

A Regular Meeting of the Zoning Board of Appeals was held on Thursday, March 10, 2022 at the Mendon Community Center, 167 North Main Street, Honeoye Falls, NY, 14472 at 7:00 pm.

PRESENT: Daniel Bassette  
Stephen Maxon  
Dustin Cichon  
Stephen Tudhope  
Christian Mahood

ATTORNEY: David Hou

OTHERS: Steve Shuler, 617 Taylor Road  
Daniel Ackerman, 1279 Pittsford Mendon Road  
John Shipe, 27 Mill Road  
Joshua Cawley, 1100 Pittsford Mendon Center Road  
Elizabeth Mossow, 7 Country Meadow Drive  
Peter Kester, 1635 West Bloomfield Road  
Marc Parker, 3536 Rush Mendon Road  
Marcus Orduna, 52 Mendon Ionia Road

Minutes were taken by Katrina Allen.

Mr. Bassette opened the meeting at 7:00 pm.

Mr. Bassette said the first order of business was to amend the agenda to include the Mendon Fire District and Josh Cawley, who are both requesting a rehearing.

**ABBOTT-REILLY AREA VARIANCE PUBLIC HEARING**

An area variance application by Denise Abbott and Susan Reilly, 2 Shone Circle, Mendon, NY, consisting of 1.187 acres, for a variance for an addition to add a third bedroom to a two-bedroom house with existing septic designed for a three-bedroom house and will have a side setback of 16', but zoning requires a side setback of 20', and therefore requires an area variance. Zoned RA1 with Tax account no. 216.01-1-72.

Mr. Bassette waived the reading of the public notice; it was published in the Sentinel.

Mr. Bassette asked the Board members if they were all familiar with the property. They all replied in the affirmative.

Denise Abbott, Susan Reilly, and Jim Sickles, builder for the Abbott-Reilly residence, approached the Board.

Ms. Abbott said that they have a small house that is 1500-1600 square feet and it has two bedrooms and a small office. They want to add a third bedroom/master suite on the side. They did not realize the house was so close to Route 251. They are short four feet from their neighbor, Jim Sickles, in order to build. They do not want a ten-foot master to keep within the setbacks.

Mr. Sickles said he had built the house, and moved it to the right, away from 251, but knowing this variance would be needed someday. He owns the lot next door, and he would be the one impacted, but it is only four feet.

Mr. Bassette asked if the lot next door is vacant. He asked if the next house is probably 38-40'. Mr. Sickles said yes, and they are 160-foot lots.

Mr. Cichon asked if the addition is on the South side of the property. Mr. Sickles said yes, and it is going towards lot 12.

Mr. Bassette asked if why they did not look to do the addition on the other side of the house. Ms. Abbott said the septic is there and the living room. They would need to blow out the fireplace and the living room and add a hallway. Mr. Sickles said it looks better where they proposed and Ms. Reilly said that the aesthetics match when it is put in.

Mr. Bassette asked the Board if they had any questions.

Mr. Tudhope asked when the home was built. The applicants said three years ago.

Mr. Tudhope asked why they did not build the addition then. The applicants said it was because of money. They are both retired teachers, and it took two years to collect their retirement. When family visits, they are sleeping in the basement.

Ms. Abbott said they have the smallest house in the development. They thanked Mr. Sickles for allowing them to build it. They are at 2300 square feet where others are over 3000 square feet.

Mr. Tudhope asked if the applicants are in Honeoye Falls-Lima Schools (HF-L) and the applicants said yes.

Mr. Bassette asked if there was any public comment. There was none.

Mr. Bassette waived the asking of the five questions, as they had been answered.

**MOTION**

Mr. Tudhope moved, second by Mr. Mahood to close the public hearing at 7:07 pm.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Mahood – aye; Mr. Tudhope – aye; and Mr. Cichon – aye.

**MINUTES**

Mr. Tudhope moved, second by Mr. Maxon to approve the minutes from February 24, 2022, as submitted.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Tudhope – aye; Mr. Mahood – aye; and Mr. Cichon – aye.

**MENDON FIRE DISTRICT REQUEST FOR REHEARING**

Mr. Bassette said the Board is addressing two requests for a rehearing, and it must be a unanimous decision to rehear the application. He asked if the Board had any questions.

Mr. Maxon asked if the Board is hearing comments. Mr. Bassette said it is not formal.

Mr. Hou said hearing the public is allowed, and it is discretionary process. At the end, the Board can make a motion to rehear the applications.

Mr. Shipe of the Mendon Fire District approached the Board regarding their denied Area Variance for a free-standing, electronic public announcement sign at the Mendon Firehall.

