A Regular Meeting of the Zoning Board of Appeals was held on Thursday, February 7, 2019, at the Mendon Town Hall, 16 West Main Street, Honeoye Falls, NY, 14472 at 7:00 p.m.

PRESENT: Daniel Bassette

 Clayton Lacey

 Liz Sciortino

 Stephen Maxon

ABSENT: David Cook

ATTORNEY: David Hou

OTHERS: 4 others

Minutes were taken by Michelle Booth.

Mr. Bassette opened the meeting at 7:00 p.m.

**CLOEN AND CORNELL AREA VARIANCE PUBLIC HEARING**

Carol Cloen, 215 Sibley Road, Honeoye Falls, NY consisting of 0.8 acres, bearing Tax Account No. 221.04-1-2, located in an RS-30,000 zone, to build a carport 12’ wide adjacent to the existing garage which would result in a 10’ side setback, whereas town code requires a 15’ side setback.

Mr. Bassette acknowledged the affidavit of posting of the sign and waived the reading of the public notice.

Ms. Cloen explained the application and reason for the variance. She has a large travel trailer that she would like to be able to store on her property and out of the winter weather. She stated that she would not be removing any trees, she would only have to trim some branches back. Ms. Cloen stated that she plans on planting some greenery around the structure to provide a natural buffer. She stated that gravel would be put down as a driveway to park on and to provide stability for the trailer. Ms. Cloen provided pictures of the property as it is now and some with the carport added. She stated that she could not put it on the other side of the home because the septic and a drain field are on that side.

Ms. Sciortino asked why she could not put the carport behind the house. Ms. Cloen stated that it would be a financial hardship because the stone driveway would be much more.

Mr. Lacey asked why she needs to have gravel under it if it is placed in the backyard. Ms. Cloen said it is damp and wet. She would be concerned that the trailer would sink.

Mr. Maxon asked what size the trailer is. Ms. Cloen stated it is large, 21ft long and weighs about 5000lbs.

Ms. Sciortino stated that she parks her horse trailer in the grass on her property without any problems.

Ms. Sciortino asked why they feel the need to have the trailer covered. Ms. Cloen said the trailer cost quite a bit of money and she wants to protect her investment. She stated that there are solar panels installed on the roof that she would like to protect from the elements.

Mr. Bassette asked where the trailer is being stored now. Ms. Cloen answered Greece.

Mr. Lacey asked why they could not attach that carport to the existing garage. Ms. Cloen stated that the carport will be higher than the garage and it would be a great financial hardship to do that.

Mr. Hou asked if the carport is permanent. Ms. Cloen explained that it will be anchored down, but if they ever moved it could be removed.

Mr. Hou asked if there would be gravel under the carport or just leading up to it. Ms. Cloen confirmed that the gravel would be under it also to provide stability from sinking.

Mr. Hou stated for the record that Town Code 260-8 (G) states that boats, recreational vehicles and travel trailers may be stored on the side or rear of the building, but not nearer than 10 feet to the rear or side lot line. All vehicles must be owned by the resident unless fully enclosed in a building. Mr. Hou says that per this code, the trailer can be parked there regardless of whether the structure is approved or not. The carport is the only item that needs the variance.

Mr. Bassette opened the Public Hearing.

1. Andrea Johnson, 221 Sibley Rd, stated that she is against the carport. She lives next door to the applicant. She would like this to be placed someplace that is not visible from her house. She said she spoke with her lawyer, which advised her that this could devalue her home. She wants that applicant to store it elsewhere.
2. Margaret Conklin, 233 Sibley Rd, was a realtor in the area for years. She stated that easements effect the resale value of properties. She believes the applicants will store junk cars under it after the trailer is gone. Ms. Conklin believes this carport is a deterrent to the property and to Sibley Rd. She believes that laws are not made to be broken, she said to try speeding sometime and see.

There is a letter in the file from Mr. William Fisher, 227 Sibley Rd. He is against the carport.

**MOTION**

Mr. Bassett moved, second by Ms. Sciortino, to close the Public Hearing.

**APPROVED**

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

**GOODMAN AREA VARIANCE PUBLIC HEARING**

Charles Goodman, 7 Bosworth Field, Mendon, NY consisting of 1.65 acres, bearing Tax Account No. 217.010-1-4.1, located in an RA-1 zone, to build an attached 4 car garage where one corner will be approximately 16 feet from the side setback, whereas town code requires a 20-foot side setback.

Mr. Bassette stated for the record that he does attend the same church as Mr. Goodman, but believes he can move forward without any problem. Mr. Goodman agreed.

Mr. Goodman explained his need for variance. He has old cars that he wishes on storing in the building.

Mr. Lacey asked if the building will match the rest of the buildings on the property. Mr. Goodman agreed.

Mr. Bassette acknowledged the affidavit of posting of the sign and waived the reading of the public notice.

Mr. Lacey asked if there was any documentation from neighbor, Jeff Clark, stating that he approved of this. Mr. Goodman stated that he did not have anything but on the other hand there is not anything stating he is against it either. Mr. Lacey stated that he would like to see something from Mr. Clark stating that he approves.

Ms. Sciortino stated that they have to make sure that the color of the siding and doors match.

Mr. Bassette confirmed with Mr. Hou that this will need to go to the Planning Board for site plan approval.

Mr. Lacey asked what he would be storing in the building other than cars. Mr. Goodman stated that was about all that it will be used for.

Ms. Sciortino asked if there would be electric. Mr. Goodman confirmed but stated there would not be any heat or water.

