

**ZONING BOARD OF APPEALS  
Town of North Greenbush  
2 Douglas Street  
Wynantskill, NY 12198  
Meeting Minutes  
September 11, 2019**

**Attendance: John Dalmata, Richard French (Chairman), Leanne Hanlon (Secretary), Michael Miner (Building Department), Robert Ewing, Tony Crusetti, Louise Germinerio, Al Kolakowski (Legal Counsel).**

Chairman French opened the meeting with the Pledge of Allegiance and roll call. Chairman French also explained the special permit rules and what this board does.

**Old Business:**

**Application 19-21, for the special permit request of Donald Seebald, 184 Whiteview Road, Wynantskill, NY 12198, for the purpose of raising chickens and ducks, at the property located at 184 Whiteview Road, Wynantskill, NY 12198, in an R1 district, having parcel ID#: 123.12-1-9.1.**

Was before the board last month and application was tabled to allow him to gather more information to better be in compliance and find a home for the ducks. Mr. Seebald dropped off a signed statement showing the ducks have been relocated. He has 6 chickens and no roosters. He now has a commercially purchased coop. They are not confined within a fence though. He said they are only out of the coop when he changes the bedding. French stated it sounds like he is not in compliance because he needs to have them in an enclosed fence. Feed is in a metal container and waste is being composting. Mr. Dalmata would like to see a pic of the coop.

Public hearing reopened:

Kathy Monahan, Arden Lane: The chickens and ducks were all over before and she has not seen the ducks recently. She had taken care of the chickens and ducks in the past. She has never seen anything so filthy when she did that. She said the house they are in is so tiny. She is concerned with cold, rain and ice. Dalmata said chickens are hardy and deal with the cold well. 12 sq. feet for living space for 6 chickens but there needs to be an outside fenced running area. She distributed to the board a picture of a friend's duck area to show for comparison.

Motion made to close Public Hearing Germinerio and Ewing.

Chairman French stated we have heard some conflicting information and he is unable to show a picture of the new coop. But then he was able to produce a photo for the board. Mr. Dalmata feels it is a small coop though. There is no set fenced in area for the chickens though. He did get rid of the ducks and found them a new home. He feels he is on the right path to do the right thing though. This board has approved many applications for chickens in this town. There is a very standard set of requirements that we apply. He does not know Mr. Seebald's ability to meet these.

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When the chickens are out of the coop they need to be in a fully surrounded fence area with a top on it. Chairman French stated he has met some of the other requirements.

Conditions: Outdoor fenced fully enclosed run must be completed. Enclosed coop. (No less than 24 square feet outdoor enclosure and indoor area to be no less than 12 square feet. No more than 6 chickens. No roosters. Feed must be kept in solid metal covered containers. Maintain plan for waste removal. Time frame to meet conditions is ten days. He needs to call BD to schedule an inspection (9/22/19).

Single family home, no SEQRA Type II

Motion made to approve with above conditions by Ms. Germinerio and seconded by Mr. Crusetti. Roll call vote: Dalmata, Crusetti, French, Germinerio Ewing. All in favor.

**Application 19-22, for the special permit request of Michael Lambert, 109 Teliska Avenue, Rensselaer, NY 12144, for the purpose of obtaining fill in excess of 150 cubic yards, at the property located at 109 Teliska Avenue, Rensselaer, NY 12144, in an R1 district, having parcel ID#: 134.18-1-5.**

This was before the board last month and tabled until this month. The Town Engineer was supposed to take a look at the sight and he was supposed to get plans from the county health department. He did not get the plans because the health department have no information. He said he has photos that the water on the neighbor's property is coming from the street and water is being forced back on to his property and the neighbors. He said the town engineer has not been on site but Mr. Lambert did not contact the town engineer. So he can see that the material he brought in is ok. Mr. Lambert was confused and thought that the BD would contact the town engineer. He has graded his driveway since last meeting. Chairman French said it appears that his entire lot is all stone and gravel. Chairman French is not sure what he is trying to accomplish. Mr. Lambert stated it was put down for trucks to come in with fill. Chairman French asked if the detached garage will require and engineering drawings. Mr. Miner said we are concerned with the septic system and drainage and not concerned with the new structure to be built. Chairman French said this board has no conclusive proof as to where the septic is. And we have no knowledge of what the end result will be and stone has been moved since last month. Chairman French feels more has happened since last month. Mr. Lambert showed the board a video on his phone regarding the location of the septic and leech field is and where the water is running to. He said the neighbor behind him is backing up the water and drainage. He will contact the engineer tomorrow morning.

