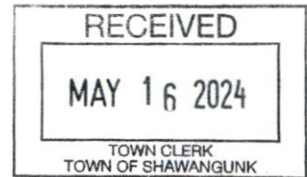


Town of Shawangunk  
Zoning Board of Appeals  
October 18, 2023



Minutes of a Public Hearing held by the Town of Shawangunk Zoning Board of Appeals on October 18, 2023, at 7:00 PM at the Town Hall, 14 Central Avenue, Walkkill, New York, County of Ulster for the following: <sup>OW</sup>

Present Were: Mr. Dennis Arluck, Chairman, Mr. John Russo, Mrs. Susan Wiand and Mr. Ryan Reid as Members, Mr. Richard Hoyt, Town Attorney, Kathy Ebbrell, Zoning Board Secretary, and members of the public.

The meeting was called to order at 7:00 PM. Mr. Arluck led the Zoning Board in the pledge to the flag.

Approval of Minutes: A motion was made by Mr. Russo and seconded by Mrs. Wiand to approve the meeting minutes of September 20, 2023. Vote: Mr. Russo – Aye, Mrs. Wiand – Aye, Mr. Reid – Aye, and Mr. Arluck – Aye.

All Public Hearings remain open for one hour.

**Public Hearings:**

None

**Public Hearing Continuations:**

**Robert and Patricia Detrick – TM #105.1-4-1.110 (RAG-2) 39 Eustance Lane, Pine Bush, NY 12566 - §177-15B - Variance for Installing a Pool on the Side of the House:**

Robert and Patricia Detrick are requesting a variance to install an inground pool on the side of their home. The rear yard elevation and the septic system are in the rear of the home and it not feasible to put it in the rear of the house. It is a very large property of 64 acres and the house is 900' from Route 52. A new modified plot plan was submitted. Mr. Detrick stated the Assessor's Office has a copy of the stamped survey and the copy he has did not have the stamp. They are planning on installing the pool 15' from the edge of the patio area pushing it back 10' further back than originally presented. Mr. Arluck asked if anyone from the public would like to comment and there was none.

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

A motion was made by Mr. Reid and seconded by Mr. Russo to grant the variance to install the pool on the western side in front of the primary structure. The Board's findings are that this is an unlisted SEQRA action, a short Environmental Assessment Form was provided, and a negative declaration was declared. Due to the uniqueness of this property, the topographic constraints of the property, and the direction the house is facing, this location is the most suitable place for the pool. There is no environmental impact if the requirements under §177-15B (Swimming Pool), are followed. This property is on a private road, secluded from the sight of neighboring properties. The pool does not impact the characteristics of the neighborhood. Vote: Mr. Russo – Aye, Mrs. Wiand – Aye, Mr. Reid – Aye, and Mr. Arluck – Aye.

Public Hearing Continuations:

Darla Hall – TM #106.50-1-35 (HWG) 1460 Route 208, Wallkill, NY 12589 - §177-23.2 – Variance for Accessory Dwelling Unit:

Mr. Russo recused himself from this application. Mr. Arluck stated with the amount of material provided, the Town Attorney did not complete his review, therefore the Board cannot render a decision this evening. Mrs. Hall stated that because the Board is delaying this, it is a total violation of her Title II ADA rights as per her attorney. Mr. Hoyt stated that there was a delay in his receiving the information as he was away, and he had inspected the Town's files yesterday. Mr. Hoyt stated that Mrs. Hall cited a Fifth Circuit Court of Appeals case, which is the Federal Court, but there are other cases in our Second Circuit. The question is whether Mrs. Hall is being treated any differently than anyone else in the zoning district. Mr. Hoyt stated that the Board has explained that the Hamlet of Wallkill Gateway does not allow any new residential; therefore, doesn't allow accessory dwelling units and this is based on the Comprehensive Plan and is a use variance that is a much larger issue. There was discussion regarding the floor plans of the house, the accessory dwelling unit, and the Department of Health. Mr. Hoyt asked if someone was living in the RV in the back and Mrs. Hall stated that there is an RV on the front property, there are two different parcels. Mr. Hoyt stated that there are a lot of things in the yard and that the RV appears to be habitable. Mrs. Hall stated yes and that she will be getting rid of the RV with the accessory dwelling unit. Mr. Hoyt asked if he has a disability, and he does not. Mr. Hoyt stated that to get a use variance you need to show dollars and cents proof that the property cannot realize a reasonable economic return without the variance. Mr. Hoyt inquired if Mrs. Hall had submitted any data of any rental income she gets right now and she stated no. Mr. Hoyt asked who lives where on the property, is it all family? Mrs. Hall says it is all family. She lives upstairs in the house, her uncle lives downstairs, and her son lives in the RV. Mr. Hoyt inquired if the RV was hooked up to the private well and septic and Mrs. Hall said no, she puts water in it, and he dumps his sewer. Mrs. Hall stated she doesn't know what this has to do with her application and Mr. Hoyt stated she is seeking relief from this Board to make a use that is not allowable in the zone. Mr. Hoyt stated that it sounds like there are three different uses for the property right now. The property is .6 acres, and the zone requires one acre per unit. The two-family is grandfathered in. Mr. Hoyt stated that Mrs. Hall's contractor, Mr. Spoto, filed an appeal of Mr. Wallner's ruling on May 9<sup>th</sup>, 2023. Mr. Wallner wrote all of this out in April. Mr. Spoto didn't file it with the right people, it should have been addressed to the Zoning Board Clerk and the Building Department. Neither of that happened. It was addressed to "To Whom It May Concern, Town of Wallkill" with this address and was not signed by the applicant. We will deem it an appeal, but it may not be a valid one. There are two things going on here, an appeal of Mr. Wallner's determination and the applicant seeking variances if you affirm that appeal. The variance is clearly a use variance. Mrs. Hall submitted and read a letter regarding a synopsis of the applications submitted and a lengthy discussion followed. Mr. Reid stated that Mrs. Hall's opinion of a possible delay is the Zoning Board doing their due diligence.

**A motion was made by Mr. Arluck and seconded by Mr. Reid to continue this public hearing to November 15, 2023, pending the Town Attorney's review. Vote: Mr. Russo – Aye, Mrs. Wiand – Aye, Mr. Reid – Aye, and Mr. Arluck – Aye.**



**Public Hearing Continuations continued:**

**Christopher Sparaco/NY USLE Bruynswick Road I LLC – TM #99.2-6-10 (RAG-4) 2319 Bruynswick Road, Wallkill, NY 12589 - §177-23.1.E(3)b) – Solar Energy System – Variances for 7% Lot Coverage, 50' Area for Vegetative Buffer and 13.9 Acres Clearing:**

There was no one present for this application and there was no additional information provided.

**A motion was made by Mrs. Wiand and seconded by Mr. Russo to continue this public hearing to November 15, 2023. Vote: Mr. Russo – Aye, Mrs. Wiand – Aye, Mr. Reid – Aye, and Mr. Arluck – Aye.**

**Appearance:**

None

There was discussion on miscellaneous zoning matters.

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

**Meeting Adjourned at 7:56 PM**

**Respectfully submitted,**

**Kathy Ebbrell  
Zoning Board of Appeals Secretary**