

Memorandum

To: Town of Washington Zoning Board of Appeals
From: AKRF, Inc. (A. Werner, AICP, A. Moore, AICP)
Date: April 11, 2025
Re: 322 Valley Farm Road – Variance for Detached Garage
cc: Valley Farm Doodletown, LLC
Halton Construction Inc.
Kyle Barnett (ZBA Attorney)

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

- Area Variance Application notarized 3/26/25.
- Consent to Inspection dated 3/25/25
- Owners Endorsement dated 2/18/25
- Site Plan and Architectural Drawings (6 sheets) prepared by Molly Bell Architecture and Design and dated 3/7/25.
- Property Deed.
- Short Environmental Assessment Form (EAF), unsigned, undated.
- Dutchess Parcel Access Map, undated.
- Property Photographs, undated.

PROJECT DESCRIPTION

The Applicant and property owner, Valley Farm Doodletown LLC, has submitted an application requesting an area variance to reduce the (eastern) side yard setback by 91'1" (100' required, 8'11" proposed) for a proposed detached 2-story accessory structure containing a two-car garage with office above. The application states that the subject property is approximately 1.4 acres and located at 322 Valley Farm Road (tax ID: 6766-00-364229-0000) in the RR-10 zoning district. The subject property contains a single-family home (built in 1920, remodeled 2013), an in-ground pool, and an accessory shed (proposed to be demolished). The subject property is considered preexisting nonconforming due to its lot size (below the minimum 10 acres for the RR-10 district), lot coverage (over the maximum 10%) and the house, shed, and pool are all pre-existing nonconforming structures as they are all within the setbacks required by the RR-10 district. The proposed garage would be located east of the house at the approximate midpoint of the property's eastern boundary. The house does not currently have a garage, and due to the undersized nature of the lot and limited space, the Applicant has indicated the proposed location for the garage is the best layout for the property.



COMMENTS

APPLICATION COMPLETENESS

1. The required setbacks for the property as shown on the submitted plans are incorrect. The correct setbacks corresponding to the RR-10 district should be shown (100' front, 100' side, 75' rear). The information on setbacks, square footage, and architectural floor plans contained in this memorandum is based partially on correspondence with the Applicant clarifying some information following submission of the application. The Applicant has been instructed to provide updated versions of the application and plans for the April 15, 2025 ZBA meeting.
2. The submitted site plan does not show the location of the subject property's well, septic system or other utilities that may be present near the location of the proposed garage. The Applicant should confirm that the location of the proposed garage will not conflict with any utilities.

CODE COMPLIANCE

The following table provides a summary of required actions by the ZBA (additional information provided below the table):

		Required Approvals
Approvals Required	Description	Code Section
ZBA		
Area Variance	Reduce the (eastern) side yard setback by 91'1" (100' required, 8'11" proposed) for proposed 2-story detached garage/office.	165 Attach. 2
Area Variance	Increase lot coverage from 12.7% to 14% (max. 10% permitted)	165 Attach. 2
Planning Board		
Special Permit / Site Plan	Home occupation (TBD – see comment below)	165 Attach. 1 165-31

3. According to the application, the subject property is 1.4 acres (60,984 sf) allowing a maximum lot coverage of 6,098 sf (10% for the RR-10 district). The application states that the existing structural coverage on the property is approximately 7,762 sf (approximately 12.7%) which is over the maximum allowable coverage of 10% for the RR-10 district. With the proposed garage (approximately 832 sf of additional coverage per the application) the coverage would increase to approximately 14%. Therefore, an area variance for lot coverage is required in addition to the requested side yard setback variance.
4. Upon review of the submitted floor plans, more information is requested to determine if the space identified as "office" on the second floor of the proposed garage meets the Town Code definition of a "home occupation." If so, the use for the home occupation must be defined in order to determine if it is permitted by right, prohibited, or permitted by special permit. The Town defines home occupation as follows:

"An occupation or business activity which results in a product or service for financial gain and is conducted in whole or in part in the dwelling unit or accessory building and is clearly an accessory or incidental use and subordinate to the residential use of the dwelling unit."

According to Zoning Code Section 165 Attachment 1 and Section 165-31D, a home occupation in the RR-10 district may be subject to a special use permit and site plan approval from the Planning Board.

