Public Hearing: 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 received a non jurisdictional determination.

### **Matthew Palitsch opened the Public Hearing for Area Variance application 2023AV-5 at 7:11 PM.**

The Public Hearing notice sent to neighboring property owner Melissa Harvish was returned to the Zoning Office as "Unable to forward" so a phone number was located and in conversation the resident stated that the variance does not affect her.

One email was received but later redacted by the sender.

Neighbor Robert Johnson visited the Zoning Office to inquire about the variance but left no comment.

Neighbor Kevin Hanna stated that he doesn't have a problem with the way the

fence looks from his house.

Neighbor Tiffanie Hunter stated that the fence looks great and should stay the way it is.

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**Matthew Palitsch made a motion to close the Public Hearing open for Area Variance application 2023AV-8 at 7:21 PM, seconded by Michael Bordeau. All in favor: 4, Opposed: 0, carried.**

Mr. Smuk went through the permit process properly but when the fence was installed, it was placed 180° rotated against the discussed regulations.

Mr. Smuk stated that he would be more than happy to fence the other side of the post to resolve the violation, but the neighbor does not want their property to be trespassed on.

**Matthew Palitsch made a motion to approve Area Variance application 2023AV 8, seconded by Rayl Zubal.**

**Jarrell: Aye**

**Bordeau: Aye**

**Zubal: Aye**

**Palitsch: Nay**

**All in favor: 3, Opposed: 1, carried.**

Approved variance is for the lifetime of the fence. A new or replacement fence would require a new Land Use Permit Application and void the pre-existing variance.

### **III. New Application: Area Variance 2023AV-9**

44 Harris Avenue Owner/applicant Renee Elliott is seeking front yard fence height variance and front yard setback variance for an ancillary structure. Applicant is seeking relief from Article VI - General Regulations, Fences, Walls & Retaining Walls, C. Height: Maximum height is 4 feet in front yard, existing fence in front

yard is 6 feet high.

Applicant is also seeking relief from Local Law #3 of 2019, Ancillary Structures, which references Article VI - General Regulations, Accessory Structure Setbacks, B. (3) (a) Front Yard Setback: Required setback is 60 feet and a 22-foot setback is requested.

SEQR: Exempt per 617.5 (c) (12) and 617.5 (c) (16)

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County Planning: No significant inter-community or county-wide impact. APA

Land Use Classification: Moderate Intensity, non-jurisdictional letter in file.

Chairman Palitsch stated that the Zoning Board of Appeals would like a design for the shed showing the height, its location on the property, and separation from the existing septic system components.

**Matthew Palitsch made a motion to accept Area Variance application 2023AV-9 as complete contingent upon submittal of drawings showing the location of the septic system components and a design showing dimensions of the proposed storage structure, seconded by Michael Bordeau. All in favor: 4, Opposed: 0, carried.**

**Matthew Palitsch made a motion to set the Public Hearing for Area Variance application 2023AV-9 on March 7, 2024, at 7:05 PM, contingent upon receiving drawings showing the location of the septic system components and a design showing dimensions of the proposed storage structure, seconded by Rayl Zubal. All in favor: 4, Opposed: 0, carried.**

#### **IV. New Application: Area Variance 2023AV-10**

67 Davern Drive Owner/applicant Terrance Dwyer is seeking a side yard setback variance for an addition to an existing building.

SEQR: Exempt per 617.5 (c) (16)

County Planning: No significant inter-community or county-wide impact. APA: Applicant has been advised to submit jurisdictional inquiry form.

Mr. Dwyer stated that the building is being used for storage but is subject to flooding when the Hudson River level rises so applicant seeks variance for existing carport within side yard setback on side of building least susceptible to flooding.

**Matthew Palitsch made a motion to accept Area Variance application 2023AV-10 as complete, seconded by Michael Bordeau. All in favor: 4, Opposed: 0, carried.**

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**Matthew Palitsch made a motion to set the Public Hearing for Area Variance application 2023AV-10 for February 8, 2024, at 7:05 PM, seconded by Michael Bordeau. All in favor: 4, Opposed: 0, carried.**

#### **V. Accept Meeting Minutes**

**Matthew Palitsch made a motion to accept minutes from December 14, 2023, seconded by Rayl Zubal. All in favor: 4, Opposed: 0, carried.**

#### **VI. Old/New Business**

Matthew Palitsch welcomed Kayla Jarrell, the newest member of the Zoning Board of Appeals and acknowledged the retirement of James Moeller who was a very valuable asset to the Zoning Board of Appeals and the community.

**Matthew Palitsch made a motion to adjourn at 7:55 PM, seconded by Michael Bordeau. All in favor: 4, Opposed: 0, carried.**

Respectfully submitted,  
Kristopher Kassay

