

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of September 15, 2022**

**PRESENT:**

Mr. Keegan  
Mr. Anginoli  
Mr. Lynch  
Mr. Strieter  
Mr. Gazzola  
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.

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Chairman Wright starts the meeting with the continued public hearing for the request of Lovett Substation- 45 Elm Ave – App. #22-11 (Area Variance)

Chapter 215 Article VI Section 215-22, attachment 15 Table of Bulk Requirements part 1A – use group ‘a’ requires maximum 15’ building height.

Proposed height = 36’

VARIANCE necessary = 21’

Chapter 215 Article VI Section 215-24(C) requires maximum height of fence 4’ in front yard, 6’ along any part of a lot line behind the required front yard.

Proposed fence height = 10’ 1’ barbwire, total 11’

VARIANCE necessary = 7’

Chapter 215 Article VI Section 215-24(C) requires fence setback equal to 2/3 the fence height where fence height exceeds 6’.

Proposed fence = 11’ high (requires 7’-4” setback), 0’ setback provided

VARIANCE necessary = 7’-4”

\*\* Chapter 215 Article VI Section 215-22, attachment 15 Table of Bulk Requirements part 1A – use group ‘a’ requires maximum 5% development coverage. Proposed coverage = 53%, VARIANCE necessary = 48% \*\*

Chairman Wright asks if the applicant and/or representative present.

Brian Sinsabaugh, an attorney of Zarin & Steinmetz in White Plains, NY, addresses the Board. He also introduces Vivian Winters, the project manager from Orange and Rockland Utilities. Mr. Sinsabaugh begins to address the information requested from the last meeting on Sept. 1<sup>st</sup>. The concerns in which he is prepared to provide updated information on are the GIS Substation building height, fence details, revised photo renderings, and prior lot coverage.

1. GIS substation building height

- a. Mr. Sinsabaugh explains that based on the 36ft height, it is inconsistent with the town code § 215-5: HEIGHT: The vertical distance from the average elevation of the proposed finished grade along the wall of a building, or adjacent to the side of a nonbuilding use, to the highest point of the roof for flat roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs of such building, or nonbuilding uses, except as specifically exempted in § 215-28.
- b. The revised slab detail of elevations
  - i. slab increase of 1.38ft
  - ii. average grade of slab exposure is 14.005ft
  - iii. average elevation of eave and roof is 32.07ft
  - iv. building height is reduced to 33.45ft – 2.55ft less than originally proposed

2. Fence details

- a. Mr. Sinsabaugh reminds the Board that at the last meeting there was difficulty finding the fence details on the plans. He issued revised site plans to the Board and explained the details are located on the new plans with a black line with an asterisk, also identified on the legend. He explains the details as the following:
  - i. 10ft chain link fence
  - ii. 12in barbed wire
  - iii. The west side of the plan along the roadway is not fenced
  - iv. 3ft from boundary line – 45° angle barbed wire are not encroached

3. Revised Photo Renderings

- a. Mr. Sinsabaugh describes the addition of detail to the topography and landscaping on the newly submitted plans. He explains the photos showing the site with fencing, etc. Mr. Sinsabaugh also explains the view from the back of the location with concrete walls.

4. Information on prior lot coverage

- a. Mr. Sinsabaugh explains that the site was previously used as the Lovett Substation
- b. It had 3 total #6 fuel level tanks, and Orange and Rockland Utilities is looking to improve the substations currently
- c. Mr. Sinsabaugh explains when their calculations were run, only improvements between the wall coverage as well as the coverage of tanks was approximately 3% of entire site. He has no knowledge of the use of the tanks back in the 1970's, but neither of the tanks exist now.

Mr. Sinsabaugh continues to advise the Board that they are seeking two additional variances. Regarding the GIS Substation building, the front yard setback along the front of Elm Avenue and Spring Street, it is currently 28ft proposed, the requirement is 30ft. He explains that the building needs to be shifted forward to avoid the wetlands in the rear, and these measurements are the closest they can get in compliance with the town codes. The second variance proposed is for the side yard setback, which is an adjacent lot that is part of the overall substation. He explains that it is an interior lot line as to the entire project area, but it is at 26ft. He expressed concern about maintaining the distance and impact on the wetlands. Mr. Sinsabaugh requested to set a new public hearing notice for October 6, 2022 listing the additional variances.

