

**TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of March 17, 2022**

PRESENT:

Mr. Keegan
Mr. Anginoli (absent)
Mr. Lynch
Mr. Strieter
Mr. Gazzola (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 March 17, 2022, to order. Please rise for the Pledge of Allegiance.

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

Chairman Wright: Alright, a couple of items on the agenda and we'll start out with a decision.

*****MOTION: Chairman Wright offered the following resolution; seconded by Ms.**

Davis:

In the Matter of Application #21-22 of Michael Galgano for area variances from the requirements of Chapter 215, Article V, Section 15A-215 attachment 15 - Table of Bulk Requirements Part 1A, use d.2 column 4: front yard depth and setback, 50 feet required, 3.83 feet provided, 46.17 feet variance requested (James Street frontage); column 5: side yard setback, 25 feet required, 8.42 feet provided, 16.58 feet variance requested; column 5: combined side yard setback, 75 feet required, 26.25 feet provided, 48.75 feet variance requested; column 10: development coverage, maximum 20 percent permitted, 30 percent coverage existing 38 percent coverage proposed, 18 percent coverage requested, in connection with the proposed reconstruction of a pre-existing single family home with an expanded deck on premises located at 35 James Street, Stony Point, New York, designated on the Tax Map as Section 10.04, Block 1, Lot 55 in the RR Zoning District.

WHEREAS the applicant represented himself; and

WHEREAS members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about March 5th, 2022; 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 March 3, 2022, and the testimony of the following persons was duly considered: applicant; 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 owns the subject parcel located at 35 James Street. The lot at issue is improved with a single-family dwelling on a pre-existing, non-conforming lot. The property is quite uniquely shaped and situated off James Street on a long and narrow lot. The existing home was damaged in a fire and the applicant wishes to reconstruct it in the same footprint and add a new front deck. The new front deck would come to within 3.83 feet of the front property line, although there is significantly more space beyond the front property line and James Street itself. Additionally, the deck would come to within 8.42 feet of the side property line on the north side and to within 17.83 feet of the side property line

on the south side. The current code requires 50 feet for the front yard, 25 feet for the side yard, and 75 feet for the total side yard. Additionally, the existing lot coverage is 30%, but the addition of the deck would bring the total to 38%, whereas 20% is the maximum permitted by current code. The Building Inspector determined that variances for these yard and lot coverage conditions relating to the deck are the ones required, and the applicant therefore now applies for these variances.

There were no objections to the relief sought.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that on the conditions stated herein, the benefit to the applicant if the variance is granted outweighs any 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) There is no evidence presented that the proposed variance would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties. The footprint of the home will not change, but for the addition of the exterior, uncovered deck. There is sufficient space for the proposed deck in the location proposed given the unique layout and location of the lot and the distance to James Street from the actual property line. There is no sight line issue for vehicles on James Street and no evidence of any other actual negative impact, and there were no objections from the adjoining property owners.
- (2) There was no evidence presented of other feasible means to achieve the benefit sought without a variance.
- (3) The variances sought are substantial, but that factor alone does not require a denial under these circumstances given the site topography here.
- (4) There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- (5) The alleged difficulty was self-created.

NOW, THEREFORE, BE IT RESOLVED, that the application for variances sought herein is hereby approved on the following conditions:

CONDITIONS:

1. The applicant shall comply substantially with the plans and survey submitted.
2. The applicant shall comply with all other applicable laws, rules, codes, and regulations.

The matter is remanded to the Building Inspector Board for further consideration in compliance with the terms and conditions hereof.

Upon roll call, the vote was as follows: Mr. Keegan, yes; Mr. Anginoli, absent; Mr. Lynch, yes; M. Streiter, yes; Mr. Gazzola, absent; Ms. Davis, yes; and Chairman Wright, yes.

Chairman Wright called for the next item on the agenda – a continuation of public hearing for Owen Drummond, 30 Johnson Drive (App. #22-03 - Area Variance)

Chapter 215, Article V, section 15 A - 215 attachment 15; Table of Bulk Requirements Part 1A, use d.3, column 4; Minimum 40 feet front yard depth and setback required - 16.8 feet front yard depth provided - 23.2 feet variance necessary.

