A Regular Meeting of the Zoning Board of Appeals was held on Thursday, September 24, 2015, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Bruce Peckham

 Meribeth Palmer

 Daniel Bassette

ABSENT: Kevin Wright

Liz Sciortino

Jeffrey Clark (Attorney)

OTHERS: 2 Others

Minutes were taken by Bonnie Toomey and Mary Fletcher.

Mr. Peckham opened the meeting at 7:02 p.m.

The Board reviewed the agenda items.

**MILES AREA VARIANCE PUBLIC HEARING (CONTINUED)**

Jason Inda for Josh Miles, 791 Mile Square Road, Pittsford, NY, appeared before the Board for a variance at said property, consisting of 8.371 acres, bearing Tax Account No. 192.04-1-6.14, located in an RA-5 zone, to allow a 5-foot fence and 6-foot gate in the front yard, whereas Town Code states no fence in the front yard shall exceed 4-feet above ground level.

Mr. Inda reviewed the reason for the requested area variance. Mr. Inda stated the first 20 feet of the driveway has been paved since the last meeting.

Mr. Inda stated the fence company stated the gate is 54 inches high.

Mr. Peckham reviewed the rendering supplied by Mr. Inda per the Board’s request at the last meeting.

Ms. Palmer asked if the fence is metal and if it is about 20 feet from the edge of the road. Mr. Inda stated the fence is metal and will be powered by electricity, but there are not any plans for any lighting.

**MOTION**

Mr. Bassette moved, seconded by Ms. Palmer, to close the public hearing.

**ADOPTED**

Mr. Peckham – aye; Ms. Palmer – aye; Mr. Bassette – aye.

Ms. Palmer stated she would write the determination.

**CHAPMAN AREA VARIANCE PUBLIC HEARING**

Allan Chapman, 4 Portofino Circle, Honeoye Falls, NY, appeared before the Board for an area variance at said property, consisting of 1.62 acres, bearing Tax Account No. 190.04-2-4, located in an RA-5 zone, to allow construction of an accessory structure, measuring approximately 1,120 square feet, which, when added to the existing accessory structures, exceeds the allowed lot coverage for accessory structures in an RA-5 zone by 483 square feet.

Mr. Peckham waived the reading of the public notice and stated the sign was posted.

Mr. Chapman stated there were five people and five cars at his house. Mr. Chapman stated he cannot add on to the garage due to the setback. Mr. Chapman stated he is over the 2% rule by 619 square feet.

Mr. Chapman stated he would also like to use the garage for storage of other items. Mr. Chapman stated he could scale the garage back to 24 feet wide which would be a negligible difference, but the requested size is the most functional. Mr. Chapman stated the requested size fits the lot and would be screened by trees and a berm.

Mr. Peckham stated the garage would be visible from the road on one side. Mr. Chapman stated it was screened on the other three sides.

A discussion followed about possible other locations for the garage on the property. Mr. Chapman stated the lot is pie shaped and if it were closer to the house, there would be an issue with the leach field and mature trees.

The Board reviewed the site map. A discussion followed regarding the possibility of decreasing the size of the garage. Mr. Chapman stated he would consider decreasing the size by 300 square feet, but decreasing the size any more would defeat the purpose.

Mr. Peckham stated he had a concern about the change in character and negative impact on the neighborhood. Mr. Peckham stated this was a pristine neighborhood, and he thought this building would stand out.

Mr. Chapman stated he agreed that the placement was unusual. Mr. Chapman stated accessory structures were common with the older homes in Mendon and he could make it look like a barn so it is aesthetically pleasing.

A discussion followed regarding additional screening and time constraints. Mr. Peckham stated that because there were three board members present, any decision made tonight would have to be unanimous. Mr. Peckham stated his concerns were the appearance in the neighborhood and if Mr. Chapman could make it less intrusive.

Mr. Chapman stated he would like to build the garage before the weather changes. Mr. Chapman stated he had no problem screening with trees on the side, but there was no way he could screen from the front.

Mr. Bassette asked if those were concerns for the Planning Board.

Mr. Chapman asked if he didn’t have the pool house would he be before the Board. Mr. Peckham stated no.

Mr. Peckham asked if this would change the character of the neighborhood. Mr. Chapman stated no.

Mr. Peckham asked if the benefit could be achieved by other means. Mr. Chapman stated no.

Mr. Peckham asked if the request was substantial. Mr. Chapman stated sure.

Mr. Peckham asked if there would be any adverse physical or environmental effects. Mr. Chapman stated no.

Mr. Peckham asked if this was a self-created difficulty. Mr. Chapman stated apparently.

**MOTION**

Ms. Palmer moved, seconded by Mr. Bassette, to continue the Chapman area variance public hearing.

**ADOPTED**

Mr. Peckham – aye; Ms. Palmer – aye; Mr. Bassette – aye.

