

TOWN OF MONROE ZONING BOARD OF APPEALS MINUTES

— 11/23/2021

TOWN OF MONROE ZONING BOARD OF APPEALS (Tuesday, November 23, 2021)

Generated by Norinne McSweeney

Members present Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

Consultants:

David MacCartney, Esq.

1. Welcome

Procedural: 1.01 Roll Call

Procedural: 1.03 Pledge of Allegiance

2. New Public Hearings

Action, Discussion: 2.01 Congregation Sheri Torah (Z064-2021) SBL # 2-1-29 49 Larkin Drive

Joel Mann - Brach & Mann BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to open the public hearing for Congregation Sheri Torah

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

review of project: applicant needed to submit the following updated information
2 approved site plans first cluster of trailers updated survey current condition resolution and history of school narrative building under construction is delayed due to supplies back ordered 3 yr extension should complete the project for all the girls to move into the school already working on another location for new schools shortly for the planning board
Chairman Murphy some timeline questions when was first set of trailers approved Mr. Mann 2012 site plan approval; next time approved 2018/2019 at the same time Chairman Murphy during the last couple of months I have been to the site to see the conditions, there are unpaved portion of parking lot between girls and boys school, girls school conditions unappealing, original trailers white and green and then additional trailers yellow and brown; this is school property and it was always suppose to be temporary, school property should be inspiring to children not a broken up parking lot and gravel paths Mr. Mann any recommendations that you have to make it better we would look into it. Chairman Murphy proper stripping for the bus area and parking area would be a good start Mr. Mann new safety requirements with Federal funding making a new traffic pattern, adding fencing around for security around the main school not temporary trailers Chairman

Murphy it's starting to show age, clean up some of the hazardsMember Postiglione there is a business in the backMr. Mann yes the Matzah factory they had a violation for clean up and maintain - multiple inspectionsMember Postiglione what is the egress in and out, are there trucks with product coming in and out and going past the school possible danger for the childrenMr. Mann it is a religious matzah factory open seasonal winter for the matzah for Passover, very little traffic except for the week before Passover when the schools are closedMember Postiglione as I am fairly new to the board what constitutes temporary and in regards to looking for an extension where does it end?Mr. Mann at the time the town of Monroe zoning code didn't have temporary in the beginning, school trailers are allowed the trailers are approved for schoolsoriginal approval 5 yrs extension 3 yrs one 3 yr extension first time for use varianceMr. Mann reasons for delays Covid, closure of construction delay of supplies, metal pieces back ordered 12 months this is private funding were not able to do fund raisers for schools due to COVIDboys can travel to schools girls must stay in the areaopen to the public for comments BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to close the public hearing.

Motion by Kevin Scully, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

board members reviewed the 5 factors

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to grant the three year extension for the temporary occupation of the existing trailer schoolhouse buildings and also that the applicant be brought up to code on everything that is shown in the 2019 site plan resolution, including the proposed walkways make sure good connectivity and beyond that remove any tripping hazards.

Motion by Chairperson - Michael Murphy, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

Action, Discussion: 2.02 Jule Rutledge (Z054-2020)SBL # 11-1-1 228 Sunset Terrace

Rommel Lasso contractor for Mr. Rutledge BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to open the Public hearing.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

applicant reviewed project: accessory building already completed with out permits variances to discuss the accessory building front yard set back believes only variance needed height of the building % of lot coverage Secretary McSweeney spoke in regards to the variances that are needed. Last meeting it was discussed that he had to get a variance for the front yard set back as he has 2 front yards being a corner lot. The information that the board received from Mr. Lasso's office on office letterhead regarding the height of the building and the lot coverage though the board said they would accept that information to keep the application moving forward as their surveyor was out for medical reason. In speaking with the Building Inspector in order for the permit to be granted and c/o issued all necessary information needs to be completed on the current survey and approved by the surveyor. I conveyed this information on to Mr. Lasso prior to the mailings going out that it would have to include all 3 original variances until the proper paperwork was received and he said he understood. At this point in time the updated survey has not been submitted. Chairman Murphy suggested we hold the public hearing over until the paperwork required is received. project held over until the next meeting in January 25, 2022.