Public Hearing reopened:

Asaul ?, 61 Haywood Lane: He lives on the backside of Mr. Lambert. He said Mr. Lambert has been dumping the stone and gravel. He said the water is coming from Mr. Lambert's property that was not there before. He is concerned about the plan to get the water out.

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Robert Stoddard representing 107 Teliska Avenue: He showed pictures of the work he has done since the stop work order and a pic of the cement truck and has poured cement and put up a structure and feels he did not have a permit but does not know if this occurred after the stop work order. He said it is a construction site at this point. Mr. Stoddard also showed the collection of the water pic since he has started his work. He also gave the board pictures of the progression of all the work. Also pictures of his dumping. Mr. Stoddard stated he did not list all his neighbors on the application and did not complete the environmental assessment form completely. Mr. Lambert cannot dispute that he is not causing the water problem Mr. Stoddard stated and he also did not get a permit to any of this fill. He doesn't feel he does not have appropriate building permits, etc. Fill is needed in the front of the garage but he is covering a lot of the property area and has not provided the board with what he is doing and how much fill he has used. The leech field is not proper and he cannot drive over it Mr. Stoddard stated. There is also some active well there per Mr. Miner. Mr. Stoddard stated he cannot just do what his wants and he needs a town engineer to take a look at the entire site.

Motion made to close public hearing by Mr. Crusetti and seconded by Mr. Dalmata.

Mr. Lambert stated there has always been running water between the two properties and the Haywood home should have never been built. Chairman French stated engineering firms and town have reviewed that major sub division to ensure that it was right and within all the requirements. Please don't insult these boards with statements like that and the Board cannot approve anything at this time. Chairman French stated he needs to stop work immediately and an engineer has to visit the site and there are violations to the storm water management act. There development behind him has catch basins to catch the water from that site and he has nothing like that and your contaminated soil is running onto the Haywood property and that needs to stop and he has to stop disturbing the soil and adding stone. This board needs to see an actual plan for everything on his property that he is doing. Chairman French suggested two foot contours. He needs to come back to this board with good firm progress on this. Also no trucks or tree removal and nothing else can be done. Chairman French was firm with that and Mr. Lambert agreed. Mr. Ewing stated that Mr. Lambert has done so much work out there we cannot judge what it was before and now that you have a halfway job out there. Mr. Miner stated that if the board was to deny the application it will mean no more fill be brought in and the fill there that he got without a permit would need to be removed.

Motion made to table until next month to give the applicant time to comply with the above requests and new sets of drawings with at least three copies and needs to be submitted prior to the town engineer by Mr. Ewing and seconded by Mr. Dalmata. All in favor.

Chairman French asked the applicant to not leave this meeting and tell anyone that this board and the building department has caused him to have to spend all this money etc. Per Chairman French you did this entirely yourself.

**New Business:**

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**Application 19-32, for the area variance request of William & Nicole Spath, 10 Matterhorn Drive, Wynantskill, NY 12198, for relief from fence height restrictions of 4 ft. in a front yard of a corner lot, for the purpose of constructing a 6 ft. fence, at the property located at 10 Matterhorn Drive, Wynantskill, NY 12198, in an R1 district, having parcel ID#:134.6-10-4.**

Mr. Miner went to the site to check line of sight and does not see any issues. Mrs. Spath spoke about her application and brought photos. She is on a corner lot so there is traffic on both sides. She has two boys and the fence is for their safety. The entire yard will not be fenced in only around the roadway. She said the 6 feet is needed because they play ball and don't want the balls over the fence.

