



William D. Reilich
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS MINUTES

JULY 19, 2016

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

Andrew P. Forsythe

Thomas F. Hartwig

Randy T. Jensen

Bradford Shea

Christopher A. Schiano, Esq., Deputy Town Attorney

John T. Caterino, Planning Assistant

Maryjo Santoli, Zoning Board Secretary

Absent

Cathleen A. Nigro

Additions, Deletions and Continuances to the Agenda

Announcements

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Old Business:

1. Applicant: Frank Momano
Location: 358 South Drive
Mon. Co. Tax No.: 026.18-4-23
Zoning District: R1-E (Single-Family Residential)
Request:
- a) An area variance for a proposed detached garage (12.0 feet x 20.0 feet; 240.0 square feet) to have a rear setback of 2.8 feet (measured from the south right-of-way line of South Drive), instead the 25.0 feet minimum required. Sec. 211-11 E (1), Table I
 - b) An area variance for a proposed detached garage (12.0 feet x 20.0 feet; 240.0 square feet) to have a (east) side setback of 0.23 feet, instead of the 6.0 feet minimum required. Sec. 211-11 E (1), Table I
 - c) An area variance for a proposed detached garage (12.0 feet x 20.0 feet; 240.0 square feet) to have a proposed driveway length of 2.8 feet, instead of the 22.0 feet minimum required. Sec. 211-41 G
 - d) An area variance for a proposed lot coverage of 38.5%, instead of the 35.4% granted by the Board of Zoning Appeals on August 4, 1998. Sec 211-11 D (2), Table I
 - e) An area variance for an existing deck (93.0± square feet) located in the (west) side yard, where accessory structures, such as decks, are permitted only in a rear yard. Sec. 211-11 E (3)
 - f) An area variance for an existing 6.0-foot-high, closed-construction fence (47.0± linear feet) located on a deck in the front and side yard, where fences on decks are to be located only in a rear yard. Sec. 211-47 C (1)
 - g) An area variance for an existing 6.0-foot-high, closed-construction fence (23± linear feet) located on a deck, to have a (west) side setback of 1.0 to 5.9 feet, instead of the 6.0 feet minimum required. Sec. 211-47 C (2) Sec. 211-11 D (2), Table 1
 - h) An area variance for an existing shed (6.7 feet x 6.7 feet; 44.9 square feet) located in a side yard, where accessory structures, such as sheds, are permitted only in rear yards. Sec. 211-11 E (3)

Mr. Hartwig 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 358 South 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:

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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 "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(10).)
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

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

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

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

Motion Carried

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

Mr. Chairman, regarding the application of Frank Momano, 358 South Drive, Mr. Momano appeared before the Board of Zoning Appeals on June 7th and this evening, requesting an area variance for a proposed detached garage (12.0 feet x 20.0 feet; 240.0 square feet) to have a rear setback of 2.8 feet (measured from the south right-of-way line of South Drive), instead the 25.0 feet minimum required; an area variance for a proposed detached garage (12.0 feet x 20.0 feet; 240.0 square feet) to have a (east) side setback of 0.23 feet, instead of the 6.0 feet minimum required; an area variance for a proposed detached garage (12.0 feet x 20.0 feet; 240.0 square feet) to have a proposed driveway length of 2.8 feet, instead of the 22.0 feet minimum required; an area variance for a proposed lot coverage of 38.5%, instead of the 35.4% granted by the Board of Zoning Appeals on August 4, 1998; an area variance for an existing deck (93.0± square feet) located in the (west) side yard, where accessory structures, such as decks, are permitted only in a rear yard; an area variance for an existing 6.0-foot-high, closed-construction fence (47.0± linear feet) located on a deck in the front and side yard, where fences on decks are to be located only in a rear yard; an area variance for an existing 6.0-foot-high, closed-construction fence (23± linear feet) located on a deck, to have a (west) side setback of 1.0 to 5.9 feet, instead of the 6.0 feet minimum required; and an area variance for an existing shed (6.7 feet x 6.7 feet; 44.9 square feet) located in a side yard, where accessory structures, such as sheds, are permitted only in rear yards.

The findings of fact are as follows. On June 7, 2016 Frank Momano, who resides at 358 South Drive in an R1-E (Single Family Residential) District, appeared before this Board of Zoning Appeals to request several area variances, as mentioned above.