Action, Discussion: 2.03 Michael Adams (Z062-2021) SBL # 1-1-55.111 485 Rt 208

Joe McKay Catania, Mahon & Rider, PLLC Michael Adams applicant BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to open the public hearing for Michael Adams.

Motion by Kevin Scully, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

provided clerk with certified mailing receipts 3 submissions for this project Town Engineer submitted a letter in regards to water line/edge Building inspector meet with applicant and Town Engineer and walked the property - other violations were noted during this visit applicant has applied to correct said violations resulted in amended applications submitted with pictures day before the meeting brought hard copies to the meeting itself Chairman Murphy you mentioned a revised application, what has been revised on the original application was for 2 buildings within the 50 ft setback of the shoreline of O&R Lake Mr. McKay amended application was submitted and reviewed at last months meeting to relocate 2 sheds that are existing on the property, one of those sheds is encroaching on the neighboring property and the other shed did not meet the front yard setback requesting a variance for that we've submitted a map to show the proposed relocation area and that's in the front yard so we would need a front yard setback Chairman Murphy reviewed original application was to construct 2 structures right on the edge of the lake a shed and a pavilion, shed 14x28, gazebo 20x40 right on the edge of the lake Mr Adams 10 ft off the lake right on the property line Chairman Murphy now we have 2 additional sheds with one encroaching on the NYS right-of-way being moved into the front yard needed a variance and the additional shed that is

within the 50 foot setback also needs a variance Mr Adams wasn't looking to relocate this one wanted a variance for it. I honestly didn't know I needed permits for movable sheds. Chairman Murphy I recognize that the 50-foot setback from streams, lakes and water courses is not something most are familiar with, but you are aware of it now and you are still proposing to put up a shed, a pavilion, not moving an existing shed, and putting one in the front yard. That is 4 variances. This is a 3.5 acre parcel of land and could be accomplished within the allowable setbacks. These are all self-created hardships in my view. The reason for the 50-foot setback from streams, lakes and water courses is to preserve that zone for the habitat area. Mr. McKay I would like to respond to your comment about the 50-foot setback in this particular instance the lake is used for business purposes, it's used for skiing so it is a business adjacent to Mr. Adams property I don't think the environmental concerns that you're mentioning apply here because the lake area is used for commercial purposes. Mr. Adams expresses that there are 3 other sheds on the lake that are within 14 feet of the lake right at the other end of the lake. Member Postiglione the shed in the 50-foot right-of-way no other location for it without doing additional site work? Mr. Adams exactly. Mr. McKay the Ski Club located next to the property has sheds and other structures less than 50 feet of the lake, Chairman Murphy and that was a lake recreation site plan that allowed that to happen approved by the Planning Board, this is a residential property. We started out with 2 variances and we are now up to 6. Mr. McKay the board is going to have to consider the impact on the character of the neighborhood and there are no other residential properties adjacent to this one. Only the Ski Club. The sheds on Mr. Adams property are consistent with the sheds on the neighborhood property, so when the board considers this I would submit that these sheds are actually consistent with the character of the neighborhood and much less visible to the public. Member Daniel can you provide a summary of the 6 variances you are looking for. Mr. McKay; new proposed storage shed 50-foot setback from the lake requirement we are seeking 30-foot variance proposed pavilion also 50-foot setback from the lake requirement we are seeking a 40-foot variance, also a 5-foot setback from the sideline we are looking for a 5-foot variance the front yard shed there are 2 variances one is 60-foot setback in the front yard we proposed 45-foot setback, also no shed in the front yard so we are seeking a variance for that, north side shed also needs the 50-foot setback and we are looking for 30-foot. Chairman Murphy open the floor to the public regarding the Michael Adams application regarding 6 variances. Scott Olson Verizon Wireless we are very close to the property and we don't have any objections to what's being requested. Chairman Murphy no further comments from the public nor the board would someone like to make a motion to close the public hearing. Mr. McKay may I go through the 5 factors. Chairman Murphy that is our job. Mr. MacCartney he's entitled to advocate and give the board his position on each. Mr. McKay :1) undesirable change to the character of the neighborhood or a detriment caused to nearby properties by the proposed variances we have pointed out that the sheds have been present, they were actually present except for the proposed new one, prior to the zone change so we feel they're actually part of the character of the neighborhood, as I indicated before the adjoining ski lodge property also contains numerous structures close to the lake, so we feel the property is in character