Public Hearing opened:  
No one wishing to speak

Motion made to close public hearing by Ms. Germinerio and seconded by Mr. Ewing, All in favor.

Chairman French stated when he looked at the property and it is a front yard fence only because of the way the code was written and because it is a corner lot the homeowner can decide what the front of the property will be. He feels since its going by the tree line he doesn't feel there is a difference. Also because there are no line of site issues.

Single family home Type II SEQRA.

Undesirable change character of neighborhood: No  
Benefits sought by applicants are pursued other than area variance: No because she has two front yards.  
Substantial: No  
Adverse effect on physical and environmental conditions: No  
Self created: Yes however does not preclude

Motion made to approve as proposed by Mr. Dalmata and seconded by Mr. Ewing. Roll call vote:  
Dalmata, Crusetti, French, Germinerio, Ewing. All in favor.

**Application 19-33, for the area variance request of Seth Collen, 13 Zelenke Drive, Wynantskill, NY 12198, for relief from side setback requirements of 30 ft. for the purpose of allowing a deck 3 ft. from the left side property line, for the purpose of constructing a deck, at the property located at 13 Zelenke Drive, Wynantskill, NY 12198, in an R1 district, having parcel ID#: 134.10-3-5.**

Mr. Collen spoke about his application. He stated there is a pathway that leads to his house and around back that leads to a hill. There are damaged patio blocks that he would like to replace with a deck. There is also a concrete wall that separates the neighbor and he will be about 2.5 feet from the concrete wall. Mr. Collen provided pictures of the property and where he would like to pull up the patio block and install a deck. There is no neighbor exit where he wants to put his deck. Mr. Miner clarified that the

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deck is not going to go further than the existing patio block there. His neighbor is aware of his proposal and seemed ok with it.

Public Hearing opened:

Andrew Mair, Brinker Drive: The applicant is asking for 27 feet out of 30 feet which is a 90% variance. He said it looks as if there are some configurations and circumstances that are unusual and the concrete wall that divides him and his neighbor.

Mrs. Collen spoke: She said her house is within the variance lot. She wanted to point that out. They are already at 15 existing. It is virtually a ground level deck. Mr. Miner noted that since they are already 15 feet and the concrete steps are ten feet out so it seems less than written. Mr. Miner asked if the 3 feet will allow him to maintain that 3 feet and Mr. Collen stated it would and there will be no vegetation along his side of the wall.

Chairman French asked about county and Mr. Miner stated local consideration shall prevail and asked if the deck will be able to be maintained with the 3 feet. No written correspondence.

Mr. Dalmata stated that since the neighbor's property drops off it is unique.

Chairman French asked about the fence he is putting on the deck and Mr. Collen explained.

Motion made to close public hearing by Ms. Germinerio and seconded by Mr. Crusetti. All in favor.

Single family home Type II SEQRA

Undesirable change character of neighborhood: No

Benefits sought by applicants are pursued other than area variance: No unless he does things that are not feasible.

Substantial: Because of the 15 feet already there then no and if he redoes the patio concrete pad. Not in this case.

Adverse effect on physical and environmental conditions: No

Self created: Yes however does not preclude

Conditions: BD ensures that the drain at the top of the slop towards the back out to day light so the water runs out.

Motion made to approve with above conditions by Ms. Germinerio and seconded by Mr. Ewing. Roll call vote: Dalmata, Crusetti, French, Germinerio, Ewing. All in favor.

