A Regular Meeting of the Zoning Board of Appeals was held on Thursday, August 22, 2013, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Kevin Wright, Chair

 Don Thorp (arrived at 7:08 p.m.)

 Bruce Peckham

 Liz Sciortino

 Don Irvine

ATTORNEY: Doug Jones

OTHERS: 7 others.

Minutes were transcribed by Mary Fletcher.

Mr. Wright called the meeting to order at 7:05 p.m.

**WILMOT AREA VARIANCE PUBLIC HEARING**

Craig Jenson, Architect of CJS Architects, Rochester, New York, for Paul Wilmot, 162 Smith Road, Pittsford, NY, appeared before the Board for an area variance at said property, northwest of the W. Bloomfield Road intersection, consisting of 7.25 acres (after it is subdivided) and bearing Tax Account No. 205-1-12.2, located in an RA-5 zone, to construct a primary residence with a height of approximately 40 feet, whereas Town Code allows a height of 35 feet.

Mr. Wright waived the reading of the public notice and stated the affidavit of posting of the sign was in the file. The Board members stated they were familiar with the property.

Mr. Jensen explained the reason for the variance request. He stated Mr. Wilmot preferred a steeper pitch to the roof (6/12), which is better than the 5/12 pitch. He stated the home is quite a distance from the road. He stated that they need a 39 foot height but asked for a 41 foot height variance. He stated they asked for 41 feet but don’t think they will necessarily need it.

Mr. Wright asked if the Wilmots currently occupy the other house at this address. Mr. Jensen stated yes.

There were no questions from the Board.

Mr. Wright asked if the maximum height that was needed was in the front. Mr. Jensen stated yes. A discussion followed regarding the height of the front and the back of the house.

Mr. Wright asked if the benefit could be achieved by any other means. Mr. Jensen stated no.

Mr. Wright asked if this would result in an undesirable change to the neighborhood. Mr. Jensen stated, no, it would improve the neighborhood.

Mr. Wright asked if this request was substantial. Mr. Jensen stated no.

Mr. Wright asked if this would have adverse environmental or physical effects. Mr. Jensen stated no.

Mr. Wright asked if this was a self-created difficulty. Mr. Jensen stated no.

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

**MOTION**

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

**ADOPTED**

Mr. Wright – aye; Mr. Thorp –aye; Ms. Sciortino – aye; Mr. Peckham – aye, Mr. Irvine – aye.

Mr. Wright stated the Board would make the decision at the September 12th meeting.

**FOUNTAIN AREA VARIANCE PUBLIC HEARING**

Rose Fountain, 33 Woodridge Drive, Mendon, NY, appeared before the Board for an area variance at said property, consisting of 0.926 acres, located in an RS-30,000 zone, to construct a privacy fence in the front yard, which fronts Mile Square Road, which, when placed on the existing retaining wall, will have a maximum height of approximately 5 feet 21 inches, whereas code states that no fence in a front yard shall be more than 4 feet above ground level.

Mr. Wright waived the reading of the public notice and stated the affidavit of posting was in the file. All board members stated they had seen the property.

Rose Fountain and her husband, David Midland, appeared before the board. Ms. Fountain stated they built a deck a year ago and would like to construct a privacy fence on the deck to shield them from the traffic on Mile Square Road. Ms. Fountain stated that because they back onto Mile Square Road, that is considered a front yard. Ms. Fountain stated the fence will be on top of the retaining wall, which is made of railroad ties.

Mr. Wright asked how far back it would be relative to Mile Square Road. Ms. Fountain stated it would be right up near the house. The Board reviewed the pictures submitted by applicant.

A discussion followed regarding the height of the fence from the ground.

There were no other questions from the Board.

Mr. Wright asked if anyone in the audience had any concerns.

Mr. Dave Donatello of 20 Woodridge Drive, and Ken Turner, 22 Woodridge Drive, stated they had no concerns with the request.

Mr. Wright asked if the benefit could be achieved by any other means. Ms. Fountain stated no.

Mr. Wright asked if it would create an undesirable change to the neighborhood. Ms. Fountain stated no.

Mr. Wright asked if the request was substantial. Ms. Fountain stated no.

Mr. Wright asked if there would be any adverse physical or environmental effects. Ms. Fountain stated no.

Mr. Wright asked if this was a self-created difficulty. Ms. Fountain stated yes.

**MOTION**

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

**ADOPTED**

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

**LOPEZ AREA VARIANCE PUBLIC HEARING**

Christopher & Amy Lopez, 2332 State Route 444, Bloomfield, NY, appeared before the Board for an area variance at property located on Taylor Road, Honeoye Falls, NY, near the southwest corner of the Taylor Road and West Bloomfield Road intersection, consisting of 3.72 acres (after it is subdivided) and bearing Tax Account No 216.03-1-5.2, located in an RA-1 zone, to allow them to have horses in an existing barn, on said property, which has a front setback of approximately 40 feet and a side setback of approximately 24 feet whereas Town Code requires a 100 foot setback for any structure housing up to 5 animals.

