

A Regular Meeting of the Zoning Board of Appeals was held on Thursday, July 27, 2023 at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 pm.

PRESENT: Daniel Bassette
Dustin Cichon
Christian Mahood
Stephen Tudhope

ABSENT: Stephen Maxon

ATTORNEY: David Hou

OTHERS: Town Councilperson, Tom Dubois

Minutes were taken by Katrina Allen.

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

MINUTES

Mr. Tudhope moved, seconded by Mr. Cichon to approve the minutes from May 25, 2023 Zoning Board of Appeals meeting.

APPROVED

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

COAKLEY AREA VARIANCE PUBLIC HEARING

An area variance application by Thomas Coakley, 3303 Rush Mendon Road, Honeoye Falls, consisting of 19,000 square feet to rebuild a deck and add a wheelchair ramp, with a side setback of 17 feet, whereas code requires a 20-foot side setback, and therefore requires an area variance. Zoned RA-1. Tax account no. 215.01-1-29.

Sal Tripi, representing Mr. Coakley as his contractor, approached the Board and stated the applicant needs the house to be more handicap accessible. There is a sliding door off the kitchen and an existing deck. Mr. Tripi will make the deck accessible off the kitchen, rebuild the deck, and add a wheelchair ramp.

Mr. Tripi said the house is seven and a half feet off the property line, and the existing deck is three feet into the start of the house and 10.5 feet off the property line. The new deck will be 16.5 feet off the property line, so they are requesting a variance of three and a half to four feet.

Mr. Bassette asked how old the house is. Mr. Tripi said it is 100 years-old. Mr. Bassette said it predates zoning then.

Mr. Tripi explained the material and foundation of the proposed deck.

Mr. Bassette said he does not believe he formally opened the Public Hearing.

Mr. Bassette opened the Public Hearing at 7:04 pm.

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

PUBLIC COMMENT

None

MOTION

Mr. Cichon moved, seconded by Mr. Mahood, to close the public hearing at 7:04 pm

APPROVED

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

THE HAVEN AT WESTMINSTER/HOLLICK AREA VARIANCE PUBLIC HEARING

An area variance application by Angela Hollick of ASE Havens, LLC, 3886 Rush Mendon Road, Mendon, NY for property located at 3880 Rush Mendon Road, Mendon, NY, consisting of .33 acres, for a short-term rental within two units having up to eighteen (18) overnight guests, whereas code requires overnight occupancy for any short-term rental unit shall not exceed eight (8) people and therefore requires an area variance. Zoned Business District. Tax account no. 216.07-1-1.

Ms. Hollick was welcomed to the table.

Mr. Bassette said Ms. Hollick will see other Boards after them.

Mr. Bassette opened the Public Hearing at 7:06 pm.

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

Ms. Hollick stated she purchased Westminster 15 years ago. She bought Benicasa when the moratorium was in effect, and she did not know the maximum number of overnight guests. She can split the house into two units with a door. For weddings, this would not be needed, but for others if they want the bottom and do not want the upstairs accessible. She said she is asking for up to 18 guests.

Mr. Bassette asked if she anticipates renting two units separately. Ms. Hollick said no, only during the solar eclipse or if the PGA returns. She does not want to charge the full house price when they only want one unit.

Ms. Hollick said she spoke with Town Councilperson, Brent Rosiek, because of the septic seepage pits. He said it would not be a problem. She has a gentleman from Geneva coming out next week, who stated he did not see a problem, but if there was, water fixtures could be switched out if needed.

Mr. Bassette said there is a letter from the Code Enforcement Officer (CEO) and the Department of Health (DOH). He said the downstairs unit has six bedrooms, and the upstairs has 12. Code has a maximum of eight, so it is 14 total versus the 18. He asked why she is she pursuing the extra people. Ms. Hollick said so her wedding guests from Westminster are not capped and search out Air B&Bs in other towns or hotels.

Mr. Mahood asked what Ms. Hollick's plans are outside of wedding guests. Ms. Hollick said she knows there will be weeks without renters. She may have people stay when they move their child to college, holidays, funerals, or possibly skiing. She does not expect many weekday renters. She is not sure outside of her Westminster clients.

