

**TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of March 3, 2016**

PRESENT:

Mr. Anginoli
Mr. Keegan
Mr. Casscles (absent)
Mr. Vasti (absent)
Mr. Porath
Mr. Lynch

ALSO PRESENT:

Alak Shah, Attorney

Chairman Wright

Chairman Wright: Good evening. I see by the clock it is 7:00 PM. I will call this meeting of the Zoning Board of Appeals of the Town of Stony Point to order; please rise for the Pledge of Allegiance.

We have a couple of items on the agenda; the big one is the request of Douglas & Annalisa Badstein.

REQUEST OF DOUGLAS & ANNALISA BADSTEIN

A variance from the requirements of Chapter 215, Article VII, Section 30 B, to permit the construction of a shed with less than required minimum spacing between principal and accessory building: Required 15 feet Provided 3 feet at 225 Route 210, Stony Point, N.Y.

Section 15.03 Block 1 Lot 64.1 Zone RR

*****MOTION:** Mr. Anginoli made a motion to open the Public Hearing; seconded by Mr. Keegan. Hearing all in favor. The motion was carried.

Chairman Wright: Are the representatives or the applicants present? Would you just come forward and just identify yourself.

**ANNALISA BADSTEIN
225 Route 210
Stony Point, New York**

Chairman Wright: Can you just explain to the Board here what your intents are; what you are looking to do with the property and what the variance is for?

Mrs. Badstein: For the shed that's there. There was an existing shed that we replaced and the one that's there is for storage. We don't have usable basement; it floods. It gets a lot of water there. We don't have attic space. We don't have proper amount of storage in the house for closet wise. It is a small home. So the shed that's there now just replaced the one that was existing and falling apart.

Chairman Wright: Any questions from the Board?

Mr. Keegan: You did say that the basement floods?

Mrs. Badstein: Yes.

Mr. Keegan: So there is a drainage issue then?

Mrs. Badstein: There is a sub-pump there and the water comes in from underneath the ground so it's below...it comes off the mountain and it comes down inside and so water does come into the lower part of the basement. It's always been that way and we just can't use it. There's no way its dirt pretty much...pretty much a dirt basement. It's not finished at all.

Mr. Lynch: This shed, is it the same size as the previous one?

Mrs. Badstein: Its slightly bigger then it was, but it's in the same location that the one was before.

Mr. Porath: Given the lay-out of the property, is there any feasible alternative to where you want to place it?

Mrs. Badstein: We had discussed it. We were going to put it on the other side of the house which faces towards West Main, but we have a septic tank and it would go where that is and there is not a lot of extra space or even accessible roadway or driveway to get to it because it would come up on the sidewalk. There's just no where else to put it and if we did put it above there's no driveway to get to it.

Mr. Porath: So there's really no reasonable alternative other then requesting a variance.

Mrs. Badstein: Absolutely.

Chairman Wright: Any questions?

(no response)

Chairman Wright: And the other shed – was that wood or was it old...

Mrs. Badstein: It was metal and every winter since we've had...in the last few years we've had really bad storms. We've had to keep on putting up "sister columns" just to keep it from falling down and it looked terrible and it was an eyesore. It didn't make the property look very nice and you could see it so we took it down. It was unsafe.

Chairman Wright: I think when we went there what we saw was that you really have fairly steep slopes almost immediately behind the property...

Mrs. Badstein: Absolutely...it's tiered off but lock walls.

Chairman Wright: So to the extent that you have it away from the house it's about as far away from the house as really you can do it and have any motion around it even for the upkeep for the shed that you have there now.

Mrs. Badstein: You can get...if you are asking if you can have proper accessibility around the shed that we can fit through there – yes.

Chairman Wright: I see just from the geography you are kind of locked into that one area. It seems to me that...your neighbors wouldn't even be able to see it too many places cause it is lower than the roof-line of the house or it is close its not higher than the roof-line of your house; so it's not even something you could see. So one thing you would look at is it really going to change the complexion of the neighborhood and I really can't see even if you could do that. There's a lot of screening and a lot of natural foliage around there and I think where Mr. Porath was going to – you are kind of limited even to your own property. It's about the only place you can really put it.

Mrs. Badstein: That we can get to it.

Chairman Wright: So one of the things we are looking at from a benefit perspective is that you want to be able to get to it even in the bad weather in the winter and if you can put it further back on the property would you say it would be more difficult to get to...

Mrs. Badstein: Oh absolutely.

Chairman Wright: and the things you want to use it for you want to be able to get to in the bad weather, so...

Mrs. Badstein: Yes.