Mr. Peckham stated the sign should remain posted.

**RHH Mendon Properties**

A discussion followed regarding the RHH Mendon Properties determination.

**RHH MENDON PROPERTIES, INC. DETERMINATION**

Mr. Peckham moved, seconded by Ms. Palmer, that the area variance requested by RHH Mendon Properties, Inc. 740 East Avenue, Rochester, NY at property located at 240 Sheldon Road, Honeoye Falls, NY, consisting of 71.8 acres, bearing Tax Account No. 214.02-1-2.3, located in an RA-5 zone, to subdivide out a 5.002 acre new parcel from the 71.8 acres, which will result in a side setback for the existing block garage of approximately 11 feet and a side setback of the existing frame barn of approximately 11 feet, whereas Town Code requires a 20 foot side setback, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Laura M. Smith, Esq., Harter Secrest & Emery LLP appeared before the Zoning Board of Appeals at the public hearing on September 10, 2015 on behalf of RHH Mendon Properties, Inc.
2. RHH Mendon Properties, Inc. is the owner of the property at 240 Sheldon Road.
3. The property is improved with a single family house, two block garages and a frame barn. RHH Mendon Properties intends to subdivide the property so that the house and block garages are located on a new 5.002 acre parcel and the frame barn is located on the remaining original parcel of approximately 67.0 acres.
4. RHH Mendon Properties wants to retain the single family house as an income producing property. The remaining acreage and the frame barn will be sold to the Director of the corporation in his personal capacity. Thus the five acre lot will continue to be used for rural residential purposes while the larger property will be used by the new owner for personal recreational use and to support agricultural operations, a purpose for which a portion of the property has been used in the past through lease to area farmers.
5. The subdivision which gives rise to the setback variance will not result in any physical change to the property or to the structures in place. The physical configuration and appearance will essentially remain the same. There is no plan for further development of either lot.
6. The new property line between the parcels is situated so as to best meet the future residential, recreational and agricultural uses of both properties and to provide ease of access in the new configuration.
7. The property subdivision changes the definition of the frame barn under the Town Code from an accessory building to a principal building.
8. No members of the public commented on the variance application at the public hearing.

**CONCLUSIONS OF LAW**

1. The granting of this variance will not create an undesirable change in neighborhood character or to nearby properties.
2. The request will not have adverse physical or environmental effects.
3. The benefit RHH Mendon Properties, Inc. is attempting to achieve cannot be achieved by other means.
4. The request is substantial.
5. The difficulty is self-created.
6. This is a Type II action under SEQR.

**APPROVED**

Mr. Peckham – aye; Ms. Palmer – aye; Mr. Bassette – aye.

**DISCUSSION**

A discussion followed regarding the Chapman application.

**MILES AREA VARIANCE DETERMINATION**

Ms. Palmer moved, seconded by Mr. Peckham that the area variance request by Jason Inda, agent for Josh Miles, 791 Mile Square Road, Pittsford, NY for a variance at said property consisting of 8.371 acres, bearing tax account number192.04-1-6.14, located in an RA-5 zone to allow a variance for a fence 4.5 feet in height. Whereas town code requires a maximum height of 4 feet, be approved based on the following findings of fact and conclusion of law.

FINDING OF FACT

1. Jason Inda, contractor, appeared before the Mendon Zoning Board of Appeals on September 24, 2015 on behalf of Josh Miles, 791 Mile Square Road, Pittsford, NY.
2. The subject of the proposed area variance request is for a metal fence and security/entry gate.
3. The proposed fence is 4.5 feet in height; the entry gate will be 12 feet in width and 4.5 feet in height.
4. The gate will be placed between 2 metal posts, the fence and gate will be setback approximately 20 feet from the edge of Mile Square Road.
5. The gate will be power operated.
6. The gate will not be lighted.

CONCLUSION OF LAW

1. The granting of the variance will not result in an adverse change to the character of the neighborhood.
2. The granting of the variance will not have a negative environmental impact.
3. The variance is not substantial.
4. There is no alternative method to the variance request as a portion of the fence is already installed.
5. The difficulty is self-created.
6. The action is a Type II under SEQR.

**APPROVED**

Mr. Peckham – aye; Ms. Palmer – aye; Mr. Bassette – aye.

**MINUTES**

**MOTION**

Mr. Peckham moved, seconded by Ms. Palmer, to approve the minutes of the September 10, 2015 meeting as amended.

**APPROVED**

Mr. Peckham – aye; Ms. Palmer – aye; Mr. Bassette – aye.

**MOTION**

Ms. Palmer moved, seconded by Mr. Peckham, to adjourn the meeting at 7:58 p.m.

**APPROVED**

Mr. Peckham – aye; Ms. Palmer – aye; Mr. Bassette – aye.