Mr. Bassette asked if there were any other multicar garages in the neighborhood. Mr. Goodman stated yes.

Mr. Bassette opened the Public Hearing.

There were no comments.

**MOTION**

Mr. Lacey moved, second by Mr. Maxon, to close the Public Hearing.

**APPROVED**

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

Mr. Bassette asked if the benefit could be achieved by any other means. Mr. Goodman said no.

Mr. Bassette asked if the request is substantial. Mr. Goodman said yes.

Mr. Bassette asked if the request will have any adverse physical or environmental effects. Mr. Goodman said no.

Mr. Bassette asked if the request will have an undesirable change in the neighborhood. Mr. Goodman said no.

Mr. Bassette asked if the difficulty was self-created. Mr. Goodman said yes.

There were no more comments.

Ms. Sciortino moved, seconded by Mr. Lacey, that the area variance requested by Christopher Urbanski, 343 Cheese Factory Road, Honeoye Falls, NY, consisting of 13.59 acres and zoned RA-1, to allow a structure housing one rooster to be 128 feet from one property line and 121 feet from another property line, whereas code requires 150 feet from any property line, with Tax account no. 222.01-1-18, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Christopher Urbanski, the property owner, appeared before the Zoning Board of Appeals at the public hearing on December 13 2018, and again on February 7, 2019.
2. Section 260-8 N(2)(b) of the Mendon Zoning Code states “Any structure housing a rooster shall be located not less than 150 feet from any property line”. Per the survey map provided by the applicant, dated Oct 9 2015, the existing coop is situated approximately 121 feet from one property line, and approximately 128 feet from the opposite property line.
3. On October 15 2018 the Mendon Zoning Code was amended. Under the previous code, rooster(s) were only allowed in RA-5 zoning and needed a minimum of 100 feet to the property line (200-8 N(5)), whereas the current code requires a minimum of three acres for each rooster and a minimum of 150 feet (260-8 N(2)(b)). This is not a preexisting nonconforming situation, as the property is zoned RA-1, and as such was not previously allowed to have rooster(s). Therefore, only the current code has standing, and the 150 feet minimum applies.
4. While the applicant has more than enough land to relocate the rooster’s housing such that it has adequate distance to the property line, doing so would require removing a number of trees in the forested portion of the lot. The applicant stated that he plans to relocate the structure if he is denied a variance.
5. While there are hens on the property, they are a non-factor as section 260-8 N(2)(c) of the Mendon Zoning Code states “A structure housing ... said creatures shall be located no closer than 100 feet to any property line”. The closest portion of the structure is approximately 121 feet from the property line, meeting this requirement.
6. The applicant stated the rooster’s purpose is to warn the hens of predators.
7. John Tracey, of 361 Cheese Factory, filed a Complaint Record about the rooster, dated October 25 2018. The existing coop is approximately 280 feet from the complainants nearest property line.
8. Letters in support of the Urbanski’s requested variance were received from Stephen and Karen Pasquarette, of 355 Cheese Factory, and Samuel and Marcella Mueller, of 330 Cheese Factory.
9. Members of the public were given the opportunity to comment during the public hearing.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means, as relocating the rooster would require too much effort, while offering little to no gain.
2. The request is **not** substantial, as the approximately 30 feet relief will have negligible impact.
3. Upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as it has no meaningful impact on the local environment, whereas the most reasonable alternative would lead to the removal of a number of trees.
4. The request will **not** have an undesirable change in the neighborhood, as the closest neighbor has stated they are in favor and, as the distance to other neighbors increased, the impact of approximately 30 feet becomes insignificant.
5. The difficulty **was** self-created, as the applicant should have factored the zoning code in before they placed their structure.
6. This is a Type II action under SEQR

**MOTION**

Mr. Lacey moved, second by Mr. Maxon, to adjourn.

**APPROVED**

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

**MINUTES**

**MOTION**

Mr. Maxon moved, second by Mr. Bassette, to approve the December 13, 2018 minutes as submitted.

**APPROVED**

Mr. Bassette – aye; Ms. Sciortino – aye; Mr. Maxon – aye; and Mr. Lacey – aye

**GENERAL DISCUSSION**

There was a discussion about the Cloen variance. Ms. Sciortino stated that she knows people who were forced to move vehicles and trailers from the side of the home. She is against this variance. She believes they can put a tarp over the solar panel if need be. Mr. Lacey is not in favor of the variance. Mr. Maxon is leaning towards favoring the variance. They will take some time to look further at the property and vote at the next meeting.

Ms. Sciortino asked Mr. Bassette to ask Mr. Voorhees about old cars on the side of homes in the area.

There was a brief discussion about the Goodman Variance. Mr. Lacey wants a written approval letter from neighbor, Jeff Clark. They will table the discussion until the next meeting.

There was a brief discussion about Mr. Osovski.

**MOTION**
Mr. Bassette moved, second by Mr. Lacey, whereas the Osovski Use Variance was initially approved on April 12, 2018, and the ZBA determined to rehear the application on May 10, 2018; and

Whereas the Planning Board subsequently took action on a Special Use Permit for Osovski on August 8, 2018 that addressed the issues to be reheard; and

Whereas Osovski has verbally indicated to the ZBA his desire to withdraw the rehearing; the ZBA therefore

Resolves to take no further action on the rehearing for this matter.

**APPROVED**

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

There was discussion about changing the dates back to the second and forth Thursdays of the month due to conflicts.

**MOTION**

Mr. Lacey moved, second by Mr. Maxon, to adjourn.

**APPROVED**

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