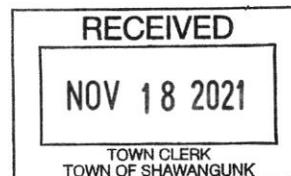


**Town of Shawangunk
Zoning Board of Appeals
September 15, 2021**



Minutes of a Public Hearing held by the Town of Shawangunk Zoning Board of Appeals on September 15, 2021 at 7:00 PM at the Town Hall, 14 Central Avenue, Walkill, New York, County of Ulster for the following:

Present Were: Mr. Archie Reid – Chairman, Mr. Roger Rascoe, Mr. John Russo, Mr. Dennis Arluck and Mrs. Susan Wiand as members.

Approval of Minutes: A motion was made by Mr. Arluck and seconded by Mr. Russo to approve the minutes of August 18, 2021. Vote: Mr. Rascoe – Aye, Mr. Russo – Aye, Mr. Arluck – Aye, Mrs. Wiand – Aye, Mr. Reid – Aye.

All Public Hearings remain open for one hour.

Public Hearing:

Joseph Yuknevich – TM#: 107.3-2-14.2 (RAG-2) 2253 State Route 300 – Walkill, NY 12589 - §177-6E – Front Yard Setback of 9’:

Joseph Yuknevich presented this application. Mr. Yuknevich stated he is in front of this Board to request a 9’ front yard variance for the 1’ roof overhang and 2’ to the building corner for his detached garage/pole barn. A building permit was given on November 4, 2019 and work started on November 5, 2019. This applicant was in front of the Board on August 19, 2020 requesting a 34’ variance which was denied. He stated he was told to have a discussion with the Building Department to explore other options. Mr. Yuknevich stated he was told to remove the non-permanent breezeway that was connecting the house to the garage and to apply for the variance. Mr. Yuknevich stated at that time he had inquired if any other issues regarding his property and was told everything would comply if he received this variance. There are new pictures in this application showing the breezeway had been removed and to show the distance to the neighbor’s home. Mr. Arluck stated that the stone wall is still on the neighbor’s property and Mr. Yuknevich stated this is not part of the application and it is in litigation. It was clarified that the litigation is between Mr. Yuknevich and his neighbors, the Labradas. The litigation pertains to removing the garage and Mr. Yuknevich stated there are now “No Trespassing” signs posted and a fence has been put up so this cannot be done at this time. There was permission for some of the property to be used in the past and the permission has now been rescinded. There was a written agreement, but it was never signed.

Mr. Rascoe stated this is clearly a flag lot from a previous subdivision and this application is looking for a front yard setback. The flag lot regulations §177-12 (l) (c) which states each flag lot shall have a minimum frontage of 25’. In further discussion the pole barn/garage is now in front of the principal structure (§177-15) and should be 150’ from the front line. We are now looking at multiple variances. Mr. Reid asked if anyone in the audience had any comments on this application. Mr. Paul Ackermann from Wallace and Wallace, who is the attorney representing the Labrada family, stated that Mr. Rascoe confirmed the sections of code that pertain to this application. The area between his client’s backyard is the front yard. The code clearly states no accessory structures shall be in the front yard, so the variance of the setback of 9’ is improper as it would need a variance to put an accessory structure in the front yard. Mr. Ackermann stated that about a year ago this Board denied the requested variance since it was self-created, would change the characteristic of the neighborhood and that

Joseph Yuknevich – TM#: 107.3-2-14.2 (RAG-2) 2253 State Route 300 – Walkill, NY 12589 - §177-6E – Front Yard Setback of 9’ continued:

there was opposition to the request especially by his client. Nothing in the application has changed since then, except for the removal of a small piece of roof that connected the structures. All the reasons that the Board voted to deny the variance still exist today. Flag lot designs are of such a nature that the setbacks are so important because there are intimacy issues in that they are very close to each other. For his client to maintain that buffer he is going to have to absorb that 9-10’ buffer on his property. Mr. Labrada did not create this problem. Mr. Ackermann submitted two additional photos that show a different view of the application. The garage is intrusive to his client’s property, but the bigger problem is the encroachment. The stone wall, the drainage and the driveway cannot be separated from this garage. They were installed because they were needed to support the garage. Mr. Ackermann stated there were several demands made of Mr. Yuknevich before the first application to have those changes removed from his property. The encroachment is approximately 12’. Mr. Labrada was forced to sue to protect his basic property rights. Mr. Ackermann asked that the Board deny this variance. Mr. Reid stated that there are multiple issues regarding this application and each issue needs to be addressed and cannot be singled out. This Board is about land use and not contracts, legalities, and verbal agreements. Our bible is our code. There was a lengthy discussion recapping the comments made previously and Mr. Rascoe stated this would set a precedence if this variance is granted.

Mark Manuel, a neighbor voiced his opinion in the negative about this application and stated there were other places that the garage could have been placed and stated there are wetlands on this property. Mr. Manuel also stated that his in-laws share an adjoining property line and that some of their stone wall was used to build Mr. Yuknevich’s wall.

Ellen Rossner, also a neighbor, stated that the previous owner was aware of the wetlands and she couldn’t believe that it was subdivided into two lots. She stated that even when the weather is nice, the property is still so wet that you don’t dare go there without boots. She stated this property should never have been built on. Ms. Rossner stated the house is built right near the stream. The Environmental Assessment Form stated there are possible wetlands on this property. Mr. Rascoe and Mr. Russo both stated that this Board does not handle subdivisions and that this should be discussed with both the Planning Board and the Town Board, who sets the code.

A motion was made by Mr. Russo and seconded by Mr. Arluck to close this Public Hearing. Vote: Mr. Rascoe – Aye, Mr. Russo – Aye, Mr. Arluck – Aye, Mrs. Wiand – Aye, Mr. Reid – Aye.

A motion was made by Mr. Rascoe and seconded by Mr. Arluck to deny this application. The Board’s findings are that since the Zoning Board’s last decision the only thing that has changed is that the neighbor has put up a fence. The relationship between the neighbors has exasperated. Based upon the testimony of the people here tonight, any variance for the location of this garage/pole barn is not compatible to the neighborhood. It changes the characteristics of the neighborhood. This would be a precedent setting matter for flag lots, and it was self-imposed. Due to the applicant’s lack of knowledge of the code and the fact that the property line was not clear at the time of the original application, the applicant has alternatives for the placement of the garage in a different location. Mr. Rascoe stated that this applicant be directed to the Building Department immediately so that a plan of action can be expedited to rectify this matter. Vote: Mr. Rascoe – Aye, Mr. Russo – Aye, Mr. Arluck – Aye, Mrs. Wiand – Aye, Mr. Reid – Aye.

Appearances: None

There was discussion on miscellaneous zoning matters.

A motion was made by Mr. Rascoe and seconded by Ms. Wiand to adjourn this meeting. Vote: Mr. Rascoe – Aye, Mr. Russo – Aye, Mr. Arluck – Aye, Mrs. Wiand – Aye, Mr. Reid – Aye.

**Meeting Adjourned at 7:47 PM
Respectfully submitted,**

**Kathy Ebbrell
Zoning Board of Appeals Secretary**