



William D. Reilich
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS MINUTES

JANUARY 20, 2015

Work Session Began: 6:30 p.m.

Meeting Began: 7:00 p.m.

Place: Community Conference Room, Greece Town Hall

Present

Albert F. Meilutis, Chairman

Robert J. Bilsky

Thomas Hartwig

Cathleen A. Nigro

Bradford Shea

Christopher A. Schiano, Esq., Deputy Town Attorney

Ivana Frankenberger, Administrative Advisor

Mary Jo Santoli, Zoning Board Secretary

Absent

Andrew P. Forsythe

Randy T. Jensen

Additions, Deletions and Continuances to the Agenda

Announcements

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OLD BUSINESS

None

NEW BUSINESS:

1. Applicant: Whirlwind Properties, LLC
Location: 99 Ling Road
Mon. Co. Tax No.: 046.02-3-14.1
Zoning District: IL (Light Industrial)
Request: a) An area variance for a proposed addition (107.0 feet x 125.0 feet; 13,375± square feet) to an existing industrial building to have an (east) side setback of 70.0 feet, instead of the 100.0 feet minimum required. Sec. 211-18 A(4), Table IV
b) An area variance for a proposed addition (107.0 feet x 125.0 feet; 13,375± square feet) to an existing industrial building, resulting in a gross floor area of 56,571± square feet for the sole industrial use in said building, instead of the 50,000 square feet maximum permitted. Sec. 211-18 A(1)(a)

Mr. Meilutis offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 99 Ling Road, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQR Regulations") (collectively, "SEQR"), and that the application constitutes an Unlisted action under SEQR.
2. The Board of Zoning Appeals has considered the Proposal at a public meeting (the "Meeting") in the Greece Town Hall, 1 Vince Tofany Boulevard, at which time all parties in interest were afforded an opportunity to be heard.
3. Documentary, testimonial, and other evidence were presented at the Meeting relative to the Proposal for the Board of Zoning Appeals' consideration.
4. The Board of Zoning Appeals has carefully considered an Environmental Assessment Form ("EAF") and supplementary information prepared by the Applicant and the Applicant's representatives, including but not limited to supplemental maps, drawings, descriptions, analyses, reports, and reviews (collectively, the "Environmental Analysis").
5. The Board of Zoning Appeals has carefully considered additional information and comments that resulted from telephone conversations or meetings with or written correspondence from the Applicant and the Applicant's representatives.

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6. The Board of Zoning Appeals has carefully considered information, recommendations, and comments that resulted from telephone conversations or meetings with or written correspondence from various involved and interested agencies, including but not limited to the Monroe County Department of Planning and Development and the Town's own staff.
7. The Board of Zoning Appeals has carefully considered information, recommendations, and comments that resulted from telephone conversations or meetings with or written correspondence from nearby property owners, and all other comments submitted to the Board of Zoning Appeals as of this date.
8. The Environmental Analysis examined the relevant issues associated with the Proposal.
9. The Town Board has completed Parts 2 and 3 of the EAF, and has carefully considered the information contained therein.
10. The Board of Zoning Appeals has met the procedural and substantive requirements of SEQR.
11. The Board of Zoning Appeals has carefully considered each and every criterion for determining the potential significance of the Proposal upon the environment, as set forth in SEQR.
12. The Board of Zoning Appeals has carefully considered (that is, has taken the required "hard look" at) the Proposal and the relevant environmental impacts, facts, and conclusions disclosed in the Environmental Analysis.
13. The Board of Zoning Appeals concurs with the information and conclusions contained in the Environmental Analysis.
14. The Board of Zoning Appeals has made a careful, independent review of the Proposal and the Board of Zoning Appeals' determination is rational and supported by substantial evidence, as set forth herein.
15. To the maximum extent practicable, potential adverse environmental effects revealed in the environmental review process will be minimized or avoided by the Applicant's voluntary incorporation of mitigation measures that were identified as practicable.

