A Regular Meeting of the Zoning Board of Appeals was held on Thursday, April 25, 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: Donald Young

OTHERS: Councilperson Mike Roberts

Minutes were taken by Michelle Booth.

Mr. Bassette opened the meeting at 7:01 p.m.

**SMITH AREA VARIANCE PUBLIC HEARING**

Michael and Katelynn Smith, 102 Klink Road, Rochester, NY 14625, for an area variance at property located on Quaker Meeting House Road and Cheese Factory Road, consisting of 20.562 acres, bearing Tax Account No. 222.03-1-19.11, located in an RA-5 zone, to build a new home on said property that has 60.06 feet of frontage on Quaker Meeting House road, whereas Town Code requires 100 feet of road frontage.

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

Mr. Smith explained the need for the variance. He stated that the driveway was existing when he purchased the land. He bought the land in December of 2018.

Mr. Bassette asked if he is planning on building a home on the lot. Mr. Smith confirmed this.

Mr. Bassette asked if they have thought of buying land from a neighbor to make the frontage meet the code. Ms. Smith stated no, they started here first.

Ms. Sciortino asked if either neighbor has extra frontage. Mr. Smith stated he is not sure, but he knows one neighbor and doesn’t believe that he will sell any.

Ms. Sciortino asked if Mr. Smith knew that this would be a problem when they purchased the property. Mr. Smith stated that they were led to believe that with the existing frontage on Quaker Meeting House Rd and the easement on Cheese Factory Rd would be combined to meet code.

Mr. Maxon asked if the seller was responsible for the subdivision. Mr. Smith stated yes.

Ms. Sciortino stated that she can not believe the planning board would approve such a subdivision knowing that it would not meet code for building.

Mr. Bassette opened the Public Hearing.

There were no comments.

**MOTION**

Mr. Maxon moved, second by Mr. Lacey, 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. Smith said no.

Mr. Bassette asked if the request is substantial. Mr. Smith said no.

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

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

Mr. Bassette asked if the difficulty was self-created. Mr. Smith said no.

**WOOLAVER AREA VARIANCE PUBLIC HEARING**

David Woolaver, 3887 Rush Mendon Road, Mendon, for an area variance at said property, consisting of 0.5 acres, bearing Tax Account No. 216.110-1-4, located in an RS-30 zone, to build a second story deck off the existing barn, which will result in a rear setback of approximately 11.3 feet, whereas Town Code requires a 20 foot rear setback.

Mr. and Mrs. Woolaver explained that they would like to build the deck so that the staircase inside the building can be moved to the outside and open up more floor space inside, on the ground floor. Mrs. Woolaver also stated that they have many grandchildren that play baseball and they would be able to watch from the deck.

Mr. Bassette asked if there would be outside lighting. Mr. Woolaver stated that there would be a small one right near the door.

The board reviewed the photos provided.

Trees will provide a natural buffer for most of the deck.

Mr. Bassette opened the public hearing.

Mr. Donatello, President of the Baseball Association, stated that the ballfields are private property and he wanted to remind everyone of this. He is concerned that the deck would be too close and impose on the fields. He stated that if there is a way to put the deck on the side it would be better, he would like them to follow the code.

Mr. Eric Nelson spoke and is also against this. He believes they could build off the side also.

**MOTION**

Mr. Lacey moved, second by Ms. Sciortino, 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. Woolaver said no.

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

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

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

Mr. Bassette asked if the difficulty was self-created. Mr. Woolaver said no.

**MINUTES**

**MOTION**

Mr. Maxon moved, second by Mr. Lacey, to approve the April 11, 2019 minutes as amended.

**APPROVED**

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

**GENERAL DISCUSSION**

There was some discussion about Smith variance.

