

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of September 7<sup>th</sup>, 2023**

**PRESENT:**

Mr. Keegan  
Mr. Anginoli  
Mr. Lynch  
Mr. Strieter  
Ms. Davis  
Mr. Veras  
Chairman Wright

**ALSO PRESENT:**

Dave MacCartney, Attorney  
John Hager, Building Inspector

**Chairman Wright:** Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of September 7, 2023, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

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Chairman Wright called for the first item on the agenda, a new application.

**Request of Alan Stoll – 173 Wayne Ave – App. # 23-03 (Area Variance)**

**1 Family - subdivide to build a new single-family house**

Chapter 215, Article V Bulk Requirements, 215-15 A,  
215 Attachment 14, Table of Bulk Requirements II, column 2 requires:  
Minimum lot area required = 40,000sf  
Lot area proposed = 23,411sf  
Variance necessary = 16,589sf

**Section: 15.01**

**Block: 4**

**Lot: 57**

**Zone: RR**

Chairman Wright called for the applicant or representative of the applicant to address the podium.

Kevin Rodriguez, 14 Tomlins View, addressed the Board as the applicant's representative. Alan Stoll, 173 Wayne Avenue, was also present. Chairman Wright advised the applicant that he is only looking for an overview of the application and the variance they are seeking. Mr. Rodriguez explained Mr. Stoll is looking to subdivide his property to build a single-family residence in the RR zone. The lot sits on wetlands, causing a 50% reduction available in space.

Chairman Wright asked if the Board has any questions for the applicant. Mr. Lynch asked if the wetlands had developed from the building of McCarthy Circle. Mr. Stoll replied, "yes, that's correct."

Chairman Wright called for a motion to continue the public hearing to September 7, 2023.

**\*\*\*MOTION: Mr. Lynch made a motion to accept the application; seconded by Mr. Anginoli. All in favor; the motion was carried.**

Chairman asked the Board if they'd like to do another site visit, all declined. He then set the public hearing date for September 21, 2023. Chairman Wright then explained the GML process to the applicant, including the responses of agencies involved.

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Chairman Wright addressed the public advising them that 111 S. Liberty Drive's application will not be discussed at tonight's meeting, and not open for public input at this time.

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Chairman Wright calls for the next item on the agenda.

**Request of Samara Bibi – 191 W. Main St – App #23-05 (Use Variance)**

Town of Stony Point Zoning Code Chapter 215, Article III. Districts; Maps

215-9 Compliance Required, A.

"No building shall be ... used for any purpose in any manner except in compliance with this chapter and all other applicable laws, together with all rules, requirements and restrictions appurtenant thereto".

Previous use = (pre-date) mixed use, commercial on first floor with residence use on second floor

Existing use = (nonconforming) unlawful 3-family residential dwelling

Proposed use = (nonconforming) lawful 3-family residential dwelling

Variance necessary = Use Variance for Multi-family residential use  
Town of Stony Point Zoning Code Chapter 215, Article XIV. Nonconforming Uses and Noncomplying Bulk

215-95. Additional requirements, B.

'Change of use. Any nonconforming use may be changed to any conforming use or, on application to and with the approval of the Board of Appeals, to any use which the Board of Appeals deems to be more similar in character with the uses permitted in the district in which said change of use is proposed...."

Previous use = (pre-date) mixed use, commercial on first floor with residence use on second floor

Existing use = (nonconforming) unlawful 3-family residential dwelling

Proposed use = (nonconforming) lawful 3-family residential dwelling

Variance necessary = Use Variance for Multi-family residential use

Town of Stony Point Zoning Code Chapter 215, Article X. Site Development Plan Review

215-59 General requirements

"...For uses other than single-family detached residences, site development plan approval shall be required prior to the issuance of a building permit, certificate of occupancy or certificate of use for the construction of a new principal structure, or external alteration or addition thereto or for the construction of any accessory structure used for a use permitted by conditional use or special permit use or external alteration or addition thereto. Modification of parking layouts, lighting, required landscaping or other site elements shall be deemed an external alteration. No lot or parcel of land shall be used except in conformity with an approved site development plan, when required...."