**Application 19-34, for the area variance request of April Dennis, 9 Cathlie Drive, Averill Park, NY 12018, for relief from minimum lot size requirements of 20,000 SF and minimum width at**

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**setback requirements of 110 ft., for the purpose of allowing a single family home on a lot having 18,730 sf. and a width at setback of 80 ft., at the property located at the corner of Douglas Street & paper roads: Hudson Ave and Clermont Ave, in an R1 district, having parcel ID#: 113.17-11-10.**

The property appears to be on Douglas but is on the corner of the paper street. Shane Gavitt representing the applicant and working with Dave Dickinson. Build a single family home in the spring. It is a bigger residential lots in the area. The board reviewed the drawing with Mr. Gavitt. Chairman French stated full transparency and sent an email to the board to go take a look at the site again. Chairman French read emails regarding the application. (Ed & Terry Martin) Chairman French read the letter. This will be put into the file. Chairman French replied to Mr. Martin and he will show the board his property. Mr. Gavitt received information that there are town roads and that it has been utilized by the public and have a right away. They could access it from Pine Avenue but has to be under an agreement by the property owner. Chairman French stated there is no adverse possession. The driveway will need to come in off Clermont Street.

Small single family home is planned per Mr. Gavitt. Drainage is a consideration. They have no intent to change drainage and no plans to change any of the topography per Mr. Gavitt.

Public Hearing opened:

Mike Masfield, 43 Douglas: He has pictures since the trees have been cut down. There is now water coming down onto his property. His stone has been washed away. His garage is now flooded. He also showed a video. He said in the winter that street is already impossible. He feels trucks will not be able to turn around. Mr. Masfield stated he was told that the paper street is supposed to run to Pine Avenue. Mr. Miner has not heard anything about that. Drainage has to be rectified.

Motion made to close public hearing by Mr. Ewing and seconded by Mr. Crusetti. All in favor.

Mr. Miner stated we had a similar variance request on Rhodes Avenue. Eventually the application was approved but required an engineer grading and drainage plan. Mr. Miner feels we need to see that and Chairman French stated he would like to see this before this board can approve with a 2 foot contour and grading. What are they doing with the current water behind them? The drainage system for this new lot needs to fit into the towns system. Dave Dickinson needs to contact Mile Miner. And Mr. Miner would like the plans before the meeting so the town engineer can take a look at it prior.

Motion made to table to allow applicant to obtain an engineering grading and drainage plan and show utilities and have a plot plan by Mr. Crusetti and seconded by Mr. Ewing. All in favor. A public hearing will be rescheduled as well.

**Application 19-35, for the area variance request of Brian Bonesteel, 383 Whiteview Road, Wynantskill, NY 12198, for relief from minimum lot size requirements of 20,000 sf. for the**

**purpose of allowing a lot size of 15,002 sf., for proposed lot A, having an existing single family residence, at the property located at 383 Whiteview Road, Wynantskill, NY 12198, in an R1 district, having parcel ID#: 124.9-13-10.**

**Application 19-36, for the area variance request of Brian Bonesteel, 383 Whiteview Road, Wynantskill, NY 12198, for relief from minimum lot size requirements of 20,000 sf., relief from width at setback requirements of 110 ft. and relief from side setbacks of 20 ft., for the purpose of allowing a lot size of 16,454 sf., a width at setback of 80 ft. and side setbacks of 15 ft., for proposed lot B, at the property located at 383 Whiteview Road, Wynantskill, NY 12198, in an R1 district, having parcel ID#: 124.9-13-10.**

These will be discussed together but voted separately. The lots have not been split yet. Mr. Abbott spoke about the application for the applicant. The reason why he wants to split this is because the applicant has physical conditions that do not enable him to maintain and wants a smaller house. He has a larger lot that most anyone in that area. Mr. Abbott showed the board a map of the property and other lots. He also showed them an aerial view. Mr. Miner showed the board on an iPad the lot layout and pic. Surveys will be done in the future as well per Mr. Abbott. The house proposal depends on once it is surveyed but it will be a one story home one level. Will the entrance will be on Twist or Powell. Mr. Abbott stated on Powell. They will get some architectural drawings if approved to show the best way to layout the home. Mr. Crusetti asked about the existing home. He is selling the home to have funds for the new homes. The property is an odd shape per Chairman French.