Chairman Wright accepted Mr. Sinsabaugh's request to have the public hearing updated and re-noticed to the public. They will return at the next meeting on October 6, 2022.

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Chairman Wright announces the next item on the agenda – the request of Alexander Properties – 561 Willow Grove Rd-App. #22-05 (Area Variance)

DECK:

Chapter 215, Article V Bulk Requirements, Section 215-15 A Bulk Table part IA (215 attachment 15), column 5 Required Side Setback/ Side Setback Total.

Minimum side setback required = 30' - Side setback provided = 17'  
Variance necessary = 13'

Total combined side setback required = 75'  
Combined side setback provided = 27.6'  
Variance necessary = 47.4'

column 6 Required Rear Setback

Minimum rear setback required = 50'  
Rear setback provided = 32'  
Variance necessary = 18'

GARAGE:

Chapter 215, Article V Bulk Requirements, Section 215-15 A Bulk Table part IA (215 attachment 15), column 4 Required Front Yard Setback

Minimum front yard setback = 50'  
Front setback provided = 25'  
Variance necessary = 25'

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 Garage proposed to encroach 25' into required front yard.

Variance necessary = Allow accessory garage in required front yard

**\*\*\*MOTION: Mr. Streiter offered the following resolution; seconded by Mr. Keegan:**

In the Matter of Application #22-05 of Alexander Properties for the following area variances on premises located at 561 Willow Grove Road, Stony Point, New York, designated on the Tax Map as Section 19.01 Block: 1 Lot: 21 in the RR Zoning District:

DECK:

Chapter 215, Article V Bulk Requirements, Section 215-15 A Bulk Table part IA (215 attachment 15), column 5 Required Side Setback/ Side Setback Total:

- Minimum side setback required = 30'; side setback provided = 17'; variance necessary = 13'
- Total combined side setback required = 75'; combined side setback provided = 27.6'; variance necessary = 47.4'

Chapter 215, Article V Bulk Requirements, Section 215-15 A Bulk Table part IA (215 attachment 15), Column 6 Required Rear Setback:

- Minimum rear setback required = 50'; rear setback provided = 32'; variance necessary = 18'

GARAGE:

Chapter 215, Article V Bulk Requirements, Section 215-15 A Bulk Table part IA (215 attachment 15), column 4 Required Front Yard Setback:

- Minimum front yard setback = 50'; front setback provided = 25'; variance necessary = 25'

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 Garage proposed to encroach into required front yard; variance necessary to allow accessory garage in required front yard

WHEREAS, members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about May 14, 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 June 6, July 7, 2022, and July 21, 2022; and

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

The applicant owns the subject parcel, which is presently improved with a two-story single-family dwelling with an attached garage. The lot is roughly triangular shaped, with one leg of the triangle forming the frontage on Willow Grove Road and the two sides being roughly equidistant and meeting in a point at the rear of the property. The existing home sits toward the back left of the lot, near the rear point of the triangle, but very close to the left side property line. The present home already comes to within 10.6 feet of the side boundary on the left rear of the house, and 27.2 feet from the other side boundary on the right rear of the house. 30 feet are currently required, so the home is already significantly in conflict with the existing Zoning Code in at least those respects.

The applicant proposes two changes to the existing structure, both of which will add to the existing substantial non-conformities and give rise to the variances sought herein. First, the applicant proposes to construct a new deck on the right rear of the home measuring 10' x 12', extending directly toward the right side/rear property line into the already-deficient

side yard, giving rise to the side yard and total side yard variances sought. Second, the applicant proposes to construct a new garage toward the front right of the lot, measuring 12' x 24', giving rise to the request for variances for the front yard and front setback.

Preliminarily, it is worthy to note that the application as originally submitted contained what appeared to be an official survey, but upon further inspection, it was determined by the Board that the survey was not signed or sealed, and the applicant had apparently downloaded an it and electronically superimposed upon it his own depictions and measurements relating to the new proposed improvements with his own bulk table. The applicant did not delineate which items were on the original and which were his own alterations and superimpositions. The applicant's representative at the hearing presented no evidence that he was the original engineer or surveyor who created the survey which formed the basis for the application, that he had authorization to alter the original, or that he himself was a licensed engineer or surveyor.