NOW, THEREFORE, be it

RESOLVED that, pursuant to SEQR, based on the aforementioned information, documentation, testimony, and findings, and after examining the relevant issues, the Board of Zoning Appeals' own initial concerns, and all relevant issues raised and recommendations offered by involved and interested agencies and the Town's own staff, the Board of Zoning Appeals determines that the Proposal will not have a significant adverse impact on the environment, which constitutes a negative declaration.

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Seconded by Mr. Hartwig and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Absent
	Mr. Hartwig	Yes	Mr. Jensen	Absent
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried

Mr. Meilutis then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Whirlwind Properties, LLC, at 99 Ling Road, Mr. Greg McMahon from McMahon-LaRue Engineers appeared before the Board, requesting an area variance for a proposed addition (107.0 feet x 125.0 feet; 13,375± square feet) to an existing industrial building to have an (east) side setback of 70.0 feet, instead of the 100.0 feet minimum required; and an area variance for a proposed addition (107.0 feet x 125.0 feet; 13,375± square feet) to an existing industrial building, resulting in a gross floor area of 56,571± square feet for the sole industrial use in said building, instead of the 50,000 square feet maximum permitted.

WHEREAS, the findings of fact are as follows: The applicant's representative appeared before the Board this evening to indicate that they want to add an addition to the existing building, and in the adding of the additional building they are requesting two variances: an area variance for a proposed addition (107.0 feet x 125.0 feet; 13,375± square feet) to an existing industrial building to have an (east) side setback of 70.0 feet, instead of the 100.0 feet minimum required; and an area variance for a proposed addition (107.0 feet x 125.0 feet; 13,375± square feet) to an existing industrial building, resulting in a gross floor area of 56,571± square feet for the sole industrial use in said building, instead of the 50,000 square feet maximum permitted.

WHEREAS, the applicant testified that the new addition is going to be used for warehousing of raw materials to make the products that are manufactured in the building. This will bring efficiencies to the building and will reduce the amount of back and forth and in and out of the building because materials will all be stored within the building. The applicant testified that there will be over time an increase of approximately eight additional employees within the building. Further, the applicant testified that in 1997, the Town did approve a 70-foot setback for the additional building that was constructed on the site. The new site plan that was presented by the applicant this evening is simply an extension of the existing wing of that building, and will hold the exact wall line as the existing building, coming no closer than the existing building to the neighborhood that was granted the variance in 1997 for the 70 feet. Several neighbors spoke this evening before the Board, primarily expressing concerns of buffering and drainage, buffering of the trees to the parking lot and to the new building addition, as well as concerns with how the water will shed from the property. The Board explained to the residents that if this application is approved, those items will be addressed by the Planning Board as they grant any approvals for the actual construction of the building. No one spoke in opposition tonight to the size of the building as it relates to the square footage of the building. This particular facility has been successful in the town and is now requiring this additional space for them to continue to exist on the existing site.

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WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this Section, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community and that the benefit to the applicant is substantial, and having found that this is an Unlisted action under SEQR, with a negative declaration by this Board, I am going to move for the approval of the variances as requested, with the following conditions:

1. That the 70-foot setback on this side of the property exists for the entire property, not just for this addition.
2. That the Planning Board pay particular attention to the buffering of the neighborhood immediately to the south of this property, with regard to not only the visual buffering, but also the drainage concerns raised by the neighbors here this evening.

Seconded by Mr. Hartwig and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Absent
	Mr. Hartwig	Yes	Mr. Jensen	Absent
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Approved
With Conditions

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2. Applicant: Randy and Michelle Papkey
Location: 208 Cedar Creek Trail
Mon. Co. Tax No.: 058.04-9-11
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for proposed deck (677± square feet), resulting in a lot coverage of 29.5% for all structures, instead of the 25.0% maximum permitted. Sec. 211-11 D(2), Table I

Mr. Bilsky offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 208 Cedar Creek Trail, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQR Regulations") (collectively, "SEQR"), and that the application constitutes a Type II action under SEQR. (SEQR Regulations, §617.5(c)(10).)
2. According to SEQR, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQR.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, SEQR requires no further action relative to this proposal.

