

Town of Washington
ZONING BOARD OF APPEALS

MILLBROOK, NEW YORK 12545

A meeting and public hearing of the Zoning Board of Appeals was held on April 18, 2000, 7:30 P.M., the Town Hall, Reservoir Drive, Millbrook, New York to consider the application of Stanley R. Bachman for a use variance to allow the expansion of an accessory building being used as a guest house on a non-conforming lot. The property is located on the east side of NYS Route 82 .1 mile south of Canoe Hill Road and is zoned RL 5.

Dutchess County Tax Map Grid Number: 844891

The members present were: Conrad Ham, chairman, Robert Audia, and Donald Marshall.
Absent: Gordon Anderson, and John Parisi.

The meeting was called to order by Chairman Ham at 7:35 P.M.

A motion to approve the March 21, 2000 meeting minutes as written was made by board member Audia, and seconded by board member, Marshall. All ayes.

Mr. Stanley R. Bachman, 5030 Route 82 appeared before the board.

Chairman Ham introduced board members to applicant Bachman, family, and the public.

Chairman Ham read the use variance published public notice to allow the expansion of an accessory building being used as a guest house on a non-conforming lot.

Submitted to the Board were: completed Application to Board of Appeals, completed Short Environmental Assessment Form, sketch diagram of proposal, and a copy of two affidavits' in behalf of the Bachman family from Margaret Smith Wing, and James W. Boice, adjoining neighbors. Also submitted were a copy of two newspaper articles published in the Herald & News, Garfield, New Jersey entitled Sisters, Tied Up, Robbed At knife point in Garfield, and Robbers invade elderly sisters' home.

Chairman Ham requested Mr. Bachman to describe the use variance request.

Mr. Bachman expressed that his wife has two elderly aunts, (sisters) ages 87 and 84 who live in New Jersey, and were involved at being robbed at knife point. There is a special need to care for their two aunts who live alone, now fear to live alone, and need special care. The Bachman family would like to provide it for them.

The existing building is a guest house, is in use as a guest house, in the rear of the Bachman property behind the main house. The building has a full kitchen, bathroom, a small bedroom, which is large enough for one person. The building is not habitable for a lengthy period of time at present because there is no closet space, etc. It can be used for overnight or weekend guests.

Mr. Bachman said he would like to be able to extend the structure, double it's size, which will be a 15'x 30' extension. The extension will have two rooms and electricity. No plumbing. This would serve as a second bedroom and a living room.

Mr. Bachman has talked to the adjoining neighbors; there is no opposition to his building the addition.

A motion to declare the Bachman use variance proposal an Unlisted Action was made by board member Audia, and seconded by board member Marshall. All ayes.

A motion to declare the Bachman use variance proposal an Uncoordinated Review was made by board member Marshall, and seconded by board member Audia. All ayes.

Chairman Ham next read the two letters submitted to the board with the completed Application from Margaret Smith Wing, and James W. Boice. (Copy on file)

A motion to open the Bachman public hearing was made by board member Audia, and seconded by board member Marshall. All ayes.

Mr. Thomas O'Shea, 5003 Route 82, Salt Point Turnpike, adjoining neighbor, said he has no objection to the variance, he is "with them all the way."

Mr. James Boice, Salt Point Turnpike, adjoining neighbor, expressed that he has no problem with the variance being granted. The addition is not a deterrent, is hidden by shrubbery, and poses no problem.

A motion to close the Bachman public hearing was made by board member Audia, and seconded by board member Marshall. All ayes.

Board members next considered the environmental impacts. Board member Audia questioned if the septic system is shared between the cottage and the main house? Mr. Bachman's response was positive, and said that the well is also shared with the main house. The guest cottage is currently used so it is known that there is adequate water supply for both dwellings. Board member Audia questioned the age of the guest house? Mr. Bachman said that Mr. Rockney, former owner, built the cottage/guest house subsequent to purchasing the main house. It is approximately fifteen years old. The structure pre-dates the 1989 Zoning Ordinance. Chairman Ham expressed that it is a pre-existing, non-conforming use. Board member Audia questioned if the cottage has always had plumbing? Response was positive. Discussion followed between board members and the Bachman family with regard to former use of the cottage. The cottage has been used as a bedroom- used as a family unit.

Chairman Ham expressed that he recently drove by the site. There is no visual impact on the neighborhood. The cottage is "hard to see when one drives by."

The board determined that the proposed addition to the cottage will not bring the structure any closer to the property line.

Chairman Ham stated that there are no environmental impacts on the neighborhood.

Board member Audia questioned Chairman Ham, if granted, would the use variance be in perpetuity? Chairman Ham responded, yes, it would be unless the board placed a condition on the use variance. Discussion followed between board members and the possibility of placing a condition on the use variance grant. Board member Audia said he is looking to the future. He doesn't wish to see a "rooms for rent" sign on the property.

Chairman Ham next read the Dutchess County Department of Planning and Development Zoning Referral received March 29th, which states that the matter is of Local Concern. (Copy on file)

A motion to issue the Bachman use variance proposal a Negative Declaration-finding of No Significant Impact to the Environment was made by board member Audia, and seconded by board member Marshall. All ayes.

Chairman Ham expressed that a provision is in the Zoning Ordinance which provides for caring of elderly relatives with the use of a mobile home. Applicant Bachman would qualify for this special use permit. However, the Bachman family feels that it is more practical to build an addition to the guest house rather than place a mobile home in the rear of the property. Board member Audia commented that the neighbors would certainly prefer the addition to the guest house rather than the placement of a mobile home on the property. Chairman Ham expressed that the variance is in harmony and intent of the Zoning Ordinance.

Chairman Ham stated that the criteria for granting a use variance is that a undue financial hardship would result in strict application of the Ordinance. Chairman Ham requested Mr. Bachman to state his hardship. Mr. Bachman said that there is a special need to care for their two aunts, 87, and 84, years old, who live alone, 75 miles from them in New Jersey. They need special care, and now fear to remain alone, since the robbery, and held at knife point. The hardship created is unique because they need more room in the existing guest house on their property. They cannot afford outside care, or place them in a nursing home. By adding an additional 450 square feet to the guest house, it would look much nicer, and be less expensive than putting a mobile home on the property. The variance would observe the spirit of the Ordinance and would not change the character of the neighborhood because the guest house already exists and the addition would not be any closer to their property line. Also no neighbors have opposed the variance request.

Board member Audia expressed that the board's concern is what may occur in the future. In the event of the demise of the aunts, or the property being sold, that the board has granted the use variance and possibly, would revert to a non-permitted use. The board is in agreement that this proposal is much more acceptable than the placement of a mobile home on the property. Mobile homes are a real issue all of the time. With a special use permit, if an elderly person is being cared

for in a mobile home, with the demise of that person, the mobile home is removed, and the special permit is rescinded. With a use variance it is permanent. Board member Audia expressed that he would like to see some type of restriction placed on the use variance.

Chairman Ham questioned applicant Bachman if he would be opposed to having a restriction placed on the use variance such as a rental restriction? This would be beyond the purpose of the granting of a use variance. The continuation of using the cottage as a guest house would be acceptable. The use of the guest house for commercial/business use such as rental would be restricted. Mr. Bachman said they would not have any objects to this type of restriction.

A motion to grant the Bachman proposal a use variance to allow the expansion of an accessory building being used as a guest house on a non-conforming lot with the restriction that the future use of the guest house will not be used for rental, or other commercial purposes, was made by board member Audia, and seconded by board member Marshall. All ayes.

The meeting was adjourned at 8:25 P.M.

Respectfully submitted,

Nikki Caul

Nikki Caul, secretary