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Mr. Momano stated that he has owned this property for 19 years and needs this additional garage for storage purposes. He has three vehicles, two of which are currently being placed in his existing garage. He will, then, in order to improve the appearance of the property, store the third vehicle along, with his lawn equipment (which are currently outside) in the proposed garage.

Mr. Momano went on to state that the finishes of the proposed garage will match the existing property structures and that the only utility to be run to it will be electricity. The proposed garage will be placed in line with the existing garage, thereby creating a setback from the south right-of-way and a driveway length of both at 2.8 feet.

In order to reduce the total lot coverage of 38.5%, Mr. Momano was asked if the size of the proposed garage could be smaller, but he stated that his third vehicle and his lawn equipment required that much space. With further discussion, though, it was determined that the existing deck is at ground level, thereby eliminating the need for variance "e" and as such should not be included in the total lot coverage. With the deck being removed, the proposed total lot coverage was reduced to 37.1%, which is still high for that neighborhood.

Discussion continued concerning the six-foot-high closed-construction fence. Mr. Momano stated that this fence was in place when he purchased the property 19 years ago; however, in researching past building department documents and permits this was not clear.

Letters were read into the record. John Gauthier, Town of Greece Engineer, stated that any structure should be placed 20 feet from the right-of-way, which conflicts with the previously stated 2.8 feet for this garage. He went on to further state that permits must also be obtained for structures that are currently in or will be placed in the right-of-way. In addition, any drainage caused by the proposed garage must remain on the property.

Mr. Eric Bishop of 366 South Drive stated his concerns about the placement of a fence along the property line by South Drive adjacent to him.

Mr. John Hahn, who resides at 363 South Drive, was concerned about the appearance of the proposed garage and the depth of timbers used in a retaining wall on the property by South Drive.

Mr. Alan Hain of 352 South Drive then spoke. He mentioned that drainage from the proposed garage would run onto his property, and that the retaining wall by South Drive was not installed correctly and as such is beginning to lean toward his property. In addition, he mentioned that a storage shed, which was in the right-of-way and was marked to be removed on the submitted plan, was instead relocated next to the property's primary structure.

Consequently, with engineering questions along with questions and confusion relating to the property's existing conditions, this application was continued to the July 5 meeting in order to give Town Engineering and Building staffs the opportunity to inspect and further evaluate this property.

Consequently, after further inspection this application was re-advertised to include the placement of said storage shed. Variance (h) was added and reads as follows: An area variance for an existing shed (6.7 feet x 6.7 feet; 44.9 square feet) located in a side yard, where accessory structures, such as sheds, are permitted only in rear yards.

On July 5th, Mr. Momano reappeared before this Board. He stated that he will no longer be pursuing the proposed garage. As such, variances "a" through "d," which pertain to that structure, are being withdrawn from this application. Variance "e" is also being withdrawn, as the mentioned deck is at ground level and thereby does not require a variance.

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Mr. Alan Hain of 352 South Drive also reappeared and expressed his concerns about a retaining wall.

Discussion then continued relative to open code violations on the property. Consequently, this application was further continued to July 19th in order to give Mr. Momano time to contact the Code Enforcement Office to resolve those issues.

This evening, on July 19th, Mr. Momano reappeared before the Board and stated once again that he will be withdrawing variances "a" through "e" and will only be pursuing variances "f" through "h." It was clear that the violations have been cleared and have been satisfied. Mr. Alan Hain also spoke and said that he has no problems with the remaining variances.

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 SEQRA, requiring no further action by this Board, I move to approve this application, with the following conditions:

1. That variances "a" through "e" are hereby withdrawn from the application.
2. And that the variances being granted for the 6-foot-high fence and the existing shed are for the life of those fences and that shed only.

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

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

**Motion Carried
Application Approved
With Conditions**

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2. Applicant: Bell Atlantic Mobile of Rochester, L.P. (d.b.a. Verizon Wireless)
Location: 2419 Latta Road
Mon. Co. Tax No.: 045.20-1-1.11
Zoning District: R1-44 (Single-Family Residential)
Request: a) A special use permit for a proposed cellular service telecommunications facility, consisting of a freestanding antenna tower (128 feet-high, including lightning rod) and related antenna(s), accessory antenna structures, and access driveway. Sec. 211-56 A
b) An area variance for the use of barbed wire (196± linear feet) on top of a fence, where the use of barbed wire or other similar strands of sharpened enclosure material shall not be permitted, except as provided in Section 211-49. Sec. 211-46 E

On a motion by Mr. Bilsky and seconded by Mr. Jensen, it was resolved to continue the public hearing on this application until the meeting of August 16, 2016 in order to give the applicant time to gather more information that staff requested.

