A Regular Meeting of the Zoning Board of Appeals was held on Thursday, December 8, 2016, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Bruce Peckham

Liz Sciortino

Daniel Bassette

Clayton Lacey

ATTORNEY: Jeffrey Clark

OTHERS: John Hagreen, Mike Allen, Tim & Cheryl Carney, Jack Sigrist

Minutes were taken by Michelle Booth.

Mr. Peckham opened the meeting at 6:56 p.m.

**ALLEN USE VARIANCE PUBLIC HEARING(continued)**

Mike and Vicki Allen, P.O. Box 309, Mendon, NY, for a use variance at 3902 Rush Mendon Road, Mendon, NY, consisting of 0.39 acres, bearing Tax Account No. 216.07-1-5, located in a Business zone, to convert a single family dwelling to a 2-Unit dwelling which requires a use variance.

The Board reviewed the information that was provided by Mr. Allen.

The Board did not have any other questions.

**MOTION**

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

**APPROVED**

Mr. Peckham – aye; Ms. Sciortino – aye, Mr. Bassette – aye; and Mr. Lacey – aye.

**CARNEY AREA VARIANCE PUBLIC HEARING**

Jack Sigrist (architect) appeared with Tim and Cheryl Carney, 950 Pittsford Mendon Center Road, Pittsford, NY, for an area variance at said property, consisting of 3.93 acres, bearing Tax Account No. 204.2-1-32, located in an RA-2 zone, to construct a 40’ x 60’ (2,400 square feet) barn to house vehicles, which exceeds the allowed lot coverage (1,712 square feet) and requires an area variance.

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

The Board was familiar with the application and location.

Mr. Sigrist provided pictures of the rural street and property. This would show the neighbors have barns and horses on their property also. He explained the need for more storage for vehicles and mowers.

Mr. Lacey stated that the building would be built into a hill and wondered if there would be a retaining wall. Mr. Sigrist stated that there would be a retaining wall on the west side and storm water would continue to drain on the property, it would not affect the neighbors.

Mr. Bassette asked how many trees would need to be removed. Mr. Carney stated that it would only be a couple, which are not in good shape and would need to come down either way.

Mr. Bassette questioned how visible the barn would be from the road. Mr. Carney said that with the retaining wall and vegetation, it will barely be visible.

Ms. Sciortino asked how long they have owned the property. Mr. Carney stated 3 years.

Mr. Clark asked if water and electric would be run to the building. Mr. Carney stated no water, only electricity.

Mr. Peckham asked how high the building will be to the peak. Mr. Sigrist stated 19 feet.

Mr. Bassette explained the procedure of going to the Planning Board next if this was approved.

Mr. Carney stated that the requested benefit cannot be achieved by other feasible means.

Mr. Carney said the request will not have an undesirable change in the neighborhood.

Mr. Carney stated that the request is not substantial.

Mr. Carney believes that the request will not have any adverse physical or environmental effects.

Mr. Carney agrees that the difficulty was self-created.

Nobody from the public appeared.

**MOTION**

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

**APPROVED**

Mr. Peckham – aye; Ms. Sciortino – aye, Mr. Bassette – aye; and Mr. Lacey – aye.

**MINUTES**

**MOTION**

Mr. Peckham moved, seconded by Ms. Sciortino, to approve the minutes of the November 10, 2016 meeting as amended.

**APPROVED**

Mr. Peckham – aye; Mr. Bassette – aye; Ms. Sciortino – aye, and Mr. Lacey – aye.