Chapter 215, Article VI. Supplementary Yard and Setback Requirements, section 215-22 General Requirements. Accessory structures and uses are permitted within the required setback other than the front setback but not within any required yard. Accessory pool front yard variance necessary.

Chapter 215, Article VI. Yard and set back exceptions, section 215-24 C a fence or wall no more than 4 feet high is permitted along any lot line. 6-foot-high fence proposed in front yard. 2-foot fence height variance necessary.

Chairman Wright: Is the applicant or representative present?

Jordan Barry, West Rock Pools, and Owen Drummond, homeowner of 30 Johnson Drive, were present to speak on behalf of the application for the continued public hearing.

Chairman Wright questioned what issues are being discussed tonight on this application. Mr. Lynch mentioned that Mr. Barry would provide the Board with new plans that lessened some of the variances by rotating the placement of the pool. He requested that the applicant try to get more of the pool out of the front yard as much as possible, adding the original request was 'quite substantial'.

Mr. Barry explained the new revised plans that were provided to the Board reflecting the request to rotate the pool and added proper landscaping to have more privacy. Chairman Wright asked the Board if they had any questions. Mr. Streiter asked if the landscaping would be on the inside of the fence. Mr. Barry advised that they were willing to put the shrubs and trees on either side the Board prefers. Mr. Lynch then asked Mr. Barry to confirm that on the revised plan, on the top corner spot specifically, it is now 19.4 feet as opposed to originally being 16.8. Mr. Barry confirmed that it is now reflecting 19.4 feet, a little more than 3 feet difference from the original proposal. Mr. Lynch also asked Mr. Drummond if he is happy with the changes that have been made as they reflect on the new plans. Mr. Drummond replied 'yes'. Chairman Wright then asked if there are any other questions from the Board and/or the public regarding this application. There were no responses. Chairman Wright took a motion to close the public hearing for Application 22-03.

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

Chairman Wright called for the next item on the agenda - Request of Hugo Pinos - 21 Blanchard Rd – App. #22-01 (Appeal/Area Variance)

An appeal/area variance from the requirement of Chapter 215 Article VIII – accessory parking and loading requirements for 'Commercial vehicles' not more than one commercial vehicle of 25 feet or less in length, may be parked on a developed lot in any residence district but not within the required yards of such lot and in no case between the street line and the principal building" located at 21 Blanchard Road, Stony Point, New York.

Chairman Wright: Is the applicant or representative of the applicant present?

Christopher Martone: Yes.

Mr. Martone introduced himself as Christopher Martone of Martone Associates as the representative for the applicant, the homeowner, Hugo Pinos. Chairman Wright asked if there were any updates regarding the application. Mr. Martone goes on to say that the posting and mailing affidavits have been done. He then introduces his professional, David Zigler of Anzl, Nasher & Zigler in New City, NY. Mr. Zigler is present for any questions or concerns the Board or public have regarding this application. Mr. Martone called Mr. Zigler to speak.

Mr. Zigler stated he is the land surveyor that provided the revised plans that reflected the buffering and landscaping with detail of the elevations. He calls the parcel a 'unique site' and described the land as 'steep' and mentions that 21 Blanchard Road is 40-50 feet higher in elevation over Willow Grove Road. Mr. Zigler goes on to mention that the Town of Haverstraw had no comments on the project, and that traffic should be light on the roadways. Mr. Zigler also described that the left side of Willow Grove Road has a non-conforming trailer park, Action Metal, and a bike shop that allow commercial use within a residential area. He finds no reason to deny the variance, claiming this is not a storage yard request. He also suggested it is practical and as minimal as necessary to relieve the practical difficulty, advising the area is big enough that 3-4 trucks could go.

Mr. Lynch stopped Mr. Zigler during his testimony to ask both Mr. Zigler and Mr. Martone if they had read the details of the letter submitted from Rockland County Planning, dated March 10, 2022. Both confirmed they had received that letter at the meeting. Mr. Martone asked the Board if they would allow his professionals and neighbors to testify and have an open dialect at the end to answer questions. The Board agrees and Mr. Zigler returns to the podium.

Mr. Zigler continues to explain that the variance request is for parking use only and advises that Ford F-250 trucks needed commercial plates up until ten years ago.