Previous use = (pre-date) mixed use, commercial on first floor with residence use on second floor

Existing use = (nonconforming) unlawful 3-family residential dwelling

Proposed use = (nonconforming) lawful 3-family residential dwelling

Approval necessary = Planning Board Site Development Plan (due to change of use)

### **\*\*Applicant withdrew application\*\***

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Chairman Wright calls for the next item on the agenda.

#### **Request of Richard Steinberg – 7 Highview Avenue – App. #23-04 (Area Variance)**

##### **1 Family Detached Dwelling – construct new 2 story house & appurtenances.**

Chapter 215-94 (D) Noncomplying Lots

"For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(d) The minimum lot width and lot frontage shall be 75 feet."

Existing lot width = 50'

Proposed lot width = 50'

Variance necessary = 25' (width)

Existing lot frontage = 50'

Proposed lot frontage = 50'

Variance necessary = 25' (frontage)

**Section: 20.07**

**Block: 3**

**Lot: 72**

**Zone: R1**

Chairman Wright calls the representative of the applicant to the podium. Richard Steinberg addresses the Board.

Richard Steinberg, 10 Ash Court, New City NY, addressed the Board as the applicant. Chairman Wright asked Mr. Steinberg where we left off at the last meeting. Mr. Steinberg responded that there was a question regarding whether it met the criteria for the Town Code. He went on to explain there was a discussion with the building inspector and the town attorney that addressed bringing it up to code. He said the question was that one side was 7ft, but the professionals calculated 5ft.

Mr. Lynch asked, "wasn't there a real estate agent that spoke at a previous public hearing that said this property can only be sold with the adjacent property?" Mr. Hager replied, "John, I believe you are correct. She brought that comment at the meeting. She did make an inquiry to my office quite a bit ago. At that time, it was owned by someone who owned the adjacent property. This provision in the code has it worded that with a non-conforming lot, it does prescribe you have to own that single lot. You can't have an adjoining property in order to take advantage of that." Mr. Lynch followed up asking, "so it had to stand alone...\*inaudible\*." Mr. Hager responded, "at the time, it did not qualify for this provision because the same owner had both lots. Subsequently, they sold off this lot so now

they have not one owner that owns both lots, so now it does qualify for that.” Mr. Lynch then asked for clarification, “so now this qualifies him to use this special code?” Mr. Hager replied, “correct, that’s why she (Patsy Duncan, realtor) was given a different answer about whether it can be developed. At the time the current applicant was told that it can’t be built on until these variances are given. The other person who had interest was told they couldn’t take advantage of that because of the ownership of the adjacent lot. “

Nicole advised the Chairman that the town attorney’s associate was arriving shortly. He was mistaken for the time of the meeting.

Chairman Wright asked John Hager for his opinion on the application. Mr. Hager referred to his letter submitted on July 21<sup>st</sup>, which had not yet been reviewed by the town attorney. Mr. Steinberg asked if he could have a copy of the letter, but Chairman Wright advised he will discuss it with our attorney’s associate when he arrives.

Mr. Anginoli added that he believes that the variance is quite substantial, therefore he asked Mr. Steinberg if there is any way he could build a smaller house. Mr. Steinberg replied that he is building a 3-bedroom residence without a garage, he does not feel that he could go any smaller.

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Chairman Wright called for a motion to go into executive session at 7:27pm for a privileged discussion with the ZBA attorney.

**\*\*\*MOTION: Ms. Davis made a motion to go into executive session for attorney-client privileged discussion with ZBA attorney; seconded by Mr. Keegan. All in favor; the motion was carried.**

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Chairman Wright called for a motion to come out of executive session at 7:35pm.

**\*\*\*MOTION: Mr. Keegan made a motion to come out of executive session for a privileged discussion with the ZBA attorney; seconded by Mr. Anginoli. All in favor; the motion was carried.**

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Chairman Wright continued the meeting advising Mr. Steinberg that our attorney’s associate would like to have a discussion with Dave MacCartney before he comments on the letter submitted by John Hager. Chairman Wright goes on to address the Boards concerns about the size of the house proposed. Mr. Steinberg commented that the 28x40 house fits the lot according to zoning and refers to the bulk table on the plans submitted. He goes on to say that the setbacks are compliable, and he cannot go any smaller. Mr. Hager suggested he could build something with a dormer to enlarge the living space a bit. Mr. Steinberg replied that the code only allows him to go up 25-feet, therefore, with a dormer he would be at about 35-feet.