If the proposed office qualifies as a home occupation and the specific home occupation use is listed among those permitted by right in Section 165-31C(1) (see attached code excerpt), it would be subject to a permit issued only by the Building Inspector/Zoning Administrator, provided the use is carried on in a manner which complies with the standards in 165-31B, and no special use permit or site plan approval through the Planning Board should be necessary.

If the proposed office qualifies as a home occupation and the specific home occupation use is not listed as permitted or prohibited under 165-31C (see attached code excerpt), it may only be allowed by special permit and site plan approval issued by the Planning Board.

5. AKRF has reviewed the proposed garage against Section 165-70A-D of the Zoning Code (Accessory Structures), as follows:
- 165-70A: Accessory structures shall not exceed the greater of 35 feet or two stories in height, and shall not occupy more than 10% of a required rear yard.*
Complies - the proposed garage is two-stories, 25 feet in height and is located in the property's side yard.
 - 165-70B: No accessory structure shall be located closer to the street than the front yard setback required for a principal structure in the district in which such accessory structure is located.*
Complies – the proposed garage is beyond the 100' front yard setback for principal structures in the RR-10 district.
 - 165-70C: For corner lots the setback from the side street shall be the same for accessory structures as for principal buildings.*
Complies – the subject property is not a corner lot.
 - 165-70D: Accessory structures may be used for residential purposes in any zoning district, provided such accessory structures meet the requirements of § 165-40 or 165-41.*
Complies – the proposed garage accessory to a residential use and is not proposed for residential use.
6. According to the Town's Natural Resource Inventory (NRI) Map 12 and the New York State Dept. of Environmental Conservation (NYSDEC) Environmental Resource Mapper, the project property does not contain wetlands or watercourses, and the site of the proposed garage is beyond 100 feet of any off-site wetlands/watercourses. No wetland permits should be necessary.



REFERRALS

7. The subject parcel is within 500 feet of a State road (Route 82) and a farm operation in an agricultural district (AD 21). This application is therefore subject to General Municipal Law (GML) 239-m. However, under the Referral Reduction Agreement between the Town and Dutchess County, area variances for residential uses are exempt from referral to the County. Referral is not required for this application to the ZBA. (Note that if review by the Planning Board is determined to be necessary for an unlisted home occupation, the Planning Board will be required to refer this application to the County, as site plans for any use are not exempt under the Referral Reduction Agreement.)

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:

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

RECOMMENDATION

At the April 15, 2025 ZBA meeting, AKRF recommends that the ZBA discuss the application and consultant comments (including requested information on home occupation), classify the application as Type II under SEQRA (6 NYCRR 617.5(c)(16)), and open the public hearing if prepared to do so.

Chapter 165. Zoning

Article IV. Supplementary Use Regulations

§ 165-31. Home occupations.

- A. Purpose and intent. The conduct of business in residential units may be permitted under the provisions of this section. It is the intent of this section to:
- (1) Ensure the compatibility of home occupations with other uses permitted in the residential districts;
 - (2) Maintain and preserve the rural character of residential neighborhoods and areas;
 - (3) Assure that public facilities and services designed for residential areas are not misused for inappropriate commercial purposes; and
 - (4) Provide peace, quiet, and domestic tranquility within all residential neighborhoods or areas, and guarantee to all residents freedom from excessive noise and traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas.
- B. Criteria and standards. In all residential and overlay districts, home occupations in compliance with the following criteria and standards and listed as allowed home occupations pursuant to Subsection **D** below are permitted upon issuance of a permit by the Zoning Administrator.
- (1) A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes. It shall be conducted in a manner which does not give the outward appearance of a business, does not infringe on the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units, and does not alter the character of the residential or overlay district. A home occupation may be conducted within the dwelling unit or within an accessory structure, which shall meet the requirements of § **165-70**, Accessory structures, below.
 - (2) No more than 30% of the floor area of the dwelling unit, with the exception of foster family care which may use 50%, may be used in connection with a home occupation. Floor area of a dwelling unit is the habitable area.
 - (3) The home occupation is to be conducted only by members of the family residing in or maintaining the dwelling unit plus no more than two nonresident assistants or employees.
 - (4) There shall be no external alteration of the appearance of the property, the dwelling or accessory structure in which the home occupation is conducted which would reflect the existence of said home occupation.
 - (5) Any signs used in conjunction with a home occupation shall meet the requirements of § **165-42**, Signs, of this chapter.
 - (6) A home occupation, including studios or rooms for instruction, shall provide all necessary parking associated with the home occupation off-street, not to exceed four spaces.