Mr. Bassette asked how many weddings she has. Ms. Hollick said last year, she had fifty weddings.

Mr. Tudhope asked what the zoning district is. Mr. Cichon said there are homes across the street or on her side of the street. Ms. Hollick said there are not residences next door and explained her location. Mr. Bassette said it is in the Business District but there are houses there. Ms. Hollick said next door is Westminster and the Tavern is on the other side of the trailhead.

Mr. Bassette said on the topic of the trailhead. Ms. Hollick said there is a letter of support from the Mendon Foundation. Mr. Bassette said the County said to mind the trailhead. Ms. Hollick asked if she needed fencing, and Mr. Bassette said whatever she thinks is suitable.

Mr. Bassette waived the reading of the five questions as they have been answered.

PUBLIC COMMENT

Karin McKenna, 3877 Rush Mendon Road, said she lives across the street from the property and is opposed to an 18-person hotel. She wants to know who watches the noise. She said it would be up to the neighbors. She said people park right at her driveway, and it narrows Route 251.

June Williams, 21 Village Tail, said she is speaking on behalf of the Stotts. They are in favor of this variance. Ms. Hollick bought the house to keep her wedding guests in town and for the businesses, which have been struggling since Covid.

Brian King, 10 Assembly Drive, said he has a marketing company in the hamlet. He supports Ms. Hollick as she is incorporating a business in the business district, and it helps the hamlet.

Mr. Tudhope asked Ms. Hollick where she lives. She said she lives on Hiram Way off Sibley Road, so she is close by.

Mr. Bassette asked the Board if there were any questions.

Ms. Hollick asked if she could add a couple points. She said she is not having anyone stay there for 30 days, and there will only be the bridal party the night before the wedding.

Mr. Mahood stated there is a maximum time period on short-term rentals. As the law was passed, it is 30 days or less. Anything longer than that is a month-to-month rental. Ms. Hollick said she does not anticipate a month-long stay, and a month-to-month is more negative than a short-term rental.

MOTION

Mr. Tudhope moved, seconded by Mr. Mahood to close the Public Hearing at 7:45 pm.

APPROVED

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

The Board discussed the Coakley Area Variance determination. Mr. Bassette read the draft determination.

COAKLEY AREA VARIANCE DETERMINATION

Mr. Tudhope moved, seconded by Mr. Mahood, that the area variance requested by Thomas Coakley, 3303 Rush Mendon Road, Honeoye Falls, consisting of 19,000 square feet, with Tax account no. 215.01-1-29, zoned RA-1, to rebuild a deck and add a wheelchair ramp, with a side setback of 17 feet, whereas code requires a 20-foot side setback, and therefore requires an area variance, be **approved** based on the following:

WHEREAS, Sal Tripi, representing the property owner appeared before the Zoning Board of Appeals at the public hearing on July 27, 2023; and

WHEREAS, Section 260-106 of the Mendon Zoning Code states the RA-1 District has a side setback of 20 feet. The applicant is requesting a side setback of approximately 16 feet; and

WHEREAS, The existing house is ~3 feet from the closest point on the property line. The property line is irregular, such that the majority of the house has a setback of ~7 feet; and

WHEREAS, There is an existing deck behind the house, which the applicant intends to rebuild, adding a wheelchair ramp to it in the process; and

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

WHEREAS, This application was sent to the County Planning Board for review under General Municipal Law 239-m and the County replied considering it "Local"; 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, as the existing location of the house prevents reasonable alternatives.
2. The request is **not** substantial, as the existing house has a smaller setback, and this would have a negligible increase in the infringed area.
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 scale is sufficiently small.
4. The request will **not** have an undesirable change in the neighborhood, as the change is obscured from the road and repairs the existing deck.
5. The difficulty was **not** self-created, as the existing house is in such proximity to the property line.
6. This is a Type II action under SEQRA
7. This variance also applies to the restoration of the existing deck.