Mr. Shipe said they had gone to adjoining neighbors the past week and knocked on doors to talk to them about the possibility of an electronic sign. They talked to the neighbors that would see the sign from their homes.

Mr. Shipe continued with the new specifications from the building company. It is a black or white and will post notices such as the New York State burn ban, and there is not an easy comparison. The sign would be available for Town use. If Mr. Moffitt had an emergency, he could pick up the phone, and within ten minutes, it would be on the board.

Mr. Shipe stated it is a public service announcement sign. It is not a business; it is for the public.

Mr. Bassette inquired about the light levels. Mr. Shipe said they are LEDs, and the sign company made it controllable.

Mr. Shipe said the information he gathered from the unapproved minutes is there is not a lot of information or guidelines for the Board to follow. He said it is best to have a government agency, such as the Fire District, so the Town can regulate, as there is no code for digital signs. There is going to be some with a highly funded employer, and they will push for an electronic sign. Why not do it when you can control it?

Mr. Maxon said the application is for a free-standing sign. Mr. Shipe said they did not pull the building permit in time. The Code Enforcement Officer (CEO), Corey Gates, cited the reason for denial as Code Chapter 260-94, which is a lapse of authorization for not obtaining a building permit within six months.

Mr. Maxon said that this time it is for a free-standing sign. Mr. Shipe said they had originally had their variance approved.

Mr. Bassette said there was a time lapse. Mr. Shipe said it was due to raising the money. The money is now from last year's budget and according to the State, they must spend it on the sign.

Mr. Cichon said the Fire District had updated the visual cues, and that had been a sticking point. He said it is not because of the brightness or that it could potentially be a distraction, his issue is that it looks like Sperry High School. It can look like Martha Brown in Fairport or Rush's or Brighton's Fire Department. Mr. Shipe stated the difference is those all have graphics. He said it is in the Town's guidelines there are no graphics permitted. Their sign has the capability of graphics, but they are not going to use them.

Mr. Cichon said it would be more similar to Henrietta's on West Center Road, right near Erie Station, except theirs is black instead of white, but it has the same brick and mortar and the same cedar shake. Mr. Shipe said they already have the brick, as it is the foundation on their existing sign.

Mr. Cichon said the Mendon Fire Station is unique and there is not one like it around. Why would they want to do something that is so standardized? They seem to take great pride in their station and then they spent thirty grand on something he and Mr. Tudhope could throw together in a weekend for 10 grand. He appreciates what Mr. Shipe did with the visual cues, and it is one hundred percent better than the one the Board was presented with last time. But they take pride in their town and we move a little bit slower. He appreciates that the Fire District wants to move things forward and cement things such as when the sign is turned off and when it comes back on.

Mr. Shipe said driving around Town, all the signs at businesses are always lit up and do not turn off at a certain time. He said the Fire District's current sign is hard to read. Mr. Cichon said he drives by it every day on his way to work, and he can read it fine at 35mph. Mr. Shipe said most people driving by are travelling at 45 mph. Mr. Cichon said that is why you cannot see it at 45 mph.

Mr. Tudhope asked what is the future. Does the community need a sign? He said he is a capitalist, and he worries about money. Is this the best investment, and is this what the Town wants?

Mr. Bassette said he understood the Fire District already bought the sign, and is that correct? Mr. Shipe said they ordered it in December.

Mr. Bassette said he thought it had just been sitting there. Mr. Shipe said no, and that is why they can make changes, and it was more expensive. To do repairs to it, they just need to pop out one of the blocks that are there now – they are in 12-inch blocks - and pop the new one in. They were going to order one from Florida, and it was \$17,000, but it came in a box and had to be put together. He discussed the pixels, and it is not the highest, but it is not the lowest either. There will not be the pixelation as seen on some of the other signs. He did not think that was what the Town of Mendon would want.

Mr. Mahood stated he is familiar with the company the sign is from and it is top of the line, in his vantage point and that it is good. They did not go with something that needs to be put together.

He asked if they had identified a process, so the information stays fresh and something that happened today is not going to be up a long time after. Mr. Shipe said their District Administrator is there seven days a week and can update it.

Mr. Bassette said Mr. Shipe was outside with the old sign for an hour yesterday, and the weather was not great like it is today. He said with the electronic sign, it would be minutes, not an hour. Mr. Shipe said it is probably less than a minute, and New York State law says if they have a sign, they have to use it. They are bound by that right.

Mr. Tudhope said he is always thinking about the future state, and maybe five or six years ago, the sign made sense. He said the future state, it does not make sense. Mr. Tudhope stated they should take the whole sign down. He said if people are looking for information, they are going to get it. Mr. Shipe said that is not the point. If there is state burn ban, how are people going to know to where to look?