with the neighborhood.2)whether the benefit sought by Mr. Adams be achieved by any other meansMr. Adams has mentioned much of the lot has a sharp grade and the shed's need to be located in a safe place. Considering the shape of the lot and the very strict setback requirements he would be forced to cluster any structures in the center of the property and then they would lose all the utilitarian value.3)we know that quantitatively the requested variances are substantial the board has to determine whether or not the variances are substantial so mathematically or quantitatively yes because we're seeking 50 we're seeking setbacks of 40 feet 30 feet 45 feet so yes but we would submit that even though they're quantitatively substantial since they don't have any negative impact on the environment no negative impact on the character of the neighborhood no negative impact on any adjoining property owners that the board could should consider that quantitatively these varianceshave no adverse effect and should really be given little consideration4) the board also has to consider whether or not the variances will have an adverse effect on the physical neighborhood or the environmental conditions of the neighborhood and I think I've already spoken to that there are no adjoining residential properties the adjoining uses are a commercial ski company a parking lot power generating station professional office and essentially three state roads that surround the property so there will be also no impacts from the granting of the variances such as ordinary the ordinarily the board would have to consider whether there are impacts for increased parking or noise or traffic or odors garbage refuse waste none of those things will result from the granting of this application in the question of whether or not of course the last factor5)is whether these were self-created yes we understand that these are self-created hardships i'd ask the board to consider though the fact that the zoning on mr adams property has changed since since most of the structures were already in existence and obviously no one has ever objected to those structures it wasn't until certainly no neighbors or neighboring property owners wasn't even until the second time that the building inspector came out that they were even noticed so we submit that the totality of the circumstances here we ask the board to weigh these factors and to find that because there are no true adverse environmental impacts here after the board considers all the factors we ask that the board grant the variances BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to close the public hearing on the Michael Adams application.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

Chairman Murphy board members it is now up to us to take a look at the totality of the situation here and go over what needs to be proven. We started off with the two variances of the new shed and the new gazebo being within the 50-foot setback of the lake front then upon asking for an up-to-date map with that was more legible we found that there was a shed in the

front yard that actually encroached into the New York State right away for route 208 and then there was another existing shed that was within that 50-foot setback. So the applicant's proposal is to keep everything where it is with the exception of the one shed in the front yard and even there they're still going to need a variance for that and there's two more right so the side setback on the gazebo came into play afterwards too so that's five, there's six so I'm not clear where the sixth one is. There are six variances right there's four structures with six variances, I think that the shut up on top it would be both front yard shed and set back okay correct there's two on on that one as well (this was open dialog amongst the board members)Chairman Murphy at this juncture it is our responsibility to go over what must be proven in order to grant the area variances.(1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;(2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;(3) whether the requested area variance is substantial;(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and(5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.Mr. McKay asked if possible for an informal poll considering there are a lot of variances to discuss additional options instead of applicant potentially be denied.Member Postiglione that is where the chairman was leading possible go back to some of the elements to see if there is something else to achieve your goal for storage without such an enormous impact within the 50-foot setback.Mr. MacCartney I think the applicant maybe asking as they hear the pulse of comments that the board is making during the 5 factors and suggesting maybe it's not ripe for an up or down vote from their standpoint, maybe the applicant is asking that the hearing be reopened to consider maybe presenting the board with some alternatives, am I hearing you right Mr. McKay.Chairman Murphy from my perspective it would take a completely new site plan that's in compliance with all the zoning setback requirements, that's where I stand on this.Mr. Adams so you're saying you don't want to give me anything.Chairman Murphy that is what I am saying.Mr. McKay may I make a comment regarding the environmental potential impacts the Town Engineer and the building inspector have both been out there and we weren't notified that there were any environmental potential impacts. I don't want to have in the record either that there is some type of definitive environmental impact. Could you share with me what you think the environmental impact indicated is.Chairman Murphy it's the whole purpose behind the 50-foot setback from streams, lakes and watercourses is to provide that environmental buffer along those pathways for wildlife, and I don't mean just deer it's everything frogs, snakes, turtles.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to deny the application on all six counts, that there are feasible alternatives to what's being proposed here as we can't start setting a precedence that this does not matter.