Chairman Wright called for a motion to continue the public hearing to the meeting of September 21, 2023.

**\*\*\*MOTION: Mr. Anginoli made a motion to continue the public hearing to the meeting of September 21, 2023; seconded by Mr. Keegan. All in favor; the motion was carried.**

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Chairman Wright called for a motion to adjourn the meeting of September 7, 2023.

**\*\*\*MOTION: Ms. Davis made a motion to adjourn the meeting of September 7; seconded by Mr. Keegan. All in favor; the motion was carried.**

Respectfully submitted,

*Nicole Flannigan*

Secretary  
Zoning Board of Appeals

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of September 21<sup>st</sup>, 2023**

**PRESENT:**

Mr. Keegan  
Mr. Anginoli  
Mr. Lynch  
Mr. Strieter (absent)  
Ms. Davis  
Chairman Wright

**ALSO PRESENT:**

Dave MacCartney, Attorney  
John Hager, Building Inspector

**Chairman Wright:** Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of September 21, 2023, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

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Chairman Wright called for the first item on the agenda.

**Request of Alan Stoll – 173 Wayne Ave – App. # 23-03 (Area Variance)**

**1 Family - subdivide to build a new single-family house**

Chapter 215, Article V Bulk Requirements, 215-15 A,  
215 Attachment 14, Table of Bulk Requirements II, column 2 requires:  
Minimum lot area required = 40,000sf  
Lot area proposed = 23,411sf  
Variance necessary = 16,589sf

**Section: 15.01**

**Block: 4**

**Lot: 57**

**Zone: RR**

**\*\*\*MOTION: Mr. Anginoli made a motion to open the public hearing; seconded by Mr. Lynch. All in favor; the motion was carried.**

Chairman Wright asked if the applicant or representative of the applicant would please come forward.

Anthony Celentano, engineer for the applicant, and Alan Stoll, the applicant, addressed the Board.

Mr. Celentano advised the Board his client is looking to build a single-family residence on his property for a relative. He continues to explain they are held up due to the determined wetlands in the rear of the property.

Chairman Wright asked if the application is before the Planning Board, and Mary Pagano confirmed the Planning Board is lead agency and is awaiting the SEQRA process.

Mr. Lynch asked how the wetlands developed on the property. Mr. Stoll explains that the land was mostly dry until McCarthy Circle was built. He goes on to explain that the runoff water built up over time.

Chairman Wright asks Mr. Stoll if the wetlands are completely in connection to the building of McCarthy Circle, created by someone else. Mr. Celentano confirmed this is correct.

Mr. MacCartney asked if the wetlands didn't exist, would the applicant be able to do what he is asking. Mr. Stoll and Mr. Celentano confirmed that is correct.

Chairman Wright suggested we hold off on continuing the conversation until the county responses come back and the Planning Board completes the SEQRA process. He asks if there is anyone from the public that would like to speak to please address the Board.

Oksana Hauser, 8 McCarthy Circle, addressed the Board. She wanted to see the site plans submitted for the project and confirmed with Mr. Celentano where the wetlands are on the plans. She goes on to express concerns that the wetlands are protected and treated regularly by the County. Mr. Celentano and Mr. Stoll confirmed that the wetlands are not protected, and the County would come for mosquito treatment.

The next person of the public to speak is Tim Hauser, 8 McCarthy Circle. He advised the Board that he had to pay the County to do the mosquito treatment on a property he used to own in Nyack, therefore, if nobody is paying the County for this treatment, it may be County property.

The next person of the public to speak is Al Istorico, 2 DeCamp Ct. He expressed concerns about the drainage he already deals with during heavy rainfall, as well as where the septic will be in radius to his well.

The next person of the public to speak is Dorinda Sawyer, 1 McCarthy Circle, asked if the land will be raised or if it will remain low as it is now. Mr. Stoll confirmed it will remain the same.

The next person of the public to speak is Ian Wiacek, 4 Decamp Ct, raised concerns about flooding problems they already experience. He is concerned about possible conflict between neighbors when another house is built.

Chairman Wright asked if there was anyone else wanting to speak on behalf of the application.

**\*\*\*MOTION: Mr. Anginoli made a motion to continue the public hearing to the meeting of October 5<sup>th</sup>, 2023; seconded by Mr. Lynch. All in favor; the motion was carried.**

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Chairman Wright called for the next item on the agenda.