Public Hearing opened:

Leanne Conron, 38 Powell Street: where will the house face and how big will the home be? It will most likely face Twist and one story but no square footage yet per Miner. Per Chairman French he is asking for variances of 15 feet on the sides and 20 is required. Mr. Miner stated the maximum width will be 50 feet but may not be until plans. Driveway will come in from Powell.

Maryellen Hunt, Twist Avenue next to the applicant where he wants to put the house: She will not be able to look out her window and look up the street. She still may look out her window because of were the house will be set back.

Charlie Hunt, 40 Powell Street: He said the comprehensive plan states 20,000 square feet. You are making tow items that are now conforming. He has lived there 38-40 years. There is a state right of way easement for a drainage system. That is not being taken into consideration. Taking an existing piece of land and chop it up into two non-conforming. Normally if someone can't maintain a larger house they move to a home they can take care of. Why does the neighborhood have to take on this problem?

Take a conforming lot and make two non-conforming lot per Chairman French. The prior owner had the intent to build homes on that site.

Motion made to close public hearing by Mr. Dalmata and seconded by Ms. Germinerio. All in favor.

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Chairman French stated that this is a difficult situation for this board. We are being asked to take something that is conforming and make it non-conforming and it is difficult.

Mr. Bonesteel stated he turned over the entire house and keeps it up nicely but it is difficult now. No one is disputing that per Chairman French. Per counsel this is a problem and we are setting a bad precedence. Mr. Dalmata stated we have had a few that have come before the board and he believes they were withdrawn and doesn't think we should take something conforming and making it non-conforming. Mr. Crusetti feels the same. Chairman French stated if the situation was that he had the home on the market for 14 months and could not sell it and needs to build a smaller home. But that is not the case here. Mr. Dalmata stated these are not separate lot this is one lot. Chairman French noted an application in Rensselaer. Mr. Miner asked if we can see when they were joined together. Chairman French stated we could do that. Have the applicant see how the lot got this way and come back with a little more plan as to what you want to do and show us there will be no drainage issues and have a plan so this board can look at and make a better informed decision. Per Chairman French we do not have enough information at this point. Also show and talk to your neighbors.

Motion made to table to allow applicant to obtain more information as noted above by Mr. Dalmata and seconded by Mr. Crusetti. This is for both applications. All in favor.

**Application 19-37, for the Paul Hodorowski, Hodorowski Homes, LLC., 796 Burdeck Street, Schenectady, NY 12306, for relief from front setback requirements of 35 ft., for the purpose of allowing the construction of a single family home 20 ft. from the front property line, at the property located at 19 Haywood Lane (Lot #64), in an R1 district, having parcel ID#: 134.3-1-10.**

John Maskell representing Hodorowski who is owner and architecture for the project. They were before the board for an adjacent lot and were requested to come back if they were to develop this lot. He is proposing the house come forward consistent with the house next door. He wants to align the new home with the home next door. He showed a map to the board where this will be built.

Public Hearing Opened:

Tom Surwait, 17 Haywood Lane: He abuts this property. He asked why there was no variance for before. Chairman French said there is no compelling reason to bunch all the variances in the neighborhood. He objects and asks the board to deny because of safety. This is closer to the road and you cannot see. This is on a hill and on a curve. Highly active street with delivery trucks buses children people walking etc. This is a shortened driveway on a hill is a recipe for disaster. He wants to make sure this is addressed and considered. Please do a traffic study by police or highway department to see if it is vile to have a home there with a short driveway. There is a creek in the back of his property. There is a specific plan from DEC regarding this lot. What good is the prior work if we are not going to adhere to it? He said there is a wetlands permit for this lot and two other lots in the neighborhood and feels they are in violation of the permit already. He said he is concerned that this permit was not disclosed.



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Mr. Suwait spoke to the DEC and were also concerned as well. It is a very peculiar lot. There are two parts of the lot that have water on it and a lot of fill will be needed and will affect the stability of the lot. There is deeds restrictions and Chairman French stated they are on the map.