Motion by Chairperson - Michael Murphy, second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

3. Returning Public Hearings

Action, Discussion: 3.01 Verizon - Professional Square (Z065-2021) SBL # 1-1-89 491 Route 208

Scott OlsonMike Crosby -Brian Sarcheproposed 6 antennas on the roof of the Professional Square buildingcapacity and coverageuse varianceutility overlay district 5 of themnot in district need use variancewon't resolve the problems that are currently experiencingutility to the east shared with KJ maybesite on water tank in KJMr. Lepore what our review found was that the the applicant did demonstrate a need for capacity in this area, this would assist in the service gaps and the site would be lest intrusive. This is a valid option for the cell location.open the comments up to the publicBE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to close the public hearing.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve the use variance demonstrated a need for the facility and authorize David MacCartney to prepare the resolution and the Chairman to sign

Motion by Kevin Scully, second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion for the attorney to draft the approved variance and then the Chairman to sign once reviewed.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

Action, Discussion: 3.02 Matsil 474 Round Lake Park Road (Z063-2021) SBL # 4-4-24

Harley Matsil - applicant Chairman Murphy at the end of the last meeting there were some discussions of making modifications to your building and site plan so we held open the public hearing until this evening for you to present your modifications Mr. Matsil explains the changes no longer putting the flat roof putting a regular roof and the surveyor recalculate the square footage of the lot surveyor recalculated the lot and adjusted the variance being asked for the lot size is actually 9750 square feet Chairman Murphy original lot coverage Mr. MacCartney the variances requested primarily is lot coverage, needs lot area, lot width, side yard set back are existing conditions lot coverage 23.9% proposed 27.3 lot coverage 23.9 up to 27.3 2.3% than allowable impacted now inaudible discussion of the variances lot area, lot width and the 2 side yards are pre-existing non-conforming items lot coverage is 25.7 existing recalculation of the square footage of the lot brought down the variance needed lot coverage we're going from 23.9 to 27.3 and the maximum allowable is 25 so a 2.3 percent higher than allowable and that is the only variance that's being impacted by this proposal for rebuilding the house board members questions GML referral came back with local determination inaudible looking at pictures of the site plan for the proposed changes. Open to the public for comments and concerns David Carreras 458 Round Lake Park Road - thank you to the adjustment to the rooftop deck even though it wasn't a variance being sought keeps with the aesthetic of the neighborhood. Sent an email today with photos attached regarding the tarp. Mike Egan Round Lake Park - question for applicant could you consider putting the deck in the back of the house instead of on the side making a non-conforming issue even larger Chairman Murphy the deck doesn't have an effect on the setback because it doesn't have a roof on it. Julie Tanner 454 Round Lake Park Road concerned about the condition of the property currently. Mr. Matsil also owns the adjacent lot and currently there's wood scattered all about the property and it has been there approx. a month. Prior to that there was wood, and old chair that was there for about a year. So there is a concern about construction is it going to be safe. I currently have a view of the tarp from my back yard. Chairman Murphy I want think things like the tarp are going to be removed in the process with the construction. As mentioned Mr. Matsil owns the next parcel with a foundation on it, don't know the history was there a house there that burned down, I hear your concern this parcel is not part of the application. But during construction they have to be diligent about keeping the site safe and the debris from the construction and removed on a regular basis. Member Postiglione there seems to be an issue with the tarp. Is it a temporary item or for privacy. Mr. Matsil exclusively related to privacy and it is not on the property that we are here discussing Chairman Murphy that tarp is unsightly but it is not anything the board can do that is between you and the building inspector Susan Pendergast 28 Tephanic Ave the concern for all the wood on the property is over the summer there was some vandalism in the area with trees set on fire, we are worried about safety as there was another case of a fire up in the area and with the tarp there if there is a fire or something it could involve more than the trees including houses. Member Scully addressed the Chairman as to who is the proper person to handle this - Chairman Murphy said it is a building department issue BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to close the public hearing.