Mr. Lopez stated that Ms. Lopez was not able to attend tonight’s meeting.

Mr. Wright waived the reading of the public notice and stated that the affidavit of posting was in the file.

All board members stated they had seen the property.

Mr. Lopez reviewed the reason he is before the Board.

Mr. Wright asked how far the barn is from the adjoining property line to the east. Mr. Lopez stated it was approximately 25 feet to the property line and house is about 75 feet, so the barn is at least 100 feet. Mr. Wright asked if the adjoining property owners were in attendance. They were not. A discussion followed regarding when horses were last in the barn.

Mr. Wright asked if the corner house was there when the barn was used for horses. Ms. Sciortino stated the house has always been on the corner.

A discussion followed regarding similar applications.

Mr. Peckham stated his only concern is since these are back to back applications; the signs were out for the conversion of the house. He stated he hoped the neighbors are aware of the difference. Mr. Jones stated there were different dates on the sign, the notice has been published, and the agenda is on the website.

Mr. Lopez stated they probably would have 5 horses there.

Mr. Peckham was concerned with the notice, but he agrees with Mr. Jones. Mr. Irvine stated there were no inquiries.

There were no further questions from the Board.

There were no questions from the audience.

Mr. Wright asked if the benefit could be achieved by any other means. Mr. Lopez stated no.

Mr. Wright asked if this would result in an undesirable change to the neighborhood. Mr. Lopez stated no.

Mr. Wright asked if the request is substantial. Mr. Lopez stated no.

Mr. Wright asked if there would be adverse physical or environmental effects. Mr. Lopez stated no.

Mr. Wright asked if this is a self-created difficulty. Mr. Lopez stated no.

**MOTION**

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

**ADOPTED**

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

LOPEZ DETERMINATION (HOUSE SETBACK)

Mr. Wright moved, seconded by Ms. Sciortino, that the area variance requested by Christopher and Amy Lopez, 2332 State Route 444, Bloomfield, NY 14469, for a property on Taylor Rd., comprised of two parcels totaling 6.8 acres in a RA-1 zone, which are part of Tax Account Nos. 216.03-1- 5.2, to convert a pre-existing barn to a dwelling with a front setback of approximately 2.8 feet from the edge of the right-of-way instead of the 60 feet required by code be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Christopher and Amy Lopez appeared before the Zoning Board of Appeals at the public hearing on August 8, 2013.
2. The pre-existing non-conforming barn (built around 1940) is on part of the DeLuccio property at 185 Taylor Rd. The DeLuccio property is on both the north side (the homesite) and the south side (the barn site) of Taylor Rd. The Lopez have a contingent offer to buy 6.8 acres on the south side of Taylor Rd. Their offer is contingent on their ability to convert the barn to a home.
3. The exterior of the barn will remain as it currently exists, and no change in the footprint will be required. The barn is 1548 square feet, is 17 feet in height, but because the property falls away steeply from the road, appears from Taylor Road to only be approximately 9 feet above grade.
4. Although the barn is only 2.8 feet from the property line, it is approximately 10-12 feet from Taylor Rd. The adjoining dwelling to the north, on the corner of Taylor and West Bloomfield Rd, and approximately 80 feet from the De Luccio barn, is also set back only about 20 feet from Taylor Rd.
5. No members of the general public appeared at the public hearing. The Chairman of the Planning Board of the Town of Mendon, Dr. Ed Walsh, was in attendance.

**CONCLUSIONS OF LAW**

1. The benefit Christopher and Amy Lopez are attempting to achieve cannot be achieved by other means.
2. The granting of this variance will not create an undesirable change in neighborhood character or to nearby properties.
3. The request is very substantial.
4. The request will not have adverse physical or environmental effects.
5. The difficulty is not self-created as the barn is a pre-existing, non-conforming structure.
6. This is Type II action under SEQR.

**ADOPTED**

Mr. Wright – aye; Mr. Thorp –aye; Ms. Sciortino – aye; Mr. Peckham – aye, Mr. Irvine – abstain.

**MINUTES**

**MOTION**

Mr. Wright moved, seconded by Mr. Peckham, to approve the minutes of the August 8, 2013 minutes, as amended.

**ADOPTED**

Mr. Wright – aye; Mr. Thorp –aye; Ms. Sciortino – aye; Mr. Peckham – aye, Mr. Irvine – abstained.

**DISCUSSION**

Mr. Peckham stated he would write the Wilmot determination.

Mr. Wright stated he would not be at the next meeting, but would write the Lopez determination.

Mr. Peckham stated he would write the Fountain determination.

Mr. Jones asked that the determinations be sent to him because he will not be at the next meeting.

A discussion followed regarding the items on the agenda for the next two meetings. Mr. Jones stated that the Lanzalaco application needed to be changed to the September 26th meeting since the public notice date was incorrect.

**MOTION**

Mr. Irvine moved, seconded by Mr. Peckham, to adjourn the meeting at 8:10.

**ADOPTED**

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