



William D. Reilich
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS MINUTES

JANUARY 5, 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

Andrew P. Forsythe

Thomas Hartwig

Randy T. Jensen

Cathleen A. Nigro

Bradford Shea

Christopher A. Schiano, Esq., Deputy Town Attorney

John T. Caterino, Planning Assistant

Maryjo Santoli, Zoning Board Secretary

Absent

Robert J. Bilsky

Additions, Deletions and Continuances to the Agenda

Announcements

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Old Business:

1. Applicant: James Pilkenton
Location: 165 Barcrest Drive
Mon. Co. Tax No.: 060.09-5-16
Zoning District: R1-E (Single-Family Residential)
Request:
- a) An area variance for an existing principal structure to have a (south) side setback of 6.4 feet, instead of the 7.6 feet granted by the Board of Zoning Appeals on August 5, 2014. Sec. 211-11 D (2), Table I
 - b) An area variance for an existing deck (1334.8± square feet) to have a (north & west) side setback of 0.0 feet, instead of the 8.0 feet minimum required. Sec. 211-11 E (1), Table I
 - c) An area variance for existing accessory structures, totaling 1083.4± square feet, instead of the 972.0 square feet granted by the Board of Zoning Appeals on August 5, 2014. Sec. 211-11 E (1), Table I
 - d) An area variance for proposed lot coverage of 42.8%, instead of the 28% granted by the Board of Zoning Appeals on August 5, 2014. Sec. 211-11 D (2), Table I
 - e) An area variance for an existing 6.0-foot-high, closed-construction fence on a deck (35.3± linear feet) to have a (north) side setback of 0.0 to 7.4 feet, instead of the 8.0 feet minimum required. Sec. 211-47 C (2)
 - f) An area variance for an existing 6.0-foot-high, closed-construction fence on a deck (20± linear feet) to have a rear setback of 0.0 feet, instead of the 36.8 feet minimum required. Sec. 211-47 C (2)
 - g) An area variance for an existing closed-construction fence (67± linear feet) to have a height ranging from 7.3± feet to 8.7± feet (measured from the top of said fence to the ground directly beneath it), instead of the 6.0 feet maximum permitted. Sec. 211-47

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On a motion by Mr. Hartwig and seconded by Mr. Shea, it was resolved to continue the public hearing on this application until the meeting of January 19, 2016 in order to give staff time receive correspondence from Rochester Gas & Electric Corporation.

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

**Motion Carried
Application Continued until
Meeting of January 19, 2016**

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2. Applicant: Paul Palermo
Location: 2676 Edgemere Drive
Mon. Co. Tax No.: 026.15-1-19
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed two-story detached garage (2016 square feet), instead of the 963.5 square feet granted by the Board of Zoning Appeals on November 27, 2012. Sec. 211-11 E (1), Table I
b) An area variance for a proposed two-story detached garage (2016 square feet) to have a height of 23.0 feet, instead of the 17.0 feet maximum required. Sec. 211-11 E (1), Table I
c) An area variance for a proposed two-story detached garage (2016 square feet) exceeding the total area of the principal structure (1800 square feet) on the premises. Sec. 211-11 E (1), Table I

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 2676 Edgemere 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.

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

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

Motion Carried

Mr. Hartwig then offered the following resolution:

Regarding the application of Paul Palermo, 2676 Edgemere Drive, Paul and Denise Palermo appeared before the Board for the request of an area variance for a proposed two-story detached garage (2016 square feet), instead of the 963.5 square feet granted by the Board of Zoning Appeals on November 27, 2012; an area variance for a proposed two-story detached garage (2016 square feet) to have a height of 23.0 feet, instead of the 17.0 feet maximum required; and an area variance for a proposed two-story detached garage (2016 square feet) exceeding the total area of the principal structure (1800 square feet) on the premises.

WHEREAS, the findings of facts are as follows. On November 17, 2015 and this evening, January 5, 2016, Paul and Denise Palermo appeared before the Board to request an area variance for a proposed two-story detached garage (2016 square feet), instead of the 963.5 square feet granted by the Board of Zoning Appeals on November 27, 2012; an area variance for a proposed two-story detached garage (2016 square feet) to have a height of 23.0 feet, instead of the 17.0 feet maximum required; and an area variance for a proposed two-story detached garage (2016 square feet) exceeding the total area of the principal structure (1800 square feet) on the premises. The Palermos have owned and resided at 2676 Edgemere Drive for 12 years. A garage which currently exists on the property cannot accommodate all of their storage needs. On November 27, 2012, they received a variance for a 963.5-square-foot garage that was never acted on; however, they now own a 30-foot fishing boat, 2 cars, and jet skis. As such, a larger structure, 2016 square feet, is being requested in order to house these vehicles inside, along with the lawn equipment and lawn furniture. Currently, these vehicles are being stored outside, and the Palermos would like to clean up their property's appearance. If this application is approved, the existing garage will be demolished.

The carport is also being requested as they intend to store their 30-foot boat under it during the summer months. Their plans show a garage height of 23 feet for the mezzanine level. This is being requested as they intend to store their and their five children's clothing, along with their family's carryable items on this level. As for utilities, only electric will be run to the garage. The garage will be of a pole barn construction type and its appearance will match the appearance of their house. Jim Barsham, a neighbor, spoke in favor of the garage. In addition, the Palermos have spoken to other neighbors and received no negative comments. However, concerns were expressed relative to the garage size and height. As such, their application was continued to January 5th in order to give the Palermos sufficient time to arrive at options to reduce both its square footage and its height. This evening on January 5th, both Denise and Paul Palermo appeared before the Board. They mentioned that the storage on the mezzanine level is necessary for their needs as they are currently utilizing off-site storage for this purpose and are currently paying for it. However, in further discussions they have agreed to reduce the size of the mezzanine level to accommodate the

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total square footage of the garage to be less than the principal structure that is currently on the property. As such, the second floor mezzanine cannot exceed 348