Chairman Wright raised a question, asking "what would prevent someone in the future using this variance to start parking rental vehicles up there?" Mr. Martone stated his client is willing to put a stipulation into the resolution if the Board would agree.

Mr. Zigler returns to continue his discussion. He does not believe that the application would change the characteristics of the land, and that it is not visible from the road. Mr. Zigler also says, "the applicant is too small to be in a big place, but too big to be at his house." He goes on to say that granting the variance would be giving the applicant the ability to start to expand his business to eventually move to a commercial site, as a contractor storage facility would be the 'next step'. He also raises the point that there are not many storage yards in Rockland County to pick from, bringing on practical difficulty for the applicant. Next, Mr. Zigler explains that this application does not cause any safety or health concerns to the neighborhood, as this variance request is for storage abilities only. He begins to discuss his response to the Rockland County Planning letter dated March 10, 2022. His opinion of the letter from the Rockland County Planning Department was not a proper interpretation of the code.

Mr. Lynch interrupts to ask Mr. Zigler if he was aware that a site visit was done on February 26, 2022. Mr. Lynch submits photos from the site visit. Mr. Lynch describes the site as a "construction site" with vehicles and equipment spread around the property. He points out that nothing had been cleaned up since the violation had been issued.

Mr. Martone responds to Mr. Lynch advising that all the equipment will be put into trailers, and inside of the trucks. Mr. Martone stated, "there is going to be absolutely nothing left on the property." Mr. Lynch reminded Mr. Martone that this initial violation was issued on March 9, 2021 and that the applicant had more than a year to remedy the violation. Mr. Lynch questions Mr. Martone about his knowledge of the previous application that was withdrawn prior to him being hired to represent the applicant. Mr. Martone responds that his client is willing to comply with the Board's requests and suggests another site visit. Mr. Martone discusses with his client, Hugo Pino of 21 Blanchard Rd, when the driveway easement was paved. Mr. Pinos says, "about one year ago." Mr. Lynch questions, "before the violation had been issued?", in which Mr. Pinos responded, "yes". Mr. Lynch asked Mr. Martone if the neighbors that share the driveway easement are present tonight, and Mr. Martone confirms they are present tonight. Mr. Pinos also confirmed that he did not know about the violation when seeking approval from the neighboring properties. Mr. Martone reassured the Board that his client will comply with the Board's resolution, and that his client is doing everything he could to comply with the town code.

Mr. Lynch begins to read the letter from Rockland County Planning dated March 10th, 2022. Chairman Wright interrupts to ask if the land is truly 'clear cut'. He expressed his opinion on the county letter saying he does not agree with the letter.

Mr. Hager asks Mr. Zigler to confirm the 25% slope but Mr. Zigler states he cannot verify that information.

Mr. Keegan raises the question, "are there any guard rails on the easement?" Mr. Martone confirmed that there are no guard rails currently on the property, however, his client will install if the Board requires it.

Mr. MacCartney asks Mr. Martone if after seeing the construction related debris and equipment on the site, if he agrees that it looks to be occupied as a construction storage yard. Mr. Martone replied, "yeah, as of right now, yes, it is." Mr. MacCartney then follows up asking is they plan on making changes to the gravel and/or landscaping on the property. Mr. Martone explains that his client will comply with the Boards requirements. Mr. MacCartney asked if there will be any changes to the excess gravel, and Mr. Martone confirms they will not be changing the gravel. Mr. MacCartney asked what the purpose of the gravel would be if it is not being used as a construction storage yard, which Mr. Martone reiterates that his client will do whatever the Board requires if granted the variance. Chairman Wright recommends shrinking it from 100x100 to 40x40 and change the difference to vegetation or landscaping. Mr. Martone says his client will comply with whatever the Board requires.

Chairman Wright asks Mr. Lynch if he would be willing to do another site visit to the property if the applicant makes the property look as if the variance was approved, and he asked if it would be helpful to his decision. Mr. Lynch stated he does not wish to revisit the site. Chairman Wright then asks the rest of the Board if they would be willing to do another site visit.