Seconded by Ms. Nigro and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Absent
	Mr. Hartwig	Yes	Mr. Jensen	Absent
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried

Mr. Bilsky then offered the following resolution and moved its adoption:

WHEREAS, with regard to the application of Randy and Michelle Papkey, at 208 Cedar Creek Trail, their representative appeared before the Board this evening, requesting an area variance for a proposed deck (677± square feet), resulting in a lot coverage of 29.5% for all structures, instead of the 25.0% maximum permitted.

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WHEREAS, the findings of fact are as follows: The applicant was represented by Mr. Robert Cornell and Mr. Tom Dowdy, who came before the Board this evening; Michelle Papkey also came forward to speak on behalf of her spouse with regard to this project. Apparently, this deck, according to the testimony, is being constructed in concert with all renovations being done to this property, in general for handicap accessibility for Mr. Papkey, who suffered an accident that resulted in a disability. As the deck will be elevated, it will be constructed of synthetic and pressure-treated materials. The access for Mr. Papkey will be strictly from the home. The size of the deck is dictated by the need for wheelchair maneuverability and to allow Mr. Papkey access to activities on the deck, neighbors visiting, children in the pool, and miscellaneous activities like that. The deck will also include typical patio furniture. There are plans for a portable grill, general summertime and good weather activities related to this, and the addition of this deck, according to Mrs. Papkey, will contribute significantly to the quality of life for Mr. Papkey.

WHEREAS, having reviewed all the testimony and evidence as just summarized in the findings of fact, and having considered the five statutory factors set forth in New York State Town Law, Section 267-b, and finding that the evidence presented meets the requirements of this Section, and having found that there is no significant detriment to the health, safety, and welfare of the neighborhood or community and that the benefit to the applicant is substantial, and having found that this is a Type II action under SEQR, requiring no further action by this Board, I move to approve this application as submitted with the following conditions:

1. That the applicant complies with all Town building code, pool codes, whatever, related to the construction of this deck.
2. And that this approval is for the life of the deck itself.

Seconded by Ms. Nigro and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Absent
	Mr. Hartwig	Yes	Mr. Jensen	Absent
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Approved
With Conditions

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3. Applicant: Patrick M. Lynch
Location: 31 Albury Drive
Mon. Co. Tax No.: 058.02-7-79
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed shed (8.0 feet x 10.0 feet; 80.0 square feet) to be located in a side yard, where accessory structures, such as sheds, are permitted only in rear yards. Sec. 211-11 E(3)
b) A special use permit for an existing in-law apartment. Sec. 211-11 C(2)(e)
c) An area variance for an existing in-law apartment to have a gross floor area of 996± square feet, instead of the maximum floor area permitted (that is, the lesser of 600 square feet or 30% of the gross floor area, exclusive of attached garages, of the single-family residence in which said in-law apartment is located—which is 1100± square feet in this case). Sec. 211-11 C(2)(e)[2]

Ms. Nigro offered the following resolution and moved for its adoption:

WHEREAS, the Applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 31 Albury Drive, as outlined above; and

WHEREAS, having considered carefully all relevant documentary, testimonial and other evidence submitted, the Board of Zoning Appeals makes the following findings:

1. Upon review of the application, the Board of Zoning Appeals determined that the application is subject to the State Environmental Quality Review Act (New York State Environmental Conservation Law, Article 8) and its implementing regulations (6 NYCRR Part 617, the "SEQR Regulations") (collectively, "SEQR"), and that the application constitutes a Type II action under SEQR. (SEQR Regulations, §617.5(c)((9), (10) & (12).)
2. According to SEQR, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQR.

NOW, THEREFORE, be it

RESOLVED that, based on the aforementioned documentation, testimony, information and findings, SEQR requires no further action relative to this proposal.

