**PRESENT:**

John Jones (Chairperson)

Jeffrey Baxter

Ronald Kyser

Carol Ozella

Don Sue

**ALSO PRESENT:**

Chris McPherson, Town Supervisor; John Krist, CEO; Michele Lovern, Building & Zoning Clerk; Chris Maynard, Laura Cousins, Greg Giardini, Jim Bowman

**Salute to the Flag**

**OPENING OF ZBA MEETING @ 3:00pm BY:** Chairperson John Jones

**PUBLIC HEARING:** 3:00 – 3:35

1) Application for an Area Variance for James Bowman at 4138 Route 417, Allegany, NY 14706: SBL# 84.003-2-17. The applicant is seeking an Area Variance to build a 36’ x 36’ garage closer to the setback, 5 feet off the rear set back and 5 feet off the west set back of property line.

a) Greg Giardini, the contractor for the project, spoke: The current shed would be removed and a 36’ x 36’ pole barn would be placed 4’ off the back northeast corner of house. In doing so, the far northeast corner would be approximately 5’ into the side set back. Due to the well in the back yard there is no other place to put the structure.

b) Laura Cousins and Chris Maynard, the back neighbors, spoke: They expressed their concern with the proper maintenance of the back property touching theirs. Keeping the grass and debris free from fire hazards.

c) John Krist mentioned that the property is in and I-1(light industrial) and not a R-1

(residential). The house was grandfathered in, but any new construction must follow the I-1 zoning. Having that said, the Applicant is requesting a 35’ rear and a 20’ side area variance.

**END PUBLIC HEARING**: Motioned by C. Ozella; 1st by J. Jones; 2nd by J. Baxter; Aye by R. Kyser;

 Aye by D. Sue; CARRIED

**MINUTES**: Motion to Approve the Minutes from October 16, 2023, by C. Ozella; 1st by J. Jones; 2nd by R. Kyser; Aye by J. Baxter; Aye by D. Sue; CARRIED

**NEW BUSINESS**:

A) Application for an Area Variance for James Bowman at 4138 Route 417, Allegany, NY 14706: SBL# 84.003-2-17. The applicant is seeking an Area Variance to build a 36’ x 36’ garage closer to the setback, 5 feet off the rear set back and 5 feet off the west set back of property line.

**ZBA BOARD AREA VARIANCE FINDINGS & DICISION:**

1) Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties:

Board vote: *NO*

Reasons: *Neighborhood is similar residential use with similar garages nearby.*

2) Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

Board vote: *NO*

Reasons:  *Could build on farther back behind house. Building is limited by the location of the well.*

3) Whether the requested variance is substantial:

Board vote: *YES*

Reasons: *In terms of effecting the 35ft rear set back and 20ft side set back is substantial if they need the entire amounts.*

4) Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:

Board vote: *NO*

Reasons: *Neighborhood is similar in residential use with accessory uses.*

5) Whether the alleged difficulty was self-created:

Board vote: *YES*

Reasons: *Applicant knew or should have known about the Town of Allegany Zoning Set Back limits.*

The ZBA, after taking into consideration the above five factors, finds that the benefit to the applicant DOES outweigh the Detriment to the Community with a unanimous decision to grant the applicant the 35’ rear set back and 20’ side set back area variance.

**FROM THE FLOOR:**

Jeffrey Baxter mentioned the meeting time and if it was too early. The consensus of the board members is that it has not been an issue in the past and would like to keep the meetings to 3:00pm.

Motion to Adjourn @ 4:00pm by J. Jones; 1st by R. Kyser; 2nd by J. Baxter; AYE by C. Ozella; AYE by D. Sue; CARRIED

Submitted by,

Michele Lovern

Building & Zoning Clerk

1/25/2024