

Town of Washington Zoning Board of Appeals
April 18 2017

A meeting and public hearing of the Town of Washington Zoning Board of Appeals was held on April 18, 2017 at 7:30 P.M., the Town Hall, 10 Reservoir Drive, Millbrook, New York to consider the applications of 1) Lowell Morse LLC for area variances from the Town Zoning Code, Article III, Section 310, Paragraph 2, Schedule of Area and Bulk Regulations (Appendix B) to allow building an addition to an existing accessory structure at 1045-1057 Chestnut Ridge Road. The property is zoned RR 10. 2) Tuxis Corporation for area variances from the Town Zoning Code, Article III, Section 310, Paragraph 2, Schedule of Area and Bulk Regulations (Appendix B) and Section 313.6 © to allow construction of fifty (50) additional self storage units to the existing 142 units. The property is zoned HM.

Previously submitted to the Board for the Lowell Morse LLC application, completed application to Board of Appeals, Short Environmental Assessment Form, small scale survey map prepared by Spencer Hall dated October 15, 2010, Large scale map of Proposed Site Plan prepared by Allee Architecture & Design, LLC, Lakeville, CT.

Dutchess County Tax Map Grid No. 6803-00-997871

Members Present: Chairman, John Parisi, Ken Holzberg, Frank Redl, also Howard Schuman, Conservation Advisory Commission representative.

Chairman Parisi opened the meeting at 7:46 P.M. upon the arrival of Board member Redl, read the Lowell Morse LLC and Tuxis Corporation public notices.

John Allee, Allee Architecture and Design, LLC Lakeville, CT appeared before the Board representing the applicant, presented a list of adjoining neighbors who were contacted by the property owner to discuss the proposed plans (Daniel DeWolf) and their responses.

Chairman Parisi, announced that this application is a Type II Action not subject to SEQRA review.

Mr. Allee described the proposal as his client having property on 1045-1057 Chestnut Ridge Road, wants to add to the existing accessory structure that was built approximately four years ago in place of a two bedroom guesthouse. The accessory structure has a bathroom, no kitchen facility, is one big room. The owner wants to add a bedroom and a bathroom to that structure.

The proposed location of the project is the only other spot to add to that structure due to

the location of the existing septic system and existing well. Chairman Parisi, questioned the name of the adjoining neighbor to the North? Paul M. Leonard is that adjoining neighbor who said it is a nice project.

Chairman Parisi said the applicant is to return to the Planning Board for a Wetlands Permit in order to build in that buffer area. If the area variances are granted the applicant is to be on the May 2nd agenda. Chairman Parisi next questioned the two dimensions which are, 61.5 ft toward the road and 13.8 ft. to the side. Board member Holzberg questioned about the existing setback from the property line of the existing building, he was unable to find that on the survey? Mr. Allee said there in nothing indicating that, can use the existing footprint of the original guesthouse that was demolished. Said, that is an existing building that was built four or five years ago on the footprint of an original 1910 two bedroom guesthouse. Board member Holzberg remarked that the property is in the RR 10 zone, the required side yard setback is one hundred feet, the front is one hundred feet, it appears that its about twenty feet less than the required amount. Mr. Allee acknowledged affirmatively, said the building is totally nonconforming.

A motion to open the Lowell Morse LLC Public Hearing was made by board member Redl, seconded by board member Holzberg, 3 ayes, 2 absent.

Howard Schuman, Conservation Advisory Commission representative spoke to reviewing the survey map containing the pond that is in the wetland buffer. The Planning Board has directed Steve Marino, Wetlands Consultant to visit the site. One of the CAC concerns is when the wetland studies were conducted seven years ago relative to vernal pools, etc. some of the properties similar to this property had vernal pools on them. It is uncertain about this property. If Steve Marino finds nothing the only concern that the CAC would have is that he is still building in a wetland buffer, the CAC prefers that no building be done in the buffer. If it does turn out to be the case that there is a vernal pool of significance on the property, the CAC would like to see some effort to relocate the building further away outside the buffer, maybe the other side of the building or somewhere else. This is unknown until Steve Marino visits the site and makes his assessment.

Chairman Parisi stated that the variance grant motion would be conditioned upon there being no negative input by Steve Marino, Wetlands Consultant.

A motion to close the Lowell Morse LLC Public Hearing was made by board member Redl, seconded by board member Holzberg. 3 ayes, 2 absent.

a 38.5 front yard variance. The motion is to be contingent upon negative input from Steve Marino, Wetlands Consultant.

Board member Redl said he doesn't see that there will be any undesirable change to the neighborhood. Based on the location of the well and septic it appears that there is no other feasible means for the applicant to achieve what he is trying to do. Even though the side yard setback might appear to be substantial, it is not that substantial when factoring into the already existing nonconforming structure that is only twenty feet off the property line. Also, the adjoining neighbor supports the proposal. Board member Redl feels that the applicant has met all of the statutory criteria.