Mr. Maxon said the only reason he knows it is open burn is because Rush Fire Department posts it on its sign. Mr. Shipe stated in Mendon, he would not be able to read it.

Mr. Hou said the discussion is good. If the Board has enough information for the applicant to be heard or not heard, they could revisit it. He encouraged the Board to revisit, and they could hear the public in the context of a Public Hearing where they can elicit more information. They can discuss if they need a sign or any of the other subjects they had mentioned and have the public participate. They can have a properly noticed Public Hearing. He said the purpose was to get more information from the applicant and to decide if it is enough information for the Board to have them back.

Mr. Bassette said although this is not a formal Public Hearing, he sees people in the audience and asked if any of them want to speak on this.

Marcus Orduna, 52 Mendon Ionia Road, said he first wanted to thank John and Steve for coming to his house and presenting the new details with his wife. He said their opinion, as a household, is the sign is garish. He is hearing discussion of new mediums they can use such as social media. They could get a better website. There must be a better avenue such as marketing or paid social media. He is not there to give solutions. He thanked the Mr. Shipe and Mr. Shuler, as they volunteer their time, but as a neighbor, this is not what he would want to see.

Mr. Bassette asked if anyone else wanted to speak. No one else did.

Mr. Bassette asked the Board if they wanted to put this application back on the docket.

### **MOTION**

Mr. Maxon moved, to put the application back on the Zoning Board of Appeals docket.

### **APPROVED**

Mr. Maxon – aye; Mr. Tudhope – nay; Mr. Mahood – aye; and Mr. Cichon – nay

Mr. Maxon pointed out that the Chairperson had asked for those in favor, and those that said nay were not to respond yet. He said since it needs to be unanimous, it does not matter.

Mr. Bassette said he is aye, but it is unanimous.

### **CAWLEY REQUEST FOR REHEARING (HORSES)**

Mr. Bassette said the next applicant requesting a rehearing is Josh Cawley. The Board received a letter from the CEO, and it appears as if the applicant is looking to run a business which would put Mr. Cawley before the Planning Board for a Special Use Permit. He said whether the Board agrees to rehear the applicant or not, they would need the Planning Board's approval.

Mr. Bassette asked the attorney if the Board should vote or table it.

Mr. Hou said it is up to the Board. They can question the applicant if he wants to run a business and stable and when he wants to begin the business. Is it imminent or farther out? It will impact the Board's decision. It may be preliminary depending on the applicant's timing.

Mr. Bassette explained if Mr. Cawley receives a Special Use Permit from the Planning Board, it would still require a variance, but it would allow the Zoning Board to issue a more precise variance.

Mr. Tudhope told Mr. Cawley, with all this other stuff aside, the core issue is you are asking for too many animals for the acres you have. We can go down this path, but the core issue is there are too many animals. We can check all the boxes.

Mr. Cawley asked to comment, the Board gave him permission.

Mr. Cawley said answering about timing, he is not exactly sure of the timing of boarding horses or all those particulars. It would be someone that needs a place to live and run the business. They may not have the means to do it, but he created an LLC. He is in the agricultural district, and said his farm will most likely be run by himself, although it may not be. As far as the timing, he would like to be running it in 90 days for the house.

Mr. Cawley said it was a farm in 1820 and up until 10 years ago, there were horses. He needed to come before the Zoning Board, because there was a lapse of time when horses were there until now. He is before the Board because he has six months before he should have horses in the barn.

Mr. Cawley said he is presenting more new information than the previous meeting. He bought in 33 acres to put in from of the Board, plus he has 38 acres across the road. He owns a total of 64 acres, and he is asking for 12 horses to be in the existing 14 stall barn. He said he is experienced in manure management. He has spent 12 years of nutrient management with 300 animals on a dairy farm. He said he has worked with the Department of Environmental Control (DEC), and he know the slopes of the land and manure, and he is familiar with all of it.

Mr. Cawley said the house was decrepit and he fixed it, as well as the septic and driveway. He is a neighbor and wanted this lot to fit in. He is trying to do this all above board, and has the best intentions. He said what he intends to do is best for the neighborhood and the Town of Mendon.

Mr. Cichon said the applicant still wants 12 horses on two acres. He said he lives West of the property and times have changed. If he wanted three horses, then ok, but beyond that there would be run-off to the watershed and property. Mr. Cichon said he has grown up in the industry and horses get scared. If horses are crossing the street two times a day and a motorcycle is coming, horses are unpredictable animals on a busy street. If he had the barn on his property across the street, it would not be an issue. Mr. Cawley said that horses were there in 1820, but they were there also in 2010.