Chairman Wright: and I think looking at Google maps when you look at it, just other properties and location it didn't seem as though it was much different...the lay-out of the property didn't seem much different then theirs; so I didn't see it would be a huge difference. Infact, if anything it would be, in the proximity to the house more of an issue for you to deal with then really with any of your neighbors.

Mrs. Badstein: Yes.

Chairman Wright: Do you have anything else you want to add to the Board?

Mrs. Badstein: No.

Chairman Wright: Okay, you might want to...you just want to stay around to see if anybody else wants to speak – your neighbors...

Mrs. Badstein: That's my dad and my step-son. No neighbors are here. We got all our tickets back so hoping that nobody comes.

Chairman Wright: I'll ask them do they have anything they want to say to the Board.

(no response)

Chairman Wright: The only thing that Mr. Keegan is bringing up is we have...and we have to get our Council to kind of talk to them...we have to reach out to the County because you are by a County road and they have a recommendation that we just want to clear with him to see what that means so...

Mrs. Badstein: I believe if you are looking at the survey, is that you are saying, where our property lines are.

Chairman Wright: No, there is a letter from Rockland County dated March 2, 2016...

Mrs. Badstein: Oh, I didn't receive that.

Chairman Wright: You wouldn't have this is just something we have to do when a variance is being requested by property that is within a certain distance of a County road and there are two (2) recommendations they have here. We just want to check with our Council to make sure we that those are fulfilled and we can precede from there. Other than that though...

Mrs. Badstein: Would they make us aware of them or is it something you would vote on internally?

Chairman Wright: It would probably happen through Kathy if there is something out there that you need to respond to so it's not a "red flag" right it's just an administrative item we need to deal with. Other than that, we don't have anything else, but I don't know if we can close the Public Hearing until we really get from...

Mr. Porath: Can we close it...I guess we can't close it subject to any other...

Mr. Keegan: No, because then you start a clock...

*****MOTION:** Mr. Keegan made a motion that the Public Hearing remain open; seconded by Mr. Anginoli. Hearing all in favor; the motion was carried.

(Alak Shah, attorney just arrived. Went to wrong building for the meeting.)

Chairman Wright: These are our applicants for...they are looking to put in a shed on a piece of their property and we just had the Public Hearing and we kept it open. I think there is a consensus around the Board as to where we want to go with it. It is a small shed replacing an older shed that was dilapidated. The Code calls for it to be 15 feet away from the house; it's really about 3 feet away from the house, but that's due to the geography of the property. It's very steep and hilly and the only other location where they can put it would be on top of their septic system which really isn't an option. So I think we kind of went through the five (5) steps for the most part:

- Undesirable change in character adjacent to the neighborhood properties. It's really...you can't even see it and there is a lot of vegetative screening around so you wouldn't even see it. And anybody...I think the neighbors have similar size sheds on their property anyway.
- Can a benefit be achieved by another variance – we kind of went through that. We really can't and believe me I am sure the applicant doesn't want it to be that close to the house; it's really pretty close, but it's about the only place they can put it that is somewhat accessible to them even in bad weather. So there is some kind of convenience there, otherwise if you put it way back on the property and I don't know if it would be really much of a help in really bad weather.
- Is it substantial – it is substantial that it is like close to the house, but this shed size is not really substantial? It is kind of a standard shed.

If you guys want to add to that...

Mr. Porath: No, I think you got...

Mr. Lynch: No, that is fine. If it was connected to the house you would call it a garage.

Chairman Wright: It would be a small garage.

Mr. Lynch: It is right in the driveway and right there and if they just connected it to the house you would have a garage. It was 3 feet off the back and about 18 inches off the one side of it, right there in that one alleyway and then you had the slopping wall; so you know...

Chairman Wright:

- Is it self-created – yes it is self-created that they want a shed, but all the things around them are really kind of nature created all the obstacles for them, so....

Mr. Lynch: And close to the driveway gives it its natural foundation. They didn't have to pour the cement or the stone, what is it 6 to 8 inches of stone...

Mr. Shah: It's going to be right on the driveway?

Chairman Wright: So the driveway goes up that it kind of spreads out and that's where they would put the shed, so...

Mr. Shah: That seems fair.

Chairman Wright: The only thing that was outstanding for us that we weren't sure of, and this is why we kept the Public Hearing open and maybe you can give us some ideas on that one, Rockland County came back, because it is right off of Route 210, which is a County road, and in their letter of March 2, 2016, they have a recommendation – it says:

Recommend the following modifications:

1. A review must be completed by the County of Rockland, Department of Highways and all the required permits obtained.
2. A review must be completed by the County of Rockland Drainage Agency and all required permits obtained.

