



Environmental, Planning, and Engineering Consultants

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Memorandum

To: Town of Washington Zoning Board of Appeals
From: Alicia Moore
Date: March 15, 2024
Re: Shed Area Variance (48 Shunpike)
cc: Marcia DeVoe and Eric Alexander (property owner/ applicant)
Steven Hackbarth (Architect)
Aaron Werner, AICP (AKRF, Inc.)
Kyle Barnett (ZBA Attorney)

AKRF, Inc. has reviewed the following documents and plans for the above referenced application:

- Area Variance Application notarized 12/18/2023.
- Certificate of Occupancy for a one-room addition, undated.
- Sketch of proposed shed, prepared by Custom Forest Products, dated 8/12/2023.
- Subdivision Plat prepared by Harry J. Bly dated 9/14/1976.
- Site Plan prepared by Steven Hackbarth (date illegible).
- Deed.
- Environmental Assessment Form (EAF) dated 1/28/2024.
- Photos (4) of property and proposed shed location

PROJECT DESCRIPTION

The Applicants and property owners, Marcia DeVoe and Eric Alexander, request an area variance for a new accessory shed on a 5-acre lot in the RL-5 zoning district located at 48 Shunpike (tax parcel 135889-6666-00-289635). The subject property is a corner lot and currently improved with a 1,484-SF single-family home and accessory sheds. The property is substantially wooded with limited clearings; the application indicates that the clearings are used as livestock pasture, that much of the land is hilly or rocky ridges, that the proposed location for the shed is the last unoccupied flat spot on the property, and that area is bounded by a stone ridge that prevents the shed from being placed further from the property line. The prefabricated shed is 12' x 22' with a 4' x 22' porch (352-SF footprint). The shed would be used as an art studio with electricity but without plumbing. Existing trees and brush would serve as screening. The shed would be setback 83.5 feet from the property line along Shunpike. As a corner lot, this area is considered the front

yard, which has a minimum setback requirement of 100 feet in the RL-5 district. Therefore, the project requires a 16.5-foot front setback variance.

COMMENTS

APPLICATION COMPLETENESS

1. The application should include a signed Consent to Inspection.
2. As noted on the application form, ZBA approvals for the subject property were previously granted in 2012 and 2023. In 2023, the Applicants were granted a special permit and two area variances to increase the size of the existing non-conforming house¹. No information is provided regarding the 2012 approval. The ZBA may request additional information regarding the previous ZBA approvals, including copies of the determinations. According to the Applicant, the plan to expand the house (approved in 2023) has been reduced in scale by approximately 50 percent, and the Building Inspector advised the Applicant that no further review by the ZBA or Planning Board is necessary due to this reduction. The original plan for the house accounted for an art studio. With the plan now reduced by 50 percent, the Applicant is proposing to build a standalone studio in the accessory structure subject to this variance request.

CODE COMPLIANCE

3. As shown on the submitted Subdivision Plat, the proposed shed is located 83.5 feet from Shunpike. As the property is a corner lot, this area is considered the front yard. Per Appendix B of the Zoning Code, the minimum front yard setback in the RL-5 district is 100 feet. Therefore, this project requires a 16.5-foot front yard setback variance.
4. Based on AKRF's review of the 2023 application for the house expansion, this area of the subject property is beyond 100 feet of any wetlands or watercourses. The Town's wetland map shows wetlands to the north of the property (across Shunpike), which have been confirmed by the Town's Wetland Consultant to be beyond 100 feet of the subject property. No wetlands permit should be necessary in connection with this application.
5. A public hearing is required for variances.
6. If the art studio will meet the definition of a "home occupation" as defined in the Zoning Code, an administrative permit from the Zoning Administrator will be required.² However, this information is not necessary for the ZBA review of the variance application.

REFERRALS

7. The subject parcel is within 500 feet of a State road (Route 82), a County road (Route 57 (Shunpike)), and a farm operation in an agricultural district (AD 21). This application is therefore subject to General Municipal Law (GML) 239-m, which requires referral to Dutchess County. However, under the Referral Reduction Agreement between the Town and Dutchess County, area variances for residential uses are exempt from referral.

¹ In April 2023, the ZBA approved a special permit to increase the size of the house (as a nonconforming structure), as well as variances to increase the size more than 25% and to increase the bulk within the front setback. The Planning Board approved the associated site plan in June 2023.

² Per § 321.3.a.(2), an "artist studio" is permitted by right upon issuance of a permit by the Zoning Administrator, provided that it complies with the standards of § 321.2.

SEQRA

8. This application is considered a Type II Action under the State Environmental Quality Review Act (SEQRA), which requires no environmental review or submission of an Environmental Assessment Form. The applicable Type II citation is as follows:

“6 NYCRR 617.5(c)(12) – construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;”

and

6 NYCRR 617.5(c)(16) – granting of individual setback and lot line variances and adjustments;”

RECOMMENDATION

At the March 19, 2024 ZBA meeting, AKRF recommends that the ZBA discuss the application and consultant comments, classify the application as Type II under SEQRA (6 NYCRR 617.5(c)(12), (16)), and open the public hearing if prepared to do so.