It was also determined that the applicant's own changes to the purported survey document did not contain the correct measurements or use the proper method of measuring under the Code. Among other things, the applicant was not depicting and/or measuring perpendicular to the property lines and was unclear what the measurements he recorded related to in some instances.

Originally, the applicant showed the garage to be 29 feet from the front line. When his deficient method of measuring was discovered, the actual number was revised to 25 feet. Ultimately, the applicant then moved the proposed location of the garage back from the front property line, from the originally proposed 29 or 25 feet to a distance of 37 feet from the front property line. At the Board's insistence, he also submitted a new plan in an attempt to correct some of the deficient measurement techniques he utilized and to delineate which changes he made and which were on the original, but he then still failed to properly delineate which changes or notations were his own. Ultimately, by the last date of the public hearing, he submitted another plan that purported to depict in red color the additions which he added to the survey and showed some of his new measurements giving rise to the variances sought. Notably, it appears that the new plan finally submitted at the July 21, 2022, hearing continues to show various markings that the applicant made on the original survey that are not shown in red (i.e. it appears on close inspection that the distance from the new proposed garage to the side property line and from that garage to the house are his own, not on the original, but they are not in red and the side yard measurement is not perpendicular to the property line). At least one of these depictions and measurements not highlighted in red, but apparently created by the applicant and superimposed on the survey, shows an additional non-conformity with the proposal, as noted below.

Regarding the specific variances sought, in regard to the deck, the 10'x12' new deck is proposed to be located off the rear corner of the house. That is the same corner of the house that already sits 27.2' feet from the line instead of the required minimum of 30'. That new proposed deck would now come to within just 19 feet of the right-side property line. Accordingly, instead of only the existing 2.8' non-conformity for the side yard in that location, the applicant will now have an 11' deficiency. The application therefore requests a four-fold increase in the existing single side yard non-conformity on that right side, and this represents a 37% variance on that side. The deck also increases the existing nonconformity regarding the rear yards, as measured back toward the tip of the triangle shape of the lot.

In regard to the total side yard, the existing conditions were already grossly insufficient, measuring a total of 37.8' whereas a minimum of 75' is required by Code. The new deck would bring the total side yard provided to just 29.6', which represents a variance of over 60% from the required 75'.

In regard to the garage, the applicant originally proposed it to be constructed at a location 25 feet from the front property line, but 50 feet is the required minimum. During the hearing, the applicant proposed to move that proposed garage back to a distance 37 feet from the front property line, which also had the effect of moving it into a location which now encroaches upon the 30' minimum side yard on the right side. The garage location ultimately proposed by the applicant appears from his notations on the "survey" to be 21 feet from the side property line, and if so, it thereby would encroach into the required side yard in addition to the front yard. That 21-foot measurement is obtained from a review of

a marking superimposed by the applicant on the survey, but not shown in red as being his own. It certainly appears to be his own, though, since it is a new measurement after the first submittal following the subsequent change in position of the garage. It also does not appear that the applicant has measured the 21 feet perpendicular to the property line as required.

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) The property is already significantly nonconforming in various ways, including regarding the seriously deficient side yard on both sides of the existing home and the total side yard provided, as set forth above. Adding a full sized 10' x 12' deck onto the rear of the home, thereby encroaching significantly into the already deficient right side yard and rear yard in that location, as well as creating such a new, large 12' x 24' garage structure on the front of the property which encroaches not only into the required minimum front yard by 13 feet but also now into the prohibited side yard on the right by 9 feet, would individually and cumulatively produce an undesirable change in the character of the neighborhood and a detriment to nearby properties.

The detriment and undesirable change is primarily in regard to the adjacent parcels which would now be directly impacted from the now-much-closer nearby structures on the applicant's property. There are residential homes directly adjacent to this property on either side. Allowing these new proposed additional structures when the existing home is already in such a nonconforming state, particularly regarding the side yards, is also contrary to the spirit and intent of the Code. Maintaining sufficient yards and 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 the privacy and tranquility of residential neighbors. Likewise, allowing a large garage structure well out in front of the existing home, in a location which is directly in the front yard, would also alter the view of the property from the street, thereby impacting not just the adjacent neighbors but others passing by. It would give rise to a very different look and feel to the property and neighborhood that is not in keeping with the intent of the Code or character of the community.