A motion to grant the Lowell Morse LLC application a 86.2 ft. side yard variance, a 38.5 front yard variance conditioned upon no negative input from Steve Marino, Wetlands Consultant Site Visit was made by Chairman Parisi, seconded by board member Redl. 3 ayes, 2 absent.

Fee Status: \$150.00 application fee paid

The application of Tuxis Corporation, 3814 Route 44, Mabbettsville is for area variances from the Town Zoning Code, Article III, Section 310, Paragraph 2, Schedule of Area and Bulk Regulations (Appendix B) and Section 313.6 © to allow construction of fifty (50) additional self storage units to the existing units.

Dutchess County Tax Map Grid Nos: 6865-00-666482 and 680502

Previously submitted to the board, completed Application to Board of Appeals, Letter dated March 27, 2017 to amend the March, 2016 application and Narrative, 2 Deeds, Large Scale Plan Set prepared by Sloan Architects PC.

Attorney Josh Mackey, Mackey, Butts & Wise, Mark Winmill, owner, Bob Mathers, Tuxis Superintendent and Michael Sloan, AIA, Sloan Architects PC appeared before the board.

Attorney Mackey spoke to the introduction of the amended application and narrative describing the variances that Michael Sloan is to present. Attorney Mackey requested the emailed copy of the analysis determination by Town Attorney Jeff Battistoni that no variance is required from the Mabbettsville 50% Rule. Board member Redl said he has a copy of the email with him, the analysis was mixed in with several comments between board members, began with email comments between attorney

Page 3

Jeff Battistoni and Neil Wilson, ended with Chairman Parisi. The legal opinion

that was stated was that no variance is required from the Mabbettsville 50% Rule, that the ZBA is to only review the area variances.

Michael Sloan's presentation was from a large scale Site Plan Set and enlarged poster color photos, said, this is the current view that the board is familiar with on Route 44, and the proposed view at the same angle showing where the Dairy Deli is now that will be green open space, the majority being a rain garden for storm water retention to benefit the environment and to deal with the actual runoff from the project. The gray color shown is the current impervious area, the green color is actual lawn or vegetation. The Dairy Deli lot and the Self Storage Units lot are owned by the same owner. Part of the project is to take down the entire Dairy Deli, the septic, the well, the entire lot will all be green. When the building was converted from the former bowling alley, a storm water system was put in the rear, that will still be functioning, treating, the existing building and the side of the parking lot.

Michael referred to the heavy line shown on the Site Plan as the footprint of the building. Said, they have modified the exiting drive taking into account the Millbrook Fire Department requirements for their truck size to get around the building that was reviewed and is in agreement with the Fire Chief. Shown going into the property are pavers for emergency vehicles that need to pass or pull off to get away from the building to fight the fire was requested to be added by the Fire Chief. Said, there is one way in and one way out of the property. Chairman Parisi questioned how big a vehicle can be handled? Michael said up to a 62 ft. wheelbase semi, Chairman Parisi remarked that this is rather short, the new ones allowed 53 ft plus the tractor. Michael said the actual overall length of the wheelbase, might wind up being 70ft. is designed for a fire truck. Chairman Parisi questioned what happens if a tractor trailer comes in for a delivery, has to get out which is only one way? Michael questioned Mr. Winmill if he has had a tractor trailer come to his building? Mr. Winmill said he does not remember that ever happening. Bob Mathers said they could have them stop on one side, unload in front of the building. Al DeBonis questioned the length of the turnaround for the fire truck? Michael said sixty feet. Chairman Parisi said they can back in and come out the same way. Michael said that dimension comes from the Building Code.

Board member Redl questioned if the addition will be temperature controlled? Michael responded affirmatively. Chairman Parisi questioned the square footage of the silhouette on the ground? Michael said 8242 is the actual addition, Frank Redl quoted 16, 484. The dairy deli existing square footage is 1,091. The impervious surface is being reduced, the existing is covered by 65.5, will decrease to 50.1, presently is 60% over zoning regulations, will bring the coverage into compliance about 20%.

Chairman Parisi questioned the location of the one hundred foot buffer from the wetland? Michael pointed out the line shown as the buffer line for the wetland, the line with the black dot is the flagged wetland. Said the chart shown is describing the reduction of the impervious area in the wetland, there is a 22% drop in the impervious area in the wetland buffer.

Chairman Parisi questioned the distance from the front yard setback to the gas station property? Michael said they need 80 ft., the distance is 58.4 ft., will need a 21.6ft variance. The required side yard setback variance is 50ft. have 9.9 ft. Board member Redl expressed that a variance for the footprint of the building itself is needed. Michael responded that the project is economically viable to reduce the impact of the Dairy Deli, give that building up, the septic system, abandon the well, and convert that whole property to green space. There are no bathroom facilities in this building, doesn't increase septic flow. Board member Holzberg questioned the total square footage space from one story space to the new two story building, is the total 26,000 sq. ft? Michael said this is correct, another 8,000 sq. ft. is to be added to that, is 34,000 sq. ft., said the owner has permission to paint the gas station where they can.