- (7) A home occupation shall not generate traffic, noise, vibration, odor, smoke, glare or electrical interference greater than that normally created by other permitted uses in the same zoning district.
- (8) Delivery and pickup of materials or commodities to and from the premises by a commercial vehicle shall not exceed two trips per week, and the deliveries shall not restrict traffic circulation. A commercial vehicle for the purpose of this provision is any motor vehicle having a gross vehicle weight of more than 14,000 pounds.
- (9) There shall be no exterior storage of materials, equipment, vehicles, or other supplies to be used in conjunction with a home occupation.
- (10) A home occupation shall produce no offensive noise, vibration, smoke, electrical interference, dust, odors, or heat. A home occupation as provided by this chapter shall be completely contained within the principal or accessory structure. No noise, vibration, smoke, electric interference, dust, odors, or heat shall be detectable beyond the walls of the building where the home occupation is located. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials shall be used or stored on the site. Processes which are hazardous to public health, safety, morals, or welfare are prohibited.
- (11) The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises thereof shall not be greater than the impact of one home occupation.
- (12) As constructed and improved at the time of the commencement of the home occupation, the entry and exit to and from the property shall be in such condition and location that the Town Highway Superintendent would issue a driveway permit for such entry and exit.

C. List of home occupations.

- (1) The following home occupations are permitted by right upon issuance of a permit by the Zoning Administrator, provided that they are carried on in a manner which complies with the standards in Subsection **B** above:
 - (a) Architectural, engineering, interior design, and financial planning services;
 - (b) Art restoration;
 - (c) Art studio;
 - (d) Babysitting;
 - (e) Data processing;
 - (f) Dental technician with laboratory;
 - (g) Dentist;
 - (h) Drafting and graphic services;
 - (i) Dressmaking, sewing, tailoring, contract sewing;
 - (j) Flower arranging;
 - (k) Gardening; landscape maintenance;
 - (l) Home crafts, including ceramics with kiln up to six cubic feet; jewelry making; basketry;
 - (m) House cleaning service;
 - (n) Locksmith;
 - (o) Physician;

- (p) Real estate sales or broker;
 - (q) Sales or manufacturer representative (office only);
 - (r) Swimming pool cleaning;
 - (s) Telephone answering, switchboard, and call forwarding;
 - (t) Tutoring;
 - (u) Typing and word processing;
 - (v) Watch repair; and
 - (w) Writing; computer programming.
- (2) The following home occupations are prohibited:
- (a) Ambulance service;
 - (b) Appliance repair;
 - (c) Automobile sale, repair, and retailing; sale of supplies, parts and upholstery; washing service (including businesses working at customer homes);
 - (d) Helium balloon assembly, distribution, or sale;
 - (e) Laundromats and dry cleaning;
 - (f) Limousine or pedicab services exceeding one vehicle;
 - (g) Mortician; hearse service;
 - (h) Restaurants and taverns;
 - (i) Tow truck services; and
 - (j) Tractor-trailer operations or parking.
- D. Home occupation by special permit. Any home occupation meeting the standards and criteria of Subsection **B** above but not listed as a permitted or prohibited home occupation under Subsection **C** above may be allowed by special permit issued by the Planning Board. In issuing such special permit, the Planning Board must find that the proposed home occupation meets the criteria and standards in Subsection **B** above, as well as generally applicable special permit standards in § **165-119** of this chapter.
- E. Permit application procedure.
- (1) Application for a permit for a home occupation permitted by right shall be made to the Zoning Administrator, who shall issue a permit upon finding that the proposed home occupation will satisfy the criteria and standards in Subsection **B** above.
 - (2) Application for a special permit for a home occupation that is neither permitted by right nor prohibited shall be made in accordance with § **165-116**, Special permits, of this chapter.
- F. De minimus use. No permit is required for a home occupation use which meets all of the criteria of § **165-31B** and all of the following additional standards:
- (1) No physical change to the exterior of a principal or accessory structure is required to accommodate the home occupation; and
 - (2) The use is conducted on the site solely by persons utilizing the home as their primary residence; and

- (3) There is no sign or other exterior advertisement of the existence of the home occupation use;
and
- (4) No more than one home occupation is conducted on the premises; and
- (5) There is no exterior storage of materials, equipment, vehicles or other supplies used in conjunction with the home occupation.