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 cumulative impact of adding the two new structures and adding several new nonconformities to the various existing ones would result in a significant undesirable change and detriment to the neighborhood and nearby properties that, along with the other factors considered below, outweighs on balance the benefit sought by the applicant.

(2) Although any deck on the rear of the house would require a variance given the existing nonconformities, the applicant did not address or present any substantial or evidence persuasive and relevant to the balancing test the Board is duty-bound to employ as to why the deck is required to be as large as it is proposed or that the deck or equivalent for the purposes intended could not be placed or accommodated elsewhere on the property, such as to the right side of the home as viewed from the street. The applicant at one point stated during the hearing that he was intending to reduce the deck in size to 10'x10', but then continued on with the requested 12'x10' proposal. Regarding the garage, no substantial evidence was presented that was persuasive to this Board on the balancing test as to why such structure is required, let alone one so large, particularly given the existing attached garage in the house, or why there was not some other location for it or a smaller garage requiring lesser or no variances.

(3) The variances sought are most certainly substantial as set forth above. The new proposed deck would increase the degree of non-conformity on the right-side yard by over fourfold, and would require a variance of 37% for that right side, and over 60% for the total side yard. For the garage, a variance of 26% is requested. All of these are substantial.

(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 to the close proximity of the new structures to the neighboring properties and placing the garage directly in the prohibited front yard at such a reduced distance from the front property line.

(5) The alleged difficulty was self-created. The self-created nature of the variances was also exacerbated here by the applicant's repeated improper alterations to existing surveys and provision of inaccurate and improper measurements, etc., all as set forth above. In any event, while the self-created nature of the hardship is relevant to this determination, irrespective of the applicant's above-documented missteps on the survey and measurements, this factor alone was not itself dispositive.

NOW, THEREFORE, BE IT RESOLVED, that the application for areas variances is hereby DENIED.

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

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Chairman Wright announces the next item on the agenda - request of Antonio & Minu Colaco-1 Van Buren St – App. #22-10 (Area Variance)

DECK: remove existing deck, construct new deck, expanding access to new pool  
Chapter 215 Article V Section 215-15 A, attachment 16 Table of Bulk Requirements part II – use group 'h.1' column 6,  
Minimum rear set-back required = 35'.  
Proposed rear setback = 13.5'  
VARIANCE necessary = 21.5'

**\*\*\*MOTION: Mr. Lynch offered the following resolution; seconded by Mr. Keegan:**  
In the Matter of Application #22-10 of Antonio and Minu Colaco for an area variance from the requirements of Chapter 215 Article V Section 215-15 A, attachment 16 Table of Bulk Requirements part II – use group 'h.1' column 6, Minimum rear set-back required 35', provided 13.5', variance requested of 21.5', in connection with the removal and replacement of a deck expanding access to a new pool on premises located at 1 Van Buren Street, Stony Point, New York, designated on the Tax Map as Section 15.01, Block 2, Lot 74 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 September 1, 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 September 1, 2022; and

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

The applicants own the subject parcel, which is presently improved with a two-story single-family frame dwelling. The home is improved with an existing rear deck leading to and servicing an existing rear yard pool. The applicant proposes to remove the existing deck and replace it with a new deck that extends backward from the home farther than the old deck in order to surround no more than 50% of the existing pool. The expansion of the deck rearward brings it to within 13.5 feet of the rear property line, whereas 35 feet are required by the current Code. The deck is not proposed to be enclosed, but instead is an open air deck simply providing expanded access to the existing pool. The pool is proposed to remain in its same location, legally extending to within 16 feet of the rear property line.

There were no objections to the relief requested.

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 was 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. This is an open air deck that extends only up to about 50% of the existing pool, which itself legally comes to within 16 feet of the rear property line. There was no evidence that allowing a slightly expanded deck to service this existing pool would cause any perceptible negative impacts.
- (2) There was no evidence presented of any other feasible means to achieve the benefit sought without the variance requested.
- (3) The variance sought is substantial in terms of feet and percentages, but that factor is alone not determinative here under the circumstances.
- (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 an area variance is hereby approved on the conditions set forth below:

CONDITIONS:

1. The applicant shall comply substantially with the plans and dimensions as set forth in the plan dated last revised April 29, 2022.
2. The deck shall not be enclosed.
3. The applicant shall comply with all other applicable laws, rules, codes, and regulations.