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Seconded by Mr. Bilsky and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Absent
	Mr. Hartwig	Yes	Mr. Jensen	Absent
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried

Ms. Nigro then offered the following resolution and moved its adoption:

Mr. Chairman, with regard to the application of Patrick M. Lynch, 31 Albury Drive, Mr. Lynch appeared before the Board of Zoning Appeals this evening for the request of an area variance for a proposed shed (8.0 feet x 10.0 feet; 80.0 square feet) to be located in a side yard, where accessory structures, such as sheds, are permitted only in rear yards; a special use permit for an existing in-law apartment; and an area variance for an existing in-law apartment to have a gross floor area of 996± square feet, instead of the maximum floor area permitted (that is, the lesser of 600 square feet or 30% of the gross floor area, exclusive of attached garages, of the single-family residence in which said in-law apartment is located—which is 1100± square feet in this case).

WHEREAS, on the main motion, the findings of facts are as follows: This parcel is located at 31 Albury Drive in an R1-E (Single-Family Residential) district. The parcel is a corner lot, 135 feet by 150 feet. It contains a two-story, single-family dwelling, with an attached in-law apartment and garage, and consists of approximately 3127 square feet.

The applicant, Mr. Lynch, appeared before the Board and has stated that he has lived at the residence for seven years. The shed will be made of a vinyl material that will match the existing home, and will sit on crushed stone. The request for the shed's placement is due to the fact that this is a corner lot which does not allow for a suitable placement within code to avoid a variance. The shed will be used to provide storage of bicycles and lawn mowers and other items that may not fit in the garage. There will be no utilities to the shed.

The in-law was part of the original build. The residence is 3127 square feet. The size of the apartment is approximately 996 square feet, being over the permitted 600 square feet. This was an oversight by the Building Department, and would be a financial hardship for the applicant to comply with code. Staff has informed the Board that there have been past in-laws that have been granted variances for square footage being over the permitted maximum.

There will be no separation of utilities. Several neighbors spoke in opposition to this request.

The in-law apartment may be occupied by only members of the family unit occupying the main part of the dwelling or by the in-laws of the member of the family unit. As stated by the applicants, it is currently occupied by Mr. and Mrs. Lynch.

The area of the in-law apartment shall not exceed 30% of the total area of the residence- Actually it does exceed, as this was overlooked by the Building Department; therefore, they are requesting an area variance at this time as well for the in-law to have a floor area of 996 square feet.

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Occupancy of the apartment shall be non-transferrable to subsequent owners. A new owner of the premises shall have to apply to the Board of Zoning Appeals for a waiver of a special use permit to continue the in-law apartment use.

The in-law apartment currently has a separate means of ingress and egress; there is a separate entrance to the property from the outside, as well as internal access.

If an in-law apartment becomes vacant, the family occupying the main part of the dwelling shall have full use and occupancy of the in-law apartment as if it were an integral part of the dwelling without further permitting by the Town. The applicant understands that should the in-law no longer be used by an in-law, that it shall be used as a portion of the principal dwelling and not rental property.

The exterior appearance blends well with the existing dwelling and any residence containing an in-law apartment shall be considered a single family residence.

The in-law apartment shall meet the standards of Title 19NYCRR, the Building Code for New York State, habitable space.

Based on the findings of fact, I am going to move to approve this application as requested with the following conditions:

1. That a memorandum must be filed with the County Clerk's Office, acknowledging the specifics of the in-law requirements after it is approved by this Board's counsel.
2. That this approval is for the life of the shed.
3. And that no permits for the shed shall be issued until the memorandum is completed and recorded in the Office of the Monroe County Clerk.

Seconded by Mr. Shea and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Absent
	Mr. Hartwig	Yes	Mr. Jensen	Absent
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Approved
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ADJOURNMENT: 8:15

APPROVAL OF BOARD OF ZONING APPEALS MEETING MINUTES

The Board of Zoning Appeals of the Town of Greece, in the County of Monroe and State of New York, rendered the above decisions.

Signed: _____

Date: _____

Albert F. Meilutis, Chairman

NEXT MEETING: Tuesday, February 17, 2015 (the February 3, 2015, meeting has been cancelled)

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