**Request of Richard Steinberg – 7 Highview Avenue – App. #23-04 (Area Variance)**

**1 Family Detached Dwelling – construct new 2 story house & appurtenances.**

Chapter 215-94 (D) Noncomplying Lots - "For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(d) The minimum lot width and lot frontage shall be 75 feet."

Existing lot width = 50'

Proposed lot width = 50'

Variance necessary = 25' (width)

Existing lot frontage = 50'

Proposed lot frontage = 50'

Variance necessary = 25' (frontage)

**Section: 20.07**

**Block: 3**

**Lot: 72**

**Zone: R1**

Chairman Wright asked if the applicant or representative of the applicant would please come forward. Richard Steinberg, the applicant, addressed the Board.

Chairman Wright asked John Hager to give his opinion of the items listed on the County letter. Mr. Hager explains that his interpretation of the County letter is that they do not interpret in the same manner as the town. He adds the fire code is stricter than our zoning code in this case, so 5 feet is the minimum.

Chairman Wright asked Mr. Steinberg if he would agree with the 5 feet minimum. Mr. Steinberg confirmed he has no problem with the 5 feet. Mr. Hager asked if Mr. Steinberg disagrees with the County interpretation, and Mr. Steinberg confirms he agrees and meets the requirements. Mr. MacCartney notes the importance of interpretation of the code section on the bulk table measurements and the relief it allows if it meets the required setbacks.

Chairman Wright asked Mr. Hager what would be required to add a shed or detached garage. Mr. Hager advised that the applicant must continue to follow the code requirements on the setbacks for any proposed accessory structure.

Chairman Wright asked the Board if they are ready to close this public hearing. Mr. MacCartney suggested to the Chairman that they allow the members of the public to speak before closing the public hearing.

Gary Galanti, 10 Highview Avenue, addressed the Board. Mr. Galanti is concerned about his inability to access his dumpster. He added that the residents living in the trailer on the lot (7 Highview Ave) park directly in front of the dumpster on his property. Mr. Galanti expressed his distress with the current parking situation in the area and is worried that the added traffic would be detrimental to the neighborhood.

Mr. Steinberg responded by advising the Board that the proposed house has the required off-street parking, and the width of the lot cannot be changed. He added that his title company picked up this lot in 1944, and that the ZBA was created for requests such as this application. Mr. Steinberg continued advising the Board that he is meeting all the code requirements but just cannot meet the width. Mr. Lynch added to the conversation by suggesting Mr. Steinberg make the house smaller, but Mr. Steinberg response by saying this is the smallest house he could do because it does not have a basement or a garage. Chairman Wright also added that the size of the house is just too big for this

area, and he suggested that the Board is willing to meet an agreement if there is a reduction in the proposed size. Mr. Steinberg asked what size would satisfy the Board. Mr. Hager suggested changing the side yard measurements. Mr. Steinberg advised there is currently a proposed 7ft side yard and a 15ft., and if he took the house and made it 21ft. instead (14ft. on one side and 15ft. on the other). He adds, the back he has a minimum of 40ft., and the code says he needs 30ft., so if he makes the house 14ft. on one side, and 15ft. on the other side, and reduce the rear yard from 40ft. to 30ft. then he is willing to come to an agreement. Mr. MacCartney confirms that Mr. Steinberg is suggesting making the house "skinny" and moving it more into the backyard. Chairman Wright advised the 2,400 square foot house is too large. Mr. Anginoli asked why he cannot make the house smaller, to which Mr. Steinberg responded by saying that making it smaller is not marketable. Mr. Keegan expressed his concerns about parking if there is no garage, but Mr. Steinberg suggested that there will not be more than 2-3 cars in the driveway and if there are more cars, they can park in a neighboring property's parking lot and walk or utilize street parking. Mr. Steinberg reminded the Board that he is willing to bring the square footage to 2,200 sq. ft. instead of the proposed 2,400sq. ft. to satisfy the Board.

Chairman asked if anyone from the public or the Board has anything else to add. No response was given.

Chairman Wright called for a motion to close the public hearing.

**\*\*\*MOTION: Mr. Anginoli made a motion to close the public hearing close the public hearing; seconded by Mr. Keegan. All in favor; the motion was carried.**

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Chairman Wright called for a motion to adjourn the meeting of September 21,2023.