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

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

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Chairman Wright announces the next item on the agenda - request of Carter Green – 6 Cross Creek – App. #22-12 (Area Variance)

Portico: addition to front of house above front door (8'-0" extension, 10'-0" wide)  
Zoning Code Article V, Section 215-15 A Bulk Table, 215 attachment 15, part 1A, column 4 - Front Set-back  
Minimum Front Set-back required = 50'  
Existing Front Set-back= 43.8'  
Proposed Front Set-back = 35.8'  
Front Set-back VARIANCE necessary = 14.2'

**\*\*\*MOTION: Ms. Davis offered the following resolution; seconded by Mr. Lynch:**

In the Matter of Application #22-12 of The Green Revocable Trusts for an area variance from the requirements of Chapter 215, Article V, Section 215-15 A Bulk Table, 215 attachment 15, part 1A, column 4 - Front Set-back: Minimum Front Set-back required 50', existing 43.8', proposed 35.8', in connection with the construction of a portico addition over existing front steps on premises located at 6 Cross Creek lane, Stony Point, New York, designated on the Tax Map as Section 19.01, Block 2, Lot 36 in the RR 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 September 1, 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 September 1, 2022; and

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

The applicant owns the subject parcel, which is presently improved with a two-story single-family colonial style home. A former owner of the house received an area variance in 1996 to permit less than required front setback, allowing 43.8 feet from the property line to the front of the house, whereas 50 feet is the required minimum. The applicant now seeks to construct a small portico measuring 8' x 10' to provide cover over the front entry of the existing home. The addition of the covered portico over the front porch causes that area to be counted for purposes of determining the front yard setback, whereas the existing uncovered steps and porch did not count. Accordingly, the portico would render the front setback to be 35.8 feet rather than the existing 43.8 feet previously approved by this Board in 1996, so the applicant is seeking a variance. Other than the addition of the open-air, covered portico, no other structural changes or additions to the front of the house are proposed.

The application was referred to the County Department of Planning and the County Health Department for review pursuant to the GML. County Planning approved the application and the County Health Department advised that no approvals from that Department are required.

There were no objections to the relief requested.

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 was 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. This is an open air portico that merely provides cover over an existing small front porch and stairs. There is no sight line or other impact at the front of the house nor any other perceivable negative impact.
- (2) There was no evidence presented of any other feasible means to achieve the benefit sought without the variance requested.
- (3) The variance sought is not substantial, all things considered including particularly the minor nature of the improvement sought of a simple unenclosed roof over the existing front entranceway which has existed for many years.
- (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 an area variance is hereby approved on the conditions set forth below:

**CONDITIONS:**

1. The applicant shall comply substantially with the plans and dimensions as set forth in the plans submitted to this Board.
2. The portico shall not be enclosed.
3. The applicant shall comply with all other applicable laws, rules, codes, and regulations.

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



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

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Chairman Wright announces the next item on the agenda - request of Kimberly Knight – 20 Miller Drive – App. #22-13 (Area Variance)

Residential Alteration- construct new garage, mud room, expand kitchen, expand dining room/family room, and renovate/alter second floor to add bathroom

Zoning Code Article V, Section 215-15 A Bulk Table, 215 attachment 16, part II, column 5 - Side Set-back (use group h.1)

Minimum Side Set-back required = 15' / Minimum combined side set-back req'd = 40'

Existing Side Set-back= 30.4' / combined side set-back = 54.9'

Proposed Side Set-back = 9.5' / combined side set-back = 34'

VARIANCES necessary = Side set-back = 5.5' / combined side set-back = 6'

**\*\*\*MOTION: Chairman Wright offered the following resolution; seconded by Mr. Streiter:**

In the Matter of Application #22-12 of James and Kimberly Knight for area variances from the requirements of Chapter 215, Article V, Section 215-15 A Bulk Table, 215 attachment 16, part II, column 5 – Side Set-Back (use group h.1): Minimum Side Set-back required 15', proposed 9.5'; Minimum Combined Side Set-Back required 40', proposed 34', in connection with the construction of a residential addition and renovation on premises located at 20 Miller Drive, Stony Point, New York, designated on the Tax Map as Section 15.03, Block 3, Lot 77 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 August 13, 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 September 1, 2022; and

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

The applicants own the subject parcel, which is presently improved with a one and a half story framed dwelling located at 20 Miller Drive. The house is appropriately located toward the front center of the lot, slightly shaded toward the left as viewed from Miller Drive. The home is modest with a 1,420 square foot footprint, and properly sized for the lot. It is presently serviced by a driveway on the right side as viewed from Miller Drive, but with no garage.