Mr. Keegan raises concerns about the restoration recommended by Rockland County. Chairman Wright states that he does not agree with the suggestion made by Rockland County to restore the property back to its original state. Mr. Zigler also addressed the letter adding that other towns and districts have different regulations and codes. Mr. MacCartney mentions that the County has a right to point out the provisions, but it is up to Mr. Hager if it is a violation to the town codes. Chairman Wright asks Mr. Hager for his opinion on the matter, and he states that 25% is quite steep but it is hard to tell what the original state of the property was prior to the violations. He stated he believes the questions of the Rockland County letter is valid, however, would need more data to answer the questions.

Mr. MacCartney explains to the Board that as he read the Rockland County Planning letter has a point. He explains that there is an allowance for one commercial vehicle on the residential property, according to the town code, naming it 'accessory to the residential use'. He continues to explain that the letter expresses concerns that allowing three or more commercial vehicles to park in the residential area, it no longer becomes 'accessory use' and in turn becomes 'the use' which becomes a change in use because now they would be storing commercial vehicles. Mr. Martone responds by stating that the theory is that this is not going to be a storage yard, but instead it will be an extension of his property where he is going to park three extra trucks; there is not going to be anything to be seen on the property. Mr. MacCartney states that the issue is that Rockland County is saying it is in fact a construction yard because the applicant is using the yard to store all the pieces of equipment shown in the photos.

Chairman Wright made a proposal to schedule another site visit on March 26th. Mr. Martone agrees to have the property cleaned up by that date.

Mr. Hager brings the code to the Board's attention, reading the following code definition:

CONTRACTORS' STORAGE YARDS

A building or area of land where a person, firm or corporation engaged in the construction business, or a related field, stores building materials, equipment and supplies used exclusively in his business as a contractor. Retail or wholesale sale of any contractor's materials or supplies is prohibited.

Mr. Keegan follows up with a request for Mr. Hager to go over the zoning code for parking commercial vehicles pon residential properties. Mr. Hager reads the following applicable zoning code for commercial vehicles.

§ 215-39

Commercial vehicles.

A. Not more than one commercial vehicle, of 25 feet or less in length, may be parked on a developed lot in any residence district but not within the required yards of such lot and in no case between the street line and the principal building.

B. Not more than one commercial vehicle of 25 feet or less in length may be parked within a private garage in any residence district.

D. No commercial vehicle or otherwise shall be parked or stored on any unimproved lot.

Mr. Martone introduces Justin O'Dell of 27 Blanchard Rd, to address the Board with public comment.

Mr. O'Dell states that there is no detriment to his property and is in favor of the variance request. He states that the property value of his home has increased since Mr. Pinos had begun maintaining the property. He confirms that he did not contribute funds for the blacktop easement.

Mr. Martone introduces Michael Keiser of 35 Blanchard Rd, to address the Board with public comment.

Mr. Keiser states that there is no detriment to his property and is in favor of the variance request. He states that he does not see anything more than the trucks entering and exiting the property, in which they remain parked. He confirms that he did not contribute funds for the blacktop easement.

Mr. Martone introduces Yudelky Roman of 39 Blanchard Rd, to address the Board with public comment.

Mrs. Roman states that there is no detriment to his property and is in favor of the variance request. She states that she recently refinanced her mortgage and was surprised to find that her property value increased due to his landscaping and maintenance to the property that is right beside her home. She stated that she does not use the easement.

****No other members of the public were in attendance for comment on this application.**

Mr. Lynch makes a proposal to keep the public hearing open.

Mr. Martone asks the Board to return at the April 21st meeting. The Board accepts the postponement.

Mr. Zigler asks for interpretation of the code previously discussed, Chapter 215-39A and B. He suggests he could build a garage that holds two 26-foot-long vehicles, having only one commercial vehicle parked outside. He asks for interpretation on the code.

Mr. MacCartney explains that the application is not only for parking the commercial vehicles, but it is also an issue of using the property as a commercial storage yard.

Mr. MacCartney addresses the trailers on the property, asking if they will hold the equipment. Mr. Pinos confirmed that they are meant to store materials for his business.

*****MOTION: Ms. Davis made a motion to adjourn the meeting of March 17, 2022; seconded by Mr. Lynch. All in favor; the motion was carried.**

Respectfully submitted,

Nicole Pechin

Secretary
Zoning Board of Appeals