So short of having those things available to us we really didn't want to close the Public Hearing and since we might be getting more information from the County.

Mr. Keegan: And there is one more item, Counselor that during her testimony she testified there is water that comes in to the thing so whether that is an issue or not...

Mr. Shah: There is water that comes into...

Mr. Keegan: It's on the record that she says that her basement fills up with water so I don't know if...which is why they built this to begin with, so obviously maybe this doesn't have a drainage problem.

Mr. Porath: The shed doesn't have a drainage problem.

Mr. Shah: So the water goes into the basement and the shed is above ground so it doesn't actually take on water.

Mr. Porath: They are using the shed in lieu of the basement for storage.

Chairman Wright: Now is there something from our office that has to be done to get that done or does the County do it automatically?

Mr. Shah: Did we already notify Department of Highways or Drainage?

Miss Kivlehan: I think the Highway Department has to be notified.

Chairman Wright: And that is something we would need to do that?

Miss Kivlehan: The GML could have been sent; but I don't have any of the papers.

Mr. Shah: It actually looks like the Rockland County Executive copied the Department of Highways and Drainage Agency.

Chairman Wright: This is from them so we must have notified them in order for them to even respond to it.

Mr. Shah: Sometimes what happens the County, when we notify the County they spread it out to other Departments if they think it might be necessary, so that may be what happened with this copy. What we can do is just simply follow-up with Department of Highways and see if they have any comments or if they could at least give us a letter saying they do or don't; whatever it is.

Chairman Wright: Do you agree that we should just probably keep the Public Hearing open until we hear back from them?

Mr. Shah: I don't think it's necessary to keep the Public Hearing open. It's really just the review that we need from them; it's not really saying that we need to...I guess it depends if they do have any issues then we might want to re-open or we can keep it open in time.

Chairman Wright: So we will keep it open and then we will wait and you'll just follow up and see if they've done those things.

Mr. Shah: We can do that; sure.

Mr. Keegan: Counselor, from my past thing even if they turn it down we could still approve it with a super-majority; am I right about that.

Mr. Shah: Yes. As long as four (4) votes are overruling that; that is fine.

Mr. Keegan: Okay.

Chairman Wright: The last item on the agenda is to accept the minutes of February 4 and February 18 – well let me do it this way.

*****MOTION: Mr. Anginoli made a motion to accept the minutes of February 4, 2016; seconded by Mr. Porath. All in favor; the motion was carried.**

*****MOTION: Mr. Anginoli made a motion to accept the minutes of February 18, 2016; seconded by Mr. Porath. All in favor; the motion was carried.**

Chairman Wright: With that unless there is any other business that we need to bring up...

Mr. Keegan: The trucks...

Mr. Porath: But that's an enforcement issue; that's not a Zoning Board issue. Unfortunately I get your point, but other than...

Mr. Keegan: No, that is fine. It is an enforcement issue. At our last meeting we approved the variance for the local hardware store to have a rented truck out in the parking lot that is described and when I went by the other day there were two (2) trucks there; which is like a week after we approved it, but it was at night when really the store is closed so nobody is there so I don't know if that's an issue or it's not an issue or whatever.

Mr. Shah: So are they in violation of the variance?

Mr. Keegan: The variance was for one (1) truck, but if it's at night...it's really like a mute issue if you think about it, but it would be there in the morning when the store opened.

Mr. Shah: Was it still there in the morning?

Mr. Keegan: Oh, I didn't go by in the morning. I don't know.

Chairman Wright: I think they would probably be in violation because the truck that we provided the variance for met the variance guidelines. The probably was there was a second truck there...in my mind that is still a violation if somebody called up then they could have a violation on the second truck, but they wouldn't really be able to write a violation on the first truck because it conformed to the variance.

Mr. Keegan: The first truck is fine, but I'm...one of the local people who is someone who oversees a lot of stuff that we do, he came and testified and he was against this so I don't want us to look foolish.

Mr. Shah: I don't think it would come back to you that would be something the Inspector or a Code Enforcement or whoever would handle that.

Mr. Keegan: That is pretty much what we decided.

Mr. Porath: I think we all agree it's not a Zoning Board issue. Have you seen two (2) trucks there multiple times?

Mr. Keegan: Just the night before last.

Mr. Porath: Somebody could have been dropping them off and dropped it off after hours.

Chairman Wright: So with that, unless there is anything new I will adjourn the meeting.

*****MOTION**: **Mr. Anginoli made a motion to adjourn the meeting of March 3, 2016; seconded by Mr. Lynch. Hearing all in favor; motion carried.**

Respectfully submitted,

Kathleen Kivlehan