**ALLEN USE VARIANCE DETERMINATION**

Mr. Peckham moved, seconded by Ms. Sciortino, that the application requested by Mike and Vicki Allen, P.O. Box 309, Mendon, NY, for a use variance at 3902 Rush Mendon Road, Mendon, NY, consisting of .39 acres, bearing Tax Account No. 216.07-1-5, located in a Business Zone, to convert a single family dwelling to a 2-Unit dwelling which requires a use variance under the Town of Mendon Code be approved under the following Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Mike Allen appeared before the Zoning Board of Appeals at a public hearing on November 10, 2016.
2. Mr. Allen stated that he purchased the property in 2013 as a rental property. He experienced difficulties in maintaining tenant occupancy in a single unit rental. During times of vacancy the financial drain was considerable. Mr. Allen then decided to convert the property to a two- family unit, thereby allowing him to achieve a reasonable rate of return on his investment. He further stated that the financial drain as a single unit rental is reduced with two sources of income. If one unit is vacant there is still cash flow from the other.
3. Mr. Allen provided a financial summary for the property as part of his application which demonstrates the improved rate of return as a two-family unit.
4. Mr. Allen related circumstances unique to the property that have prevented its rental in conformity with uses accepted in the Zoning Code, - principally location, parking, renovation costs and water issues. He also provided a list of his efforts to rent this and other properties he owns in the hamlet between 2012 and 2015 which could not be achieved due to these and other similar issues.
5. Mr. Allen stated his belief that the conversion to a two-family unit does not alter the essential character of the locality. The Hamlet does contain single and multiple family dwellings mixed together with single family residences and commercial properties. Multi-family housing for the hamlet is a component in the Town’s Comprehensive Plan. The property directly adjacent to the east converted vacant commercial space to a two-family unit under a use variance granted in 2014.
6. Mr. Allen contracted to have the property converted, and later learned that the contractor, despite assurances, had failed to secure the necessary permit. Mr. Allen promptly contacted the Town, resulting in this ex post facto application.

**CONCLUSIONS OF LAW**

1. Mr. Allen has demonstrated that property is not financially viable as a single family rental unit and that its only economic value is as a two-family rental unit.
2. The property, originally purchased as a single family rental unit, has created a financial hardship due to the fact that code restrictions and economic conditions within the hamlet have prevented Mr. Allen from realizing a reasonable rate of return.
3. The granting of the use variance will not alter the essential character of the Hamlet.
4. The hardship is not self-created.

**APPROVED**

Mr. Peckham – aye; Mr. Bassette – aye; Ms. Sciortino – aye, and Mr. Lacey – aye.

**CARNEY AREA VARIANCE DETERMININATION**

Mr. Bassette moved, seconded by Mr. Lacey, that the area variance requested by Tim and Cheryl Carney, 950 Pittsford Mendon Center Road, Pittsford, NY, for an area variance at said property, consisting of 3.93 acres, bearing Tax Account No. 204.2-1-32, located in an RA-2 zone, to construct a 40’ x 60’ (2,400 square feet) barn to house vehicles, which exceeds the allowed lot coverage (1,712 square feet) and requires an area variance, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Tim and Cheryl Carney, the property owner(s) appeared before the Zoning Board of Appeals at the public hearing on Thursday, December 8th, 2016.
2. Jack Sigrist, applicant’s architect, was also in attendance.
3. The applicant has requested they be allowed a lot coverage of 2400 square feet, while the code limits them to no more than 1712 square feet (1% of 3.93 acres). This limit is found in section 200-8(c)(3) of the Code of the Town of Mendon.
4. As stated in section 200-8(c)(10), the applicant will also require site plan approval from the Town of Mendon Planning Board.
5. The applicant’s intent is to provide enclosed storage for their various vehicles, many of which currently park on site.
6. The properties across the road and directly behind are zoned RA-5, which has a lot coverage limit of 2%.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means. The quantity of vehicles precludes other alternatives on site.
2. The request will **not** have an undesirable change in the neighborhood. There are similarly sized structures on a number of the neighboring properties.
3. The request is **not** substantial. It would cover approximately 1.4% of the lot, of which 1% is already allowed, for an increase of 0.4%.
4. The request will **not** have any adverse physical or environmental effects.
5. The difficulty **was** self-created. The various vehicles could continue to be stored on yard /or off site, the applicants desire to change that created the difficulty.

**APPROVED**

Mr. Peckham – aye; Mr. Bassette – aye; Ms. Sciortino – aye, and Mr. Lacey – aye.

**MOTION**

Mr. Sciortino moved, seconded by Mr. Lacey, to adjourn the meeting at 7:27 p.m.

**ADOPTED**

Ms. Sciortino – aye; Mr. Peckham – aye; Mr. Bassette – aye; and Mr. Lacey - aye.