Any building done on that property will significantly affect his property and have unintended consequences down streak. Get the DEC involved to ensure the permit is adhered to. He is asking to be careful in approving this lot and to not be as accepting to the provisions that are being disclosed and please do a traffic study. There was an accident on his lot which he wrote the board about. There was a car that came onto his lot in the middle of the night and hit his hose where his son was sleeping. He is asking to deny the application on the information he has provided. His letter that he sent will be read into the file. He said he was told this lot would never be built on. The DEC permit is in violation.

Chairman French stated there is a dam there. Lot 64 has a deed restriction put in place to protect the creek and opens up into an Army Corps of Engineers wetland. The home could be pushed back 20 feet without even coming before the board. They are coming up more forward to move away to the protected land in good faith. Whether or not this piece of land is fit to build a home has already passed.

Chairman French asked if Mr. Miner knows of any DEC permits for this lot? Mr. Miner walked in the nearby Lot with DEC yesterday on the top where there is soil disturbance. He will look.

Mr. Maskell stated there is no DEC permit for this specific lot and Mr. Ewing stated he worked for DEC and wrote permits and have never wrote a permit for a vacant lot. Mr. Surwait produced the DEC permit. Chairman French read the permit dated May 2015.

Mr. Miner spoke about them having to come back when they do this specific lot and he does not remember and there is no mention of this in the other minutes. Mr. Ewing reviewed the permit provided and explained it to the public and the board and does not see what has been violated on lot 64 but no construction has taken place on that lot yet. Chairman French stated this needs to be looked at with the subdivision approval. This needs to be addressed before we take any action.

Mr. ? 21 Haywood on the other side of the property: If you build the house forward they will be very close to the street and an accident can happen because one happened next door. There will be no backyard because of the stream. There will be no property on the side back and culvert and very little on the front. He said it will be dangerous to move it forward with that much shorter space in the front. If a car coming down misses it will hit that proposed house. Mr. Dalmata stated that if we don't approve this variance the builder can still build on the lot. He wanted the public to understand this.

Motion made to close public hearing by Mr. Dalmata and seconded by Ms. Germinerio.

Chairman French stated this is a recently approved sub division that is mostly complete that if we do nothing a home can still be built on this property. What is the applicant trying to achieve by moving it

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forward? Mr. Dalmata stated he feels it was intended to give it a larger back yard. Chairman French stated we are diminishing the work the planning board has already done. Mr. Crusetti asked what the difference is between the deck and the restricted area. It looks as if it is on the edge of the deed restriction area. There are a lot of construction options without this board taking any action per Chairman French.

Mr. Maskell stated they did the exact same thing with the houses next door and they do not want this house sticking forward and not matching the other home and have the stream almost exactly the same to the home next door.

Chairman French stated he Mr. Maskell, has not given the board anything compelling to go outside what the planning board has approved.

Chairman French read a letter that was sent to the board. Dated 8/2/19 regarding Lot 64. Letter from Thomas Serois. A police report for an accident was also attached with photos.

Another letter was read into the record from Kay John Russell of 32 Haywood Lane. Per Mr. Miner county stated local consideration shall prevail.

Undesirable change character of neighborhood: Residents have raised concerns on safety. The PB looks at these things and approves based on setbacks there. Mr. Ewing stated the shortened driveway would be an impediment.

Benefits sought by applicants are pursued other than area variance: Yes build a house on the envelope it was intended to.

Substantial: No

Adverse effect on physical and environmental conditions: If they build within the envelope and conditions the answer is no.

Self created: Yes however does preclude

Type II SEQRA already approved sub division.

Chairman French stated based on the facts a motion to deny was made by Mr. Dalmata and seconded by Mr. Ewing to deny. Roll call vote to deny: Dalmata, Crusetti, French, Germinerio, Ewing. All in favor to deny.

Motion made to approve August meeting minutes by Mr. Dalmata and seconded by Mr. Crusetti. Mr. Ewing abstained. All in favor.

Motion made to adjourn at 9:38pm by Mr. Dalmata and seconded by Mr. Crusetti.