**SHONE DETERMINATION**

Mr. Wright moved, seconded by Mr. Peckham, that the area variance requested by Tom and Michele Shone, 7 Morgan Chase, Honeoye Falls NY at said property, consisting of 3.86 acres and bearing tax account No. 224.03-1-47, located in an RA-1 zone, for an existing 12’ X 20’ shed with a side setback of 14’ from the property line, whereas Town Code requires a side setback of 20 feet, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Tom and Michele Shone appeared before the Zoning Board of Appeals at the public hearing on January 8 and February 12, 2015.
2. Tom and Michele Shone are the original owners of 7 Morgan Chase (2006). The developer and builder of the Mendonshire subdivision (of which Morgan Chase is part), Alden (Al) Longwell, constructed the home for them, as well as the stone foundation “pad” on which the shed is located. The shed itself was moved from the Shone’s prior home on Chamberlain Road in the Town of Mendon to 7 Morgan Chase at the time of construction of the home in 2006.
3. The shed, and the pad on which it stands, are located among several mature trees which preclude moving it further onto the Shone’s property.
4. The position of the shed is such that it is the only general location on the lot with remaining level access; the shed entrance itself is on the same elevation as the Shone’s three car garage
5. The adjoining neighbor, Mr. Richard Przysinda, 9 Morgan Chase, made a formal, in-person request that the ZBA not grant the Shone’s variance request because it would create an undesirable change to neighborhood properties. However, this neighbor did not purchase 9 Morgan Chase until 2008; the shed had already been at its present site for two years before that purchase.
6. No other members of the general public appeared at the public hearing, although the ZBA did receive a non-specific petition, sponsored by Mr. Przysinda and signed by Morgan Chase residents, asking that we not grant a variance in conflict with Mendonshire Subdivision deed restrictions (see 7 below). The ZBA also received a specific petition, sponsored by the applicants Tom and Michele Shone and signed by many of the same Morgan Chase residents, that we grant the variance for the shed.
7. The Mendonshire subdivision has a number of deed restrictions including an approval process for accessory buildings. The deed restrictions were recorded by the developer Al Longwell with the County of Monroe. The remedy for disputes under these restrictions is, however, an action in equity, not a ZBA determination. In addition, the Mendonshire subdivision has conservation easements, recorded with the Town of Mendon, restricting enumerated activities within the easement areas. The topography of the area, however, is more complex than the map-based easement boundaries. These map-based discrepancies (see 4. above) have required that the Planning Board of the Town grant relief for structures built in minor conflict with the conservation easement maps. The Shone’s shed will require such action, as it also falls in the conservation easement as defined on the map.

**CONCLUSIONS OF LAW**

1. Pursuant to the required balancing test between benefit to the applicant and detriment to the health, safety and welfare of the neighborhood, the ZBA finds that the granting of this variance will not create an undesirable change in the neighborhood character or to nearby properties. The non-conformity is modest, not unusual to the general character of the neighborhood and preferable to the removal of mature trees necessary for its relocation. It has a function of significant value to the Shones, which would be lost by its removal.
2. The benefit the Shones are attempting to achieve cannot be achieved by other means. Moving the structure would require the removal of several mature trees that serve various functions useful to the environment – shade, habitat, screening and so forth. Taking the structure down would deny the Shones of its useful functions.
3. The request is not substantial. The setback non-conformity is thirty percent of the Code designation.
4. The request will not have adverse physical or environmental effects. The structure has been in place for over eight years, is surrounded by mature trees, and does not appear to have created any negative impact on the environment other than occupying a portion of the next door neighbors’ view.
5. The difficulty is self-created. The structure was placed in its current location to take advantage of the natural foliage that lessens its visual impact during the summer and fall months, and the natural grade of the property.
6. This is a Type II action under SEQR.

**APPROVED:**

Mr. Wright – aye; Mr. Peckham – aye; Ms. Sciortino – aye; and Ms. Palmer – aye.

2/26/15