Motion by Kevin Scully, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

board reviews the 5 factors

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve the requested variance for lot coverage.

Motion by Kevin Scully, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to authorize the Zoning Board Attorney David MacCartney to prepare such a resolution and authorize the Chairman to sign upon review.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

4. Returning Projects

Action, Discussion: 4.01 Town of Monroe Planning Board - Interpretation

Mr. MacCartney at the last meeting I was directed to prepare a resolution which has been circulated to the board. The resolution would be to reverse the determination of the Building Inspector on this issue of his interpretation of the code and what the term frontage means in that context. The resolution at the end finds that the building inspector was reversed and the board interprets that code section to provide that the requirement under that section the use shall maintain frontage on a major collector road is not satisfied unless access is also provided to a major collector road via that frontage.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to accept the resolution as written by our attorney on the matter of our interpretation of lot frontage.

Motion by Kevin Scully, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Marci Daniel, Chip Postiglione, Steven Thau

5. Attorney Client Session

Action Discussion: 5.01 Private Board discussion with attorney

BE IT RESOLVED that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to go into attorney client privilege session.

Motion by Kevin Scully second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy Kevin Scully Marci Daniel Chip Postiglione Steven Thau

BE IT RESOLVED that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to return from attorney client privilege session.

Motion by Kevin Scully second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy Kevin Scully Marci Daniel Chip Postiglione Steven Thau

Action Discussion: 4.02 Kingsville Synagogue (Z061-2021) SBL# 1-1-4.32 10 Kingsville Rd

Mr. MacCartney I have prepared a resolution embodying the denial to Kingsville Synagogue that was voted on last time and you all have the written resolution embodying that denial before you. Does the board have any questions. If you have not questions then it is appropriate to make a motion to approve the written resolution.

BE IT RESOLVED that the Zoning Board of Appeals hereby makes a motion to approve the written resolution in regards to Kingsville Synagogue.

Motion by Marci Daniel second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy Kevin Scully Marci Daniel Chip Postiglione Steven Thau

6. Administrative

Action Discussion: 6.01 December 28 2021 discussion of meeting

7. Minutes

Action Discussion: 7.01 May 25 2021 Minutes

BE IT RESOLVED that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve the May 25 2021 minutes.

Motion by Marci Daniel second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy Kevin Scully Marci Daniel Chip Postiglione

Abstain: Steven Thau

Action Discussion: 7.02 June 22 2021 Minutes

BE IT RESOLVED that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve the June 22 2021 minutes.

Motion by Kevin Scully second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy Kevin Scully Marci Daniel Chip Postiglione

Abstain: Steven Thau

Action Discussion: 7.03 July 27 2021 Minutes

BE IT RESOLVED that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve the July 27 2021 minutes.

Motion by Kevin Scully second by Chip Postiglione.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy Kevin Scully Marci Daniel Chip Postiglione

Abstain: Steven Thau

Action Discussion: 7.04 September 28 2021 Minutes

held over

8. Adjournment of Meeting

Action: 8.01 Adjournment of Meeting

BE IT RESOLVED the Zoning Board of Appeals of the Town of Monroe hereby adjourns the meeting.

Motion by Kevin Scully second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy Kevin Scully Marci Daniel Chip Postiglione Steven Thau

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