**\*\*\*MOTION: Mr. Anginoli made a motion to adjourn the meeting of September 21, 2023; seconded by Mr. Lynch. All in favor; the motion was carried.**

Respectfully submitted,

*Nicole Flannigan*

Secretary  
Zoning Board of Appeals

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of October 5<sup>th</sup>, 2023**

**PRESENT:**

Mr. Keegan  
Mr. Anginoli (acting Chairman)  
Mr. Lynch  
Mr. Strieter  
Ms. Davis  
Mr. Veras  
Chairman Wright (absent)

**ALSO PRESENT:**

Dave MacCartney, Attorney  
John Hager, Building Inspector

**Chairman Wright:** Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of October 5, 2023, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

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Chairman Wright called for the first item on the agenda.

**Request of Richard Steinberg – 7 Highview Avenue – App. #23-04 (Area Variance)**

**1 Family Detached Dwelling – construct new 2 story house & appurtenances.**

Chapter 215-94 (D) Noncomplying Lots - "For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

(d) The minimum lot width and lot frontage shall be 75 feet."

Existing lot width = 50'

Proposed lot width = 50'

Variance necessary = 25' (width)

Existing lot frontage = 50'

Proposed lot frontage = 50'

Variance necessary = 25' (frontage)

Section: 20.07 Block: 3 Lot: 72 Zone: R1

Chairman Wright called for a motion to adjourn the decision to our next meeting on October 19, 2023.

**\*\*\*MOTION: Mr. Strieter made a motion to adjourn the meeting of October 5, 2023; seconded by Mr. Lynch. All in favor; the motion was carried.**

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Chairman Wright called for the next item on the agenda.

**Request of Alan Stoll – 173 Wayne Ave – App. # 23-03 (Area Variance)**

**1 Family - subdivide to build a new single-family house**

Chapter 215, Article V Bulk Requirements, 215-15 A,  
215 Attachment 14, Table of Bulk Requirements II, column 2 requires:

Minimum lot area required = 40,000sf

Lot area proposed = 23,411sf

Variance necessary = 16,589sf

**Section: 15.01**

**Block: 4**

**Lot: 57**

**Zone: RR**

Acting Chairman Anginoli called for a motion to adjourn the continued public hearing to our next meeting on October 19, 2023.

**\*\*\*MOTION: Mr. Streiter made a motion to adjourn the continued public hearing to our next meeting on October 19, 2023; seconded by Mr. Lynch. All in favor; the motion was carried.**

Acting Chairman Anginoli asked if there were any members of the public that would like to speak on behalf of this application.

Acting Chairman Anginoli called for a motion to continue the public hearing tonight.

**\*\*\*MOTION: Mr. Streiter made a motion to continue the public hearing tonight; seconded by Mr. Lynch. All in favor; the motion was carried.**

Acting Chairman Anginoli called for any person of the public who would like to speak. Oksana Hauser, 8 McCarthy Circle, addressed the Board. She states her concerns regarding the proposed project is on Federal Preserved land. She also expressed concerns of excessive rainfall and where it will be diverted to if this application is approved. She adds that the wetland is treated and protected by Rockland County.

The next person of the public to speak is Al Istorico, 2 DeCamp Ct. He expressed concerns about the proposed septic system to be installed very close to his well.

The next person of the public to speak is Bill Heady, 3 DeCamp Ct. He explained that he has lived close to this property since 1984 and it has always been wetlands. He added that this existed prior to McCarthy Circle being built.

The next person of the public to speak is Tim Hauser, 8 McCarthy Circle. He asked who the professionals were responsible for determining that this is a Federal Preserve. He also expressed his concerns about the need for a “benefit for all”, neighbors included.

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Chairman Wright called for a motion to adjourn the meeting of October 5, 2023.

**\*\*\*MOTION: Ms. Davis made a motion to adjourn the meeting of October 5, 2023; seconded by Mr. Keegan. All in favor; the motion was carried.**

Respectfully submitted,

*Nicole Flannigan*

Secretary  
Zoning Board of Appeals



**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of October 19<sup>th</sup>, 2023**

**PRESENT:**

Mr. Keegan  
Mr. Anginoli (acting Chairman)  
Mr. Lynch  
Mr. Strieter  
Ms. Davis  
Mr. Veras  
Chairman Wright (absent)

**ALSO PRESENT:**

Dave MacCartney, Attorney  
John Hager, Building Inspector

**Chairman Wright:** Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of October 19, 2023, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

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Chairman Anginoli called for the first item on the agenda.

