A Regular Meeting of the Zoning Board of Appeals was held on Thursday, July 11, 2013, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Don Irvine, Chair

 Don Thorp

 Bruce Peckham

 Liz Sciortino

ATTORNEY: Doug Jones

ABSENT: Kevin Wright

OTHERS: John Rooney, Town Board Member, and 3 others.

Minutes were taken by Mary Fletcher.

Mr. Irvine called the meeting to order at 7:03 p.m.

**DOWNS AREA VARIANCE PUBLIC HEARING**

Paul and Ruth Ann Downs, 481 Boughton Hill Road, Honeoye Falls, NY, appeared before the Board for an area variance at said property, consisting of 1.353 acres, bearing Tax Account No. 223.03-1-10, located in an RA-5 zone, to allow a side setback of approximately 14 feet for a shed, whereas Town Code requires a 20 foot setback.

Mr. Irvine stated he was waiving the reading of the public notice, a copy of which was in the file. Mr. Irvine asked if everyone had seen the property. Ms. Sciortino stated she was unable to find it. A discussion followed.

Mr. Downs explained they want a shed in the back corner of their property because the property drops off like a ravine. He stated the shed would match the house and showed the Board a picture of the proposed garden shed. Mr. Downs stated that they are requesting a 14 foot setback because they want the shed parallel to the house and moving it would make it too close to the house. Mr. Peckham stated there were not many places the shed could be placed.

Mr. Irvine asked if the benefits could be achieved by any other means. Mr. Downs stated no.

Mr. Irvine asked if this would result in an undesirable change in the neighborhood character. Mr. Downs stated no.

Mr. Irvine asked the degree of the variance. Mr. Downs stated approximately 35%.

Mr. Irvine asked if this would have any adverse physical or environmental effects. Mr. Downs stated no.

Mr. Irvine asked if this was a self-created difficulty. Mr. Downs stated yes.

Mr. Peckham asked if there were any neighbor’s structures on the north side. Mr. Downs stated no.

Mr. Irvine asked if there were any comments from the public. There were none.

**MOTION**

Ms. Sciortino moved, seconded by Mr. Peckham, to close the public hearing.

**ADOPTED**

Mr. Irvine – aye; Mr. Thorp – aye; Ms. Sciortino – aye; and Mr. Peckham – aye.

**WILMOT AREA VARIANCE PUBLIC HEARING**

Tim Wilmot, 135 Taylor Road, Honeoye Falls, NY, appeared before the Board for an area variance at 1312 Pittsford Mendon Road, Mendon, NY, (Over the Moon Farms), consisting of 93.8 acres, bearing Tax Account No 205.04-1-15.1, located in an RA-5 zone, to allow a sign measuring approximately 4 feet high, by 5 feet wide by 2 inches deep at said property, whereas Town Code does not allow a sign in a residential area.

Mr. Irvine stated that the applicant is before the Board because signs are not allowed in a residential area. Mr. Irvine waived the reading of the public notice, a copy of which was in the file. All Board members stated they had seen the property.

Mr. Wilmot stated the sign would have the name of the facility on it along with a hanging placard with the phone number. He stated he wanted something that would let people know what the facility is and what it is called.

Mr. Peckham asked if the sign would be 20 square feet. Mr. Wilmot stated yes.

Mr. Wilmot stated it would be a two sided sign and that he has a Special Use Permit to operate the business.

Mr. Peckham stated that the Code Enforcement Officer recommended this size because that is what subdivision signs are allowed to be.

Mr. Irvine asked if the sign would be lit. Mr. Wilmot stated no.

A discussion followed regarding the size of the riding arena and the facility.

Mr. Irvine opened the meeting to comments from the public. There were none.

Mr. Irvine asked if the benefits could be achieved by any other means. Mr. Wilmot stated no.

Mr. Irvine asked if this would result in an undesirable change in the neighborhood character. Mr. Wilmot stated no.

Mr. Irvine asked if the degree of the variance was substantial. Mr. Wilmot stated it was.

Mr. Irvine asked if this would have any adverse physical or environmental effects. Mr. Wilmot stated no.

Mr. Irvine asked if this was a self-created difficulty. Mr. Wilmot stated yes.

**MOTION**

Mr. Thorp moved, seconded by Ms. Sciortino, to close the public hearing.

**ADOPTED**

Mr. Irvine – aye; Mr. Thorp – aye; Ms. Sciortino – aye; and Mr. Peckham – aye.

A discussion followed regarding the determinations.

**FREDERICK DETERMINATION**

Mr. Irvine moved, seconded by Mr. Peckham, that the application for an area variance requested by Richard and Jacqueline Frederick, 394 Mendon Ionia Road, Honeoye Falls, NY requesting an area variance at property directly east of their property, zoned RA-1 and bearing tax account 223.02-1-21.112, consisting of 4.29 acres, to construct an addition, consisting of approximately 1,680 square feet, with 840 square feet of that 1,680 square feet to be living space, to the existing barn, whereas town code requires a minimum of 1,500 square feet of living space for a two story dwelling, be denied based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Richard and Jacqueline Frederick, 394 Mendon Ionia Road, Honeoye Falls, NY appeared before the ZBA on June 13, 2013 and June 27, 2013.

2. The Fredericks own a separate 4.29 acre parcel directly east of their residential property. The principal existing structure on this parcel is a barn measuring approximately 1,500 square feet. Mr. Frederick stated that he and his wife would like to add an addition to the existing barn which would serve as a four car garage and residence for Mrs. Frederick's parents who are presently living in the main house with the Fredericks family.