The applicants propose to construct additions and perform various renovations to the home to accommodate their family space needs. In addition to various alterations and construction on the back of the house for which no variances are sought, they propose to construct a new garage on the right side of the house. In connection therewith, they propose to remove the existing driveway and concrete steps on that side of the house, and build a new driveway connecting the garage to Miller Drive.

The garage proposed on that right side of the home comes to within 9.5 feet of the side property line, but 15 feet are required by Code, so the applicants request a 5.5' side yard variance in that regard. Additionally, the reduction in the right side yard also gives rise to a deficient combined side yard. The Code requires a minimum combined side yard of 40 feet, while the total provided here would now be 34 feet. Accordingly, the applicant also seeks a 6' variance for the combined side yard.

The garage is proposed on the side of the house that provides more room and in the location where the existing driveway is already located. There is no other practical way to place a garage on the site other than in the location proposed.

There were no objections to the relief requested.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicants' request for variances, 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 applicants if the variances are 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 was no evidence presented that the proposed variances would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties.
- (2) There was no evidence presented of any other feasible means to achieve the benefit sought without the variances requested. As stated above, there is no other feasible location for the garage other than as proposed.
- (3) The variances sought could be considered substantial in terms of percentages, but on balance the Board in its discretion does not find this factor to be determinative 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 area variances is hereby approved on the conditions set forth below:

CONDITIONS:

1. The applicants shall comply substantially with the plans and dimensions as set forth in the plans submitted to this Board.
2. The applicants shall comply with all other applicable laws, rules, codes, and regulations.

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

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

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Chairman Wright calls for the new application on the agenda - request of Nataliya Zvarych - 24 Dogwood Lane - App. #22-14 (Area Variance)

Residential Alteration - Addition of front porch  
Town Zoning Code chapter 215-A Bulk Table, attachment 16 part II  
Use group h.1, column 4, Front Yard set-back:  
Minimum front set-back required = 35'  
Existing front set-back = 26'  
Proposed front set-back = 18.0'  
Variance required = 17.0'

Chairman Wright calls for the applicant, or representative of the applicant, to explain the new application. John Perkins of 18 Skahen Drive, Tomkins Cove, NY, introduces himself as the representative for the applicant, Nataliya Zvarych.

Mr. Perkins explains that the application is for an unenclosed, open front porch with a roof, 8ft. from the existing front of the house, which is existing non-conforming of 26ft. He would be extending outward of 8ft. with a half circular stair in the front. He continues to explain

that this will reduce the front set back 15ft. instead of the requirement. The variances are to the front of the stairs, not the stairs themselves.

Mr. Perkins then explains the plans to the Board as they are shown on the floor plans.

Chairman Wright asks if anyone from the Board have any questions regarding the new application. He then calls the Board to make a motion to accept the application.

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

Chairman Wright sets the site visit to be on Saturday, September 24<sup>th</sup> at 9am.

**\*\*\*MOTION: Mr. Lynch made a motion to accept the minutes of meeting of March 3, 2022; seconded by Mr. Anginoli. All in favor; the motion was carried.**

**\*\*\*MOTION: Mr. Anginoli made a motion to go into executive session; seconded by Mr. Strieter. All in favor; the motion was carried.**

**\*\*\*MOTION: Mr. Anginoli made a motion to return from executive session; seconded by Ms. Davis. All in favor; the motion was carried.**

**\*\*\*MOTION: Ms. Anginoli made a motion to adjourn the meeting of September 15, 2022; seconded by Mr. Keegan. All in favor; the motion was carried.**

Respectfully submitted,

*Nicole Pechin*

Secretary  
Zoning Board of Appeals