**Request of Richard Steinberg – 7 Highview Avenue – App. #23-04 (Area Variance)**

**1 Family Detached Dwelling – construct new 2 story house & appurtenances.**

Chapter 215-94 (D) Noncomplying Lots - "For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:

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Existing lot width = 50'

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Variance necessary = 25' (frontage)

**Section: 20.07**

**Block: 3**

**Lot: 72**

**Zone: R1**

**Acting Chairman Anginoli called for a motion to read the following decision for 7 Highview Avenue; Mr. Lynch then moved as follows:**

In the Matter of Application #22-03 of Richard Steinberg for area variances in connection with the proposed construction of a new two-story house and appurtenances providing lot width and lot frontage of 50 feet, whereas pursuant to the requirements of Chapter 215-94(D) Noncomplying Lots as applied to this property the minimum required lot width and lot frontage is 75 feet, on premises located at 7 Highview Avenue, Stony Point, New York, designated on the Tax Map as Section 20.07, Block 3, Lot 72 in the R1 Zoning District:

WHEREAS members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about June 24, 2023; and

WHEREAS this is a Type II Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS a public hearing was held on July 6, July 20, September 7, and September 21, 2023; and

WHEREAS all the evidence and testimony were carefully considered, and the Zoning Board of Appeals has made the following findings of fact and conclusions:

The applicant reports that he is, or represents, a contract vendee of the subject vacant lot located at 7 Highview Avenue, and he applies for the relief sought herein with the permission of the current owner of that lot. The current owner of the property is a limited liability corporation known as FFBB LLC which is reportedly owned or controlled by the individual who signed the Owner's affidavit and consent form, Menachim Flohr. FFBB LLC acquired title to the lot on or about September 29, 2022.

Highview Avenue is a short and very narrow paved street wide enough for no more than two cars to proceed without leaving the paving surface, and the street has no pavement markings. It extends from South Liberty Drive on the northwest side to the rear of the parking lot of a shopping center on the southeast side.

The subject lot at 7 Highview Avenue is significantly undersized compared to the requirements of the current Zoning Code in the R-1 zoning district. Specifically, the current Zoning Code would otherwise require a minimum lot width of 100 feet, lot frontage of 85 feet, and lot area of 15,000 square feet for the construction of a single-family home in the R-1 district. In contrast, this lot provides lot width and frontage of just 50 feet and lot area of just 6,000 square feet.

However, the subject lot at 7 Highview Avenue was, along with several other lots on Highview Avenue, created long before the existence of the current Zoning Code. When the Zoning Code was enacted, the drafters recognized that there were certain existing, nonconforming substandard lots, and they therefore created a specific mechanism by which certain non-conforming lots might still be developed, so long as they met certain relaxed minimum requirements as set forth in Town Zoning Code Article XIV, Sec. 215-94, entitled "Nonconforming Uses and Noncomplying Bulk."

Section 215-94(D) relates specifically to existing noncomplying residential lots, and while it greatly relaxes the bulk requirements for pre-existing, non-complying residential lots in most ways, it imposes certain minimum conditions required before the lot can be used for a single-family residence. For residential lots with less than 100 feet of lot width (including the subject lot which has only 50 feet of lot width), the Code exempts such lots from most bulk requirements but then provides five specific benchmarks, as set forth in subsections (a) through (e), which all must be met for the pre-existing substandard lot to be used for a single-family home. Specifically, Section 215-94(D)(1) states in relevant part as follows:

- (1) .....For all residential lots having less than 100 feet of lot width, the following minimum requirements shall apply:
  - (a) The minimum lot width of one required side setback shall be 20 feet for lots in the RR District and 15 feet for lots in the R-1 District
  - (b) The total width of both required side setbacks may be reduced 9 inches for each foot that the lot width is less than that specified in the bulk table.
  - (c) The minimum front and rear setbacks shall be 30 feet.
  - (d) The minimum lot width and lot frontage shall be 75 feet.
  - (e) The maximum building height shall be 25 feet.