Mr. Bassette asked if the applicant owned the property across the street. Mr. Cawley said yes.

Mr. Cawley said the animals will be in the barn. Mr. Cichon said, except for January, February, and March.

Mr. Cawley stated the Board said the animals will be crossing the street two times a day, and that will not be the case.

Mr. Tudhope said Mr. Cawley has great intentions, but he would be much happier if he built a barn across the street. He said it is more money, but it would be better.

Mr. Cichon said as a neighbor had asked, where are people parking? What if the veterinarian is there and others, then people will be parking in the street?

Mr. Cawley said the reason he was denied the variance was not because of these reasons the Board is now stating. They are bringing in new information that was not mentioned before.

Mr. Bassette asked if the Board had enough information to have a rehearing as both sides have good points. It might be better for Mr. Cawley to pursue a Special Use Permit. Mr. Bassette asked the Town Board Liaison to the Zoning Board, who was the former Planning Board Chairperson, Brent Rosiek, if he could offer insight to the Special Use Permit approach.

Mr. Rosiek said the Special Use Permit has a wider scope to offer conditions, such as including the parcel across the street; however, it would still need a variance.

Mr. Bassette proposed to the Board to have a rehearing on the Cawley Area Variance for the horses, and defer to the Planning Board first. If they issue a Special Use Permit, they can condition it, since they have a lot more control and flexibility. Then, we would have a hearing, at which time, we would adhere to whatever the Special Use Permit, and who knows, maybe Mr. Cawley will decide to build the barn across the street where he has 30 acres.

Mr. Tudhope said to build the barn across the street. It is more money, but he will be happier.

Mr. Cichon said he could keep the existing barn as a tack barn.

**MOTION**

Mr. Maxon, moved, second by Mr. Mahood to rehear the applicant.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Mahood – aye; Mr. Tudhope – aye; and Mr. Cichon – aye.

**MOTION**

Mr. Maxon, moved, second by Mr. Cichon to table rehearing the applicant until the Planning Board makes a recommendation.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Mahood – aye; Mr. Tudhope – aye; and Mr. Cichon – aye.

**ABBOTT AREA VARIANCE DETERMINATION**

Mr. Tudhope moved, seconded by Mr. Maxon, that the area variance requested by Denise Abbott and Susan Reilly, 2 Shone Circle, Mendon, NY, consisting of 1.187 acres, with Tax account no. 216.01-1-72, zoned RA1, for a variance for an addition to add a third bedroom to a two-bedroom house with existing septic designed for a three-bedroom house and will have a side setback of 16', but zoning requires a side setback of 20', and therefore requires an area variance, be **approved** based on the following:

WHEREAS, Denise Abbott and Susan Reilly, the property owners appeared before the Zoning Board of Appeals at the public hearing on March 10, 2022; and

WHEREAS, The applicant is requesting a side setback of approximately 16 feet, for the purpose of constructing an addition to the existing house. Section 260-106 of the Mendon Zoning Code states the RA-1 has a side setback of 20 feet; and

WHEREAS, The neighboring lot is currently undeveloped, while the one past that has a house setback ~38 feet from the property line; and

WHEREAS, The leech field for the existing septic system is in front of the house; and

WHEREAS, Locating the addition to the rear or other side of the residence is impractical because of existing layout; and

WHEREAS, The intended use is for family to visit; and

WHEREAS, No members of the public commented during the public hearing; and

WHEREAS, This application is exempt from County Planning Board review under General Municipal Law 239-m pursuant to an agreement dated January 24, 1994 between the County and the Town which exempts matters set forth therein from further County review; and

WHEREAS, after review, the Zoning Board of Appeals has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

1. The requested benefit **cannot** be achieved by other feasible means, due to the existing layout.
2. The request is **not** substantial, as it is for 4 feet.

3. Upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as the impacted area is too small.
4. The request will **not** have an undesirable change in the neighborhood, as the neighboring property has sufficient space for future development.
5. The difficulty **was** self-created, as it is the applicants desired expansion driving this request.
6. This is a Type II action under SEQR

NOW, THEREFORE, BE IT RESOLVED that the application be **granted** for the reasons stated above.

**MOTION**

Mr. Tudhope, moved, second by Mr. Maxon to approve the Abbott-Reilly determination with no conditions.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Mahood – aye; Mr. Tudhope – aye; and Mr. Cichon – aye.

**MOTION**

Mr. Tudhope, moved, second by Mr. Mahood to adjourn the meeting at 7:57 pm.

**APPROVED**

Mr. Bassette – aye; Mr. Maxon – aye; Mr. Mahood – aye; Mr. Tudhope – aye; and Mr. Cichon – aye.

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