**SMITH AREA VARIANCE DETERMINATION**

Mr. Lacey moved, seconded by Mr. Maxon, that the area variance requested by Michael and Katelynn Smith, 102 Klink Road, Rochester, NY 14625, for an area variance at property located on Quaker Meeting House Road and Cheese Factory Road, consisting of 20.562 acres, bearing Tax Account No. 222.03-1-19.11, located in an RA-5 zone, to build a new home on said property that has 60.06 feet of frontage on Quaker Meeting House road, whereas Town Code requires 100 feet of road frontage, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Michael and Katelynn Smith, the property owner appeared before the Zoning Board of Appeals at the public hearing on April 25, 2019.
2. Section 260-8(D) of the Mendon Zoning Code states “Every principal building shall have access to a public street. Access is to ... be a minimum of 100 feet in an RA-5 District”. The applicant is requesting access of approximately 60 feet.
3. A map of the property, dated August 14, 2018, was provided showing it as having been part of a “Suor Subdivision”. When that subdivision occured, this lot was left with road frontage of approximately 60 feet.
4. Section 5-4 of the Mendon Zoning Code defines a “LOT, FLAG”, and this property matches that definition. As such, the approximately 60 feet wide portion of the lot “shall not be considered buildable”.
5. A driveway already exists on the property, connecting the road to the buildable portion of the lot.
6. The property does not currently have a street address. It is between 380 and 402 Quaker Meeting House Road.
7. Whereas the property has an additional access to Cheese Factory Road through an easement, and it was represented to the applicant by the previous owner that this easement would count for an additional 60 feet of frontage.
8. No members of the public commented during the public hearing.
9. This application is exempt from County Planning Board review under General Municipal Law 239-m pursuant to an agreement dated January 24, 1994 between the County and the Town which exempts matters set forth therein from further County review.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means, as additional land cannot be created to bring the lot into compliance.
2. The request **is** substantial, as it is approximately 40% reduction of required road frontage.
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 allowing one more house will have no meaningful impact on the environment.
4. The request will **not** have an undesirable change in the neighborhood, as there are other flag lots with houses setback a significant distance from the road.
5. The difficulty was **not** self-created, as the previous property owner divided the land into its current configuration.
6. This is a Type II action under SEQR

**APPROVED**

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

There was discussion about the Woolaver variance.

Mr. Lacey recused himself from the vote, his wife is on the Baseball Association Board.

Mr. Maxon stated that he would be more comfortable waiting to vote when Mr. Cook was present in light of Mr. Lacey recusing himself.

The Board decided to continue with the vote.

There was discussion about the leach field and expense it would be to build the deck on the side of the building.

**WOOLAVER AREA VARIANCE DETERMINATION**

Ms Sciortino moved, seconded by Mr Maxon, that the area variance requested by David Woolaver, 3887 Rush Mendon Road, Mendon, for an area variance at said property, consisting of 0.5 acres, bearing Tax Account No. 216.110-1-4, located in an RS-30 zone, to build a second story deck off the existing barn, which will result in a rear setback of approximately 11.3 feet, whereas Town Code requires a 20 foot rear setback, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. David Woolaver, the property owner appeared before the Zoning Board of Appeals at the public hearing on April 25, 2019.
2. The decks proposed location would grant it a view of the sports fields to the south. The sports fields have been there, in some form, for at least 40 years.
3. Section 260-106 of the Mendon Zoning Code states the RS-30 has a rear setback of 20 feet. The applicant is requesting a rear setback of approximately 11 feet, to allow construction of a second story deck off their existing barn.
4. There is a leech field to the east of the barn.
5. The construction of the barn precludes a deck on the side.
6. Members of the public were given the opportunity to comment during the public hearing.
7. This application is exempt from County Planning Board review under General Municipal Law 239-m pursuant to an agreement dated January 24, 1994 between the County and the Town which exempts matters set forth therein from further County review.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means, because of the construction of the building.
2. The request **is** substantial, as it is approximately 45% of the required setback.
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 the proposed construction is minor.
4. The request will **not** have an undesirable change in the neighborhood, as the requested deck will be obscured from nearby residential lots by both its location on the lot and the existing foliage.
5. The difficulty **was** self-created, as the applicants chose to build a deck.
6. This is a Type II action under SEQR

**APPROVED**

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

**MOTION**

Mr. Maxon moved, second by Ms. Sciortino, to adjourn at 7:48pm.

**APPROVED**

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