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

MOTION

Mr. Tudhope moved, seconded by Mr. Mahood to approve the Coakley Area Variance per the determination.

APPROVED

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

The Board discussed the Haven at Westminster Area Variance.

Mr. Tudhope asked what keeps this from being a hotel and many more hotels starting. Mr. Hou explained the Code and these are not hotels.

The Board discussed the draft determination of the Haven at Westminster Area Variance.

Mr. Bassette read the draft determination.

HOLLICK AREA VARIANCE DETERMINATION

Mr. Tudhope moved, seconded by Mr. Mahood, that the area variance requested by Angela Hollick of ASE Havens, LLC, 3886 Rush Mendon Road, Mendon, NY for property located at 3880 Rush Mendon Road, Mendon, NY, consisting of .33 acres, with Tax account no. 216.07-1-1, zoned Business District, for a short-term rental within two units having up to eighteen (18) overnight guests, whereas code requires overnight occupancy for any short-term rental unit shall not exceed eight (8) people and therefore requires an area variance, be **approved** based on the following:

WHEREAS, Angela Hollick representing ASE Havens LLC, the property owner appeared before the Zoning Board of Appeals at the public hearing on July 27, 2023; and

WHEREAS, The Code Enforcement Officer submitted a letter dated July 19, 2023 offering his opinion on this matter. To summarize, it is his view that the issue before the ZBA is the number of people in bedroom #4 and #7. He also expressed the need for the Monroe County Health Department to verify the capacity of the septic system; and

WHEREAS, The building was previously operated as a hospice, and the applicant does not intend to make any changes to the exterior of the building; and

WHEREAS, The applicant intends to treat the building as containing two Short Term Rental units. The unit on the first floor would have six (6) beds, and be in compliance with the code. The unit on the second floor would have twelve (12) beds, and exceed the code by four (4); and

WHEREAS, Section 236-7A.9. of the Mendon Town Code states the maximum occupancy for each Short-Term Rental unit shall not exceed two (2) people per bedroom, whereas the applicant seeks a four (4) person occupancy in bedrooms # 4 & #7, both located on the second floor of the building; and

WHEREAS, Increasing the occupancy of bedrooms # 4 & #7 would lead to exceeding the limit of eight (8) people per unit, as stated in sections 236-7A.9. and 236-7A.10. of the Mendon Town Code; and

WHEREAS, Mendon Town Code 236-6.C. and 236-13 explicitly grant the Zoning Board of Appeals authority to review this variance request; and

WHEREAS, Bedrooms # 4 & #7 are the largest bedrooms, being ~240 square feet in size, while the other bedrooms vary between ~120 and ~200 square feet; and

WHEREAS, A number of letters in support of this usage were submitted by nearby residents; and

WHEREAS, Members of the public were given the opportunity to comment during the public hearing; and

WHEREAS, This application was sent to the County Planning Board for review under General Municipal Law 239-m and the County returned comments dated July 26, 2023; 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, as this method makes use of the current configuration of the structure.
2. The request **is** substantial, as it doubles the occupancy in two rooms, leading to a 50% increase in total occupancy of the second-floor unit.
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 scale of the request is sufficiently small.
4. The request will **not** have an undesirable change in the neighborhood, as the applicant believes it will be similar to the previous usage.
5. The difficulty **was** self-created, as it is the applicants desired use of the building 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, subject to the following conditions:

1. The requested variance shall not be granted until Monroe County Health Department provides documentation verifying the septic system has the capacity to support the requested usage.
2. This variance is conditioned on obtaining all other local and/or county approvals that may be required to operate the proposed two (2) unit Short Term Rental.

MOTION

Mr. Tudhope moved, seconded by Mr. Mahood to approve the Haven at Westminster Area Variance per the determination.

APPROVED

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

GENERAL DISCUSSION

The Board discussed the 6/8/23 and 6/24/23 meetings are canceled as there are no agenda items.

MOTION

Mr. Tudhope moved, seconded by Mr. Mahood to adjourn the meeting at 7:48 pm.

APPROVED

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