Accordingly, for a pre-existing, nonconforming lot in the R-1 zoning district which has less than 100 feet of lot width, the zoning code provides relief and allows such lots to be developed with a single-family home, but only if, among other things and as relevant here, the minimum lot width and lot frontage are at least 75 feet. Therefore, pursuant to even the generously relaxed Code requirements, the lot at issue here does not qualify since it is only 50 feet in width and frontage.

The applicant applied to construct a single-family home on the premises, but the permit was denied because the lot did not meet the requirements of Sec. 215-94(D). Upon such denial, the applicant applied to this Board for area variances for lot width and lot frontage of 50 feet each. Therefore, the applicant is seeking relief from this Board in addition to, and over and above, the significant relief already provided to pre-existing, nonconforming lots by Sec. 215-94(D) of the Code.

The applicant submitted a plot plan dated December 15, 2022, depicting the proposed footprint of the single-family home to be 28' x 44'. The shorter, 28-foot width of the proposed house would front on Highview Avenue, while the 44-foot length of the home would run parallel to the side property lines. The applicant proposes a driveway/parking area comprising nearly the entire front yard, and also proposes a side yard on the northwest side of the premises of just 7 feet and a side yard on the southeast side of the premises of 15 feet.

The applicant also submitted architectural renderings of the proposed home dated June 26, 2023. Those plans depict a large two-story home with a total square footage of 2,360 ft.<sup>2</sup> to be built on the footprint set forth in the Plot Plan dated December 15, 2022.

Because of the subject property's proximity to various State highways and Cedar Pond Brook, which lies immediately to the rear of the subject property, a referral was made to the County of Rockland Department of Planning ("County Planning") pursuant to New York State General Municipal Law. County Planning issued its review letter dated July 5, 2023, which among other things expressed significant concerns with regard to permitting development of the type and kind proposed herein on a lot that is so significantly undersized. County Planning instructed that, given that the site already benefits from the application of Sec. 215-94(D), the building footprint must be reduced or reconfigured to more closely comply with the more generous standards set forth therein for noncomplying lots. The County also expressed great concern over the overutilization of individual sites and that permitting development that does not comply with applicable bulk standards will set an undesirable land use precedent. This Board agrees with all those sentiments, particularly given the other adjacent and/or nearby undeveloped lots on Highview Avenue, the owners of which may cite any decision herein as precedent for future development proposals on this very small, rural street.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for variances, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that the benefit to the applicant if the variances are granted is outweighed by the detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) A grant of the application as submitted with a home of the size and configuration as that proposed would produce an undesirable change to the character of the community and a detriment to nearby properties. Due to the grossly deficient lot width and frontage, the applicant provides just 7 feet between the side of this proposed two-story, 44-foot-long house and the neighboring property on this very small lot. The applicant further provides a massing of two full stories 28-foot-wide fronting on Highview Avenue, while also adding a significant volume of parking area which covers nearly the entire front yard. This proposed oversized house on this grossly undersized lot combine to present enormous, visually imposing bulk on all sides. Such a large house on such a small lot which does not even come close to meeting even the relaxed requirements of Sec. 215-94(D)(1)(d) of the Code promotes an urbanization not in character with the community. The massing of this large, proposed home on a lot that provides only 50 feet of lot width and frontage would bring quite a substantial detrimental change to the character of the community and nearby properties.

These detrimental impacts and undesirable changes are not only in regard to the adjacent parcels which would be directly impacted from the very close and larger nearby structure on the applicant's property, it also impacts the other properties on that very small street and is directly contrary to the spirit and intent of the Code. Maintaining sufficient width and frontage promotes the rural character of the community, while in contrast allowing large houses on little lots with grossly insufficient width and frontage would promote undesirable densification and urbanization. Maintaining separation between structures on adjacent parcels, particularly in residential districts, is of great importance to maintain the rural character of the Town and to protect privacy and tranquility that is a hallmark of this community. Granting the application would give rise to a very different look and feel to the property and that neighborhood which is not in keeping with the intent of the Code or character of the community.

This Board is also concerned about providing a possible precedent that other property owners, including those who own similarly or identically sized undeveloped parcels on Highview, may attempt to claim should this request be granted for a house of this and configuration. To do so may in turn result in a cascading effect permitting significant dense overdevelopment of Highview, which is a tiny street already overcrowded, per testimony of witnesses at the hearing.