Board member Redl remarked that this will improve the looks of the neighborhood. He knows a little about the self storage business, agrees with Michael's statement that self storage is a low impact property. There are a lot of advantages to this plan over what is there presently.

A motion to open the Tuxis Corporation Public Hearing was made by board member Redl, seconded by board member Holzberg 3 ayes, 2 absent.

Howard Schuman said the CAC is in favor of the project, has some concerns, would like some things cleared up. Relative to the mitigation in terms of the impervious surfaces counting the Dairy Deli project is part of the mitigation, they want to be sure that in the approval for the variance that is somehow reflected that the mitigation is going to be in perpetuity taking place on that property so that it doesn't get lost in the record sometime in the future. The mitigation being that Tuxis is putting their retention base there, the rain garden, taking up space in the wetland buffer, putting up impervious surface elsewhere that is the mitigation. The CAC is in favor of that, Tuxis has said so previously that they agreed to that. The CAC wants to make sure that it is quoted here as well. Attorney Mackey stated that the owner/applicant is in agreement with what Howard has just said.

Noone from the public was in attendance to comment of the application.

A motion to close the Tuxis Corporation Public Hearing was made by board member Redl, seconded by board member Holzberg, 3 ayes, 2 absent.

Chairman Parisi said he views the project as a positive improvement to the neighborhood, environment, in terms of being substantial, the square footage of the whole project is substantial and finds it bothersome. Board member Redl said he thinks it's a great improvement to the area, it's a nice job, thinks how Tuxis maintains their existing site will say a lot, thinks it is going to be a low impact. While the footprint of that addition may seem substantial they are not increasing any impervious surface to put the building up. The whole project is decreasing the impervious surface for the entire site. In that respect the size of the addition doesn't bother him as much. Board member Holzberg remarked also because the building is set back from the road as far as it is, is a positive.

Howard Schuman remarked about the point relative to the impervious surface being included in some way in the language, if that goes away sometime in the future and the variances stand, then it defeats the whole purpose of the mitigation in the first place. Attorney Mackey suggested that the ZBA might say that in granting the approval it would be conditioned upon the Planning Board's Site Plan comments requiring that the secondary parcel remain as open space, undeveloped, in perpetuity. This has already been discussed with the Planning Board, the owner/applicant has agreed to that.

The following three (3) variance motions were made by board member Redl. Board member Redl stated that he prefaces every one of his motions made with the caveat that if they are approved, all of the variances would be subject to any conditions that the Planning Board may impose with their Site Plan Approval which would include any restrictions concerning the dairy deli lot.

The applicant is seeking a front yard setback variance to allow a setback of 58.4 ft., 80ft. is required under the Town Code, thereby seeking a variance of 21.6 ft.

1) A motion to grant a 21.6 ft. front yard variance on the basis that there will be no undesirable change to the neighborhood, the benefit to the applicant cannot be achieved through any other means. Based upon the location of this front yard setback being behind the Mobil Station, does not think that the variance would be substantial, would not have any adverse impact on the physical environmental conditions of the neighborhood. The motion was seconded by Chairman Parisi. 3 ayes, 2 absent.

2) A motion to grant a side yard setback variance for the existing building to allow a setback of 9.9 ft., 15 ft. is required under the Town Code, thereby the applicant is requesting a variance of 5.1 ft. granting the variance on the basis that there is not going to be any undesirable change to the character of the neighborhood, that the benefit sought by the applicant cannot be achieved by any other feasible means, the variance is not substantial, the variance would not have any adverse impact on the physical environmental conditions of the area. The motion was seconded by Chairman Parisi. 3 ayes, 2 absent.

3) The variance sought by the applicant is a variance under the Town Code, Section 313.6 to allow a maximum building footprint of 26,137 sq. ft., 17,895 sq. ft. is already existing, the variance requirement in order to add to another building with a footprint of 8,242 sq. ft., the Town Code only permits 5,000 sq. ft. in the HM zone. A motion to grant the variance on the basis that there is going to be no undesirable change in the character of the neighborhood, or detriment to any nearby properties, the benefit sought by the applicant cannot be achieved through any other reasonable means, based upon the size of the existing building while this may seem substantial, suggests that it is not substantial compared to what is already existing on the property in addition to which a building will be taken down on the adjoining lot, the impervious surface is going to be reduced in order to put this building up, there will not be the addition of any impervious surface. The proposed area variance would not have any adverse affect on the physical environmental conditions of the neighborhood. The motion was seconded by Chairman Parisi. 3 ayes, 2 absent.

There being no further comments, discussion, business, a motion to adjourn the meeting was made by Chairman Parisi, seconded by board member Redl. The meeting was adjourned at 9:10 P.M.

Respectfully submitted,

Nikki Caul, secretary