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

**Motion Carried
Application Continued Until
Meeting of August 16, 2016**

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3. Applicant: Gabrielle Riorden
Location: 464 Red Apple Lane
Mon. Co. Tax No.: 059.08-1-54
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for a proposed 12-foot-high, closed-construction fence (156.6± linear feet) to be located in the rear yard, where fences in rear yards shall not exceed 6.0 feet in height. Sec. 211-47

On a motion by Mr. Hartwig and seconded by Mr. Jensen, it was resolved to close the public hearing on this application and reserve decision until the meeting of August 2, 2016.

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

**Motion Carried
Application Continued Until
Meeting of August 2, 2016**

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New Business:

1. Applicant: Majed Shaibi
Location: 14 Ballad Avenue
Mon. Co. Tax No.: 074.06-1-1
Zoning District: R1-E (Single-Family Residential)
Request: a) A public hearing for the Board of Zoning Appeals to consider whether or not a successive application, brought forth within a one (1)-year period, is the same or substantially the same as the application denied by the Board of Zoning Appeals on June 7, 2016. Sec. 211-62 A
b) An area variance for a proposed 6.0-foot-high, closed-construction fence (97± linear feet) to be located in a front yard, where fences in front yards shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-46 L

Relative to item "a," the Board of Zoning Appeals put forth the motion to grant a new hearing for this agenda item because after some discussion, the Board felt that the new request by the applicant, which is to move the fence 20 feet farther away from the sidewalk, is a substantial change that would allow the Board to rehear this application.

Mr. Bilsky put forth the motion to grant a new hearing for this agenda item, seconded by Mr. Forsythe and duly put to a vote, which resulted as follows:

VOTE:	Mr. Bilsky	Yes	Mr. Forsythe	Yes
	Mr. Hartwig	No	Mr. Jensen	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Absent
	Mr. Shea	Yes		

**Motion Carried
Application for New Hearing Approved**

The new hearing was opened and much discussion took place regarding item "b" of the agenda.

On a motion by Mr. Jensen and seconded by Mr. Bilsky, it was resolved to close the public hearing on this application and reserve decision until the meeting of August 2, 2016.

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

Motion Carried
Application Continued Until
Meeting of August 2, 2016

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2. Applicant: Christina Tanski
Location: 429 Woodsong Lane
Mon. Co. Tax No.: 046.02-3-67
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed 6.0-foot-high, closed-construction fence (105± linear feet) to be located in a front yard, where fences in front yards shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-47 L
b) An area variance for a proposed 6.0-foot-high, closed-construction fence (20± linear feet) to be located on a corner lot in the portion of the rear yard which adjoins the front yard of an adjoining lot, where fences shall not exceed 4.0 feet in height and shall be of open construction. Sec. 211-47 A (1)

On a motion by Mr. Shea and seconded by Mr. Bilsky, it was resolved to continue the public hearing on this application until the meeting of August 2, 2016 in order to give staff time to re-advertise.

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

**Motion Carried
Application Continued Until
Meeting of August 2, 2016**

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3. Applicant: Lynn Cucinelli
Location: 1800 Manitou Road
Mon. Co. Tax No.: 073.03-1-22.2
Zoning District: R1-18 (Single-Family Residential)
Request: An area variance for a proposed detached garage (20.0 feet x 30.0 feet; 600.0 square feet), resulting in a total gross floor area of 2937 square feet in all accessory structures, instead of the 2337 square feet granted by the Board of Zoning Appeals on July 19, 2011. Sec. 211-11 E (1), Table I

On a motion by Mr. Hartwig and seconded by Mr. Jensen, it was resolved to continue the public hearing on this application until the meeting of September 20, 2016 per the request of the applicant.