3. The addition would expand a second story to the existing barn increasing its total square footage to 1,680 square feet to include 840 square feet of living space. This proposal creates a variance from code requirements of 660 square feet or 44%.

4. The Fredericks desire to construct the living space at 840 square feet is driven by financial considerations and not physical or construction constraints. They believe the proposed square footage is adequate for the intended purpose.

5. The home would have a new septic system and its own electric and water services.

6. The septic system would be sized for an 840 sqft. residence.

7. Space is available above the existing barn to create a 1500 sqft. conforming single family residence.

8. There were no comments from the public.

**CONCLUSIONS OF LAW**

1. The benefit Mr. and Mrs. Frederick are attempting to achieve could be achieved by other means – namely expanding the second story residential space to 1500 square feet, thereby eliminating the need for the variance.

2. The granting of this variance will create an undesirable change to the neighborhood.

3. The request is substantial.

4. The granting of this request will not have adverse physical or environmental effects.

5. The difficulty is self-created.

6. This is a Type II action under SEQR.

**VOTE**

Mr. Irvine – aye; Mr. Thorp – nay; Ms. Sciortino – aye; and Mr. Peckham – aye.

**DOWNS AREA VARIANCE DETERMINATION**

Mr. Peckham moved, seconded by Ms. Sciortino, that the area variance requested by Paul and Ruth Ann Downs, 481 Boughton Hill Road, Honeoye Falls, NY, for an area variance at said property, consisting of 1.353 acres, bearing Tax Account No. 223.03-1-10, located in an RA-5 zone, to allow a side setback of approximately 14 feet for a shed, whereas Town Code requires a 20 foot setback, be approved subject to the following findings of fact and conclusions of law: .

 **FINDINGS OF FACT**

1. The applicants appeared before the Zoning Board of Appeals at the public hearing on July 11,

 2013.

2. The Downs wish to erect a 10 foot by 14 foot accessory shed on the north side of their residential property.

3. The topographical nature and physical characteristics of the property limits placement of the structure in any other location on their lot.

4. There are now no nearby structures on neighboring contiguous property along the Downs' north property line which might be impacted by the placement of the shed.

**CONCLUSIONS OF LAW**

1. The benefit Paul and Ruth Ann Downs are attempting to achieve could be achieved by other means.
2. The granting of this variance will not create an undesirable change in the character of the neighborhood or to nearby properties.
3. The request is substantial.
4. The request will not have adverse physical or environmental effects.
5. The difficulty is self-created.
6. This is a Type II action under SEQR.

**ADOPTED**

Mr. Irvine – aye; Mr. Thorp –aye; Ms. Sciortino – aye; and Mr. Peckham – aye.

**WILMOT AREA VARIANCE DETERMINATION**

Mr. Peckham moved, seconded by Mr. Thorp, that the area variance requested by Terri and Tim Wilmot, 135 Taylor Road, Honeoye Falls, NY, for an area variance at 1312 Pittsford Mendon Road, Mendon, NY, (Over the Moon Farms), consisting of 93.8 acres, bearing Tax Account No 205.04-1-15.1, located in an RA-5 zone, to allow a sign measuring approximately 4 feet high, by 5 feet wide by 2 inches deep at said property, whereas Town Code does not allow a sign in a residential area be approved subject to the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Tim Wilmot appeared before the Zoning Board of Appeals at the public hearing on July 11,

2013.

2. The Wilmots wish to place a sign near the entrance to their riding academy on Pittsford Mendon Road that identifies the location.

3. The property is zoned RA-5 and code precludes signs on this category of property. The riding academy, situated on a 93.8 acre parcel, and encompassing 35,000 square feet was previously granted a special use permit by the Planning Board of the Town of Mendon.

4. The riding academy will provide lessons, exercise facilities and horse boarding on the site.

5. The proposed sign is 20 square feet and will be situated in accordance with NYS DOT requirements.

6. Signs of this size are allowed for subdivisions located in the town within similarly zoned areas.

**CONCLUSIONS OF LAW**

1. The benefit Terri and Tim Wilmot are attempting to achieve could not be achieved by other means.

2. The granting of this variance will not create an undesirable change in the character of the neighborhood or to nearby properties.

3. The request is substantial.

4. The request will not have adverse physical or environmental effects.

5. The difficulty is self-created.

6. This is a Type II action under SEQR.

**ADOPTED**

Mr. Irvine – aye; Mr. Thorp –aye; Ms. Sciortino – aye; and Mr. Peckham – aye.

**MINUTES**

**MOTION**

Ms. Sciortino moved, seconded by Mr. Peckham, to approve the minutes of the June 13, 2013 minutes, as amended.

**ADOPTED**

Mr. Irvine – aye; Mr. Thorp –aye; Ms. Sciortino – aye; and Mr. Peckham – aye.

**MOTION**

Ms. Sciortino moved, seconded by Mr. Peckham, to approve the minutes of the June 27, 2013 minutes, as amended.

**ADOPTED**

Mr. Irvine – aye; Mr. Thorp –aye; Ms. Sciortino – aye; and Mr. Peckham – aye.

**MOTION**

Mr. Irvine moved, seconded by Ms. Sciortino, to adjourn the meeting at 8:03.

**ADOPTED**

Mr. Irvine – aye; Mr. Thorp –aye; Ms. Sciortino – aye; and Mr. Peckham – aye.