In sum, the Board feels in its discretion on this particular piece of property, while also considering and balancing the benefit the applicant seeks, that the impact of granting the variances as submitted with this proposed large house in this proposed configuration would result in a significant undesirable change and detriment to the neighborhood and nearby properties that, along with the other factors considered above and below, outweighs on balance the benefit sought by the applicant.

(2) Although the applicant cannot change the physical dimensions of the lot, including specifically the lot width or frontage, there are certainly alternatives regarding the size, massing, and configuration of the structure proposed, which could potentially lessen the detrimental impacts to be caused by the project as proposed. It is not the lot width and frontage of an empty lot in the abstract that is at issue here; rather, it is the applicant's proposed construction of this massive house in this configuration on such a substandard and undersized lot that creates the negative and detrimental impacts. There are a myriad of other sizes and configurations of proposed development which could potentially result a far lesser impact.

(3) The variances sought are most certainly substantial as set forth above. The Code requires at least 75 feet in width and frontage on this pre-existing nonconforming lot and the applicant is seeking a reduction of 25 feet, which is 33.33% of the required minimum. In fact, looked at another way, the percentage is even greater than that. Sec. 215-94 permits the applicant to build a single-family home on a lot if it has 75 feet of width and frontage, which is 25 feet less than the otherwise currently required 100-foot minimum for lot width in the R-1 district. The applicant is now asking this Board to grant an additional 25 feet of relief, which is double the relief already provided by Section 215-94(D)(a)(d). Further, it is this same substantial lack of width and frontage for which the variances are sought that provides the detrimental impact to the neighborhood and community, given the consequential massing the house on such a small lot and so close to the property lines.

(4) While no specific adverse environmental impacts were identified at the hearing, there would be negative physical impacts to the extent described above in factor number 1, relating for example and without limitation to the close proximity of the proposed structure to the neighboring properties.

(5) Although this applicant and the current owner did not create this lot nor can they change the width or frontage, the difficulty is self-created in that the applicant and the owner, who just acquired the property a little over a year ago, knew at that time that the lot does not remotely meet even the relaxed requirements of Sec. 215-94(D). Yet, they both decided to proceed with their transaction(s) with full knowledge of the same and to submit a proposal for a disproportionately oversized house on this grossly undersized lot. In that respect, the difficulty is self-created.

NOW, THEREFORE, BE IT RESOLVED, that the County Planning findings pursuant to its GML review are not overridden and the application for area variances is hereby DENIED.

At the conclusion of the reading, Attorney MacCartney pointed out the motion is to adopt the resolution read by Mr. Lynch.

**\*\*\*MOTION: Mr. Lynch made a motion to adopt the foregoing resolution of denial.**

**The vote reads as follows: Keegan (Yes); Anginoli (Yes); Lynch (Yes); Davis (Yes); Strieter (Yes); Veras (Abstain); Chairman Wright (Absent)**

The applicant and/or representative was not present for the reading of the above resolution.

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Acting Chairman Anginoli called for the next item on the agenda.

**Request of Alan Stoll – 173 Wayne Ave – App. # 23-03 (Area Variance)**

**1 Family - subdivide to build a new single-family house**

Chapter 215, Article V Bulk Requirements, 215-15 A,  
215 Attachment 14, Table of Bulk Requirements II, column 2 requires:  
Minimum lot area required = 40,000sf  
Lot area proposed = 23,411sf  
Variance necessary = 16,589sf

**Section: 15.01                      Block: 4                      Lot: 57                      Zone: RR**

Acting Chairman Anginoli called for a motion to continue the public hearing to the meeting on December 7<sup>th</sup>, 2023, due to pending proceedings at the Planning Board.

**\*\*\*MOTION: Ms. Davis made a motion to continue the public hearing to our meeting on December 7<sup>th</sup>, 2023; seconded by Mr. Anginoli. All in favor; the motion was carried.**

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Acting Chairman Anginoli called for a motion to adjourn the meeting of October 19, 2023.

**\*\*\*MOTION: Ms. Davis made a motion to adjourn the meeting of October 19, 2023; seconded by Mr. Strieter. All in favor; the motion was carried.**

Respectfully submitted,

*Nicole Flannigan*

Secretary  
Zoning Board of Appeals