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

**Motion Carried
Application Continued Until
Meeting of September 20, 2016**

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4. Applicant: Scott Delgatti
Location: 399 South Drive
Mon. Co. Tax No.: 026.18-2-46
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for a proposed detached garage (30.0 feet x 40.0 feet; 1200.0 square feet) resulting in a total gross floor area of 1709± square feet in all accessory structures, instead of the 1000 square feet maximum gross floor area permitted for lots with a lot area of 16,000 square feet to one (1) acre. Sec. 211-11 E (1), Table I

Mr. Forsythe 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 399 South 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 "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(10).)
2. According to SEQRA, Type II actions have been determined not to have a significant adverse impact on the environment and are not subject to further review under SEQRA.

NOW, THEREFORE, be it

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

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

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

Motion Carried

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

Mr. Chairman, regarding the application of Scott Delgatti, 399 South Drive, Mr. Scott Delgatti appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed detached garage (30.0 feet x 40.0 feet; 1200.0 square feet) resulting in a total gross floor area of 1709± square feet in all accessory structures, instead of the 1000 square feet maximum gross floor area permitted for lots with a lot area of 16,000 square feet to one (1) acre.

The findings of fact are as follows. This parcel is located at 399 South Drive and is in an R1-E (Single-Family Residential) neighborhood. The applicant, Scott Delgatti, appeared before this Board this evening and stated that he has lived at the residence for approximately 12 years. Mr. Delgatti stated that the proposed detached garage addition is needed for the following reasons: first of all, he is proposing a pole barn-type structure, yet to be determined if it is going to be vinyl or steel. It is going to be under the 17-foot requirement, as far as the height. The reason that he is requesting this is because he has no basement. He has a number of pool items that need to be put in there—jet skis, patio furniture, as well as a lawnmower. Currently, he has a 12-foot x 16-foot shed that is there on the property, which will come down upon completion of this pole barn. There is currently electric in the 12-foot x 16-foot shed area that he has now, which he is going to continue; he would like to continue to keep electric in the pole barn. There are no other utilities that he is requesting. One of his neighbors, Al Hain at 349 South Drive, came before this Board to show support for the pole barn. I am going to recommend approval of the 30 feet x 40 feet, but this is going to be contingent upon staff review of your building plans.

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 SEQRA, requiring no further action by this Board, I move to approve this application, with the following conditions:

1. As I stated, we have some sort of drawing. Once your contractor is selected, in that drawing also should show whether the exterior material is going to be vinyl or steel.
2. That the applicant obtains all necessary building permits and that the garage maintains all Town and code requirements.
3. That there will be no commercial use at this building.
4. That the applicant will work with Town staff to ensure the colors and height will match the house; the height has to be under 17 feet.

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

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

Motion Carried
Application Approved
With Conditions

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5. Applicant: Indus Real Estate II, Inc.
Location: 1271 Long Pond Road & 2585 West Ridge Road
Mon. Co. Tax No.: 074.14-3-10 & 074.14-3-13
Zoning District: BR (Restricted Business)
Request: a) An area variance for a proposed freestanding sign to have a sign area of 164.8 square feet (10.3 feet x 16.0 feet, including decorative support area), instead of the 40.0 square feet maximum permitted. Sec 211-52 B (1) (d), Table VI
b) An area variance for a proposed freestanding sign to have a setback of 5.0 feet (measured from the south right-of-way line of West Ridge Road), instead of the 15.0 feet minimum required. Sec. 211-52 B (1) (b) [1]
c) An area variance for a proposed freestanding sign to have a height of 25.0 feet, instead of the 20.0 feet maximum permitted. Sec. 211-52 B (1) (c)
d) An area variance for a proposed second freestanding sign with a sign area of 164.8 square feet (10.3 feet x 16.0 feet, including decorative support area) for a business center, instead of the one (1) 40.0-square-foot freestanding sign permitted. Sec. 211-11-52 B (1) (a) [2], Sec. 211-52 B (1) (d), Table I
e) An area variance for a proposed second freestanding sign to have a height of 25.0 feet, instead of the 20.0 feet maximum permitted. Sec. 211-52 B (1) (c)
f) An area variance for 59 proposed parking spaces in a business center, instead of the minimum 83 parking spaces required. Sec. 211-45 S (1)

On a motion by Mr. Bilsky and seconded by Mr. Shea, it was resolved to continue the public hearing on this application until the meeting of August 2, 2016 in order to give the applicant time to gather information that the board requested.

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

**Motion Carried
Application Continued Until
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ADJOURNMENT: 10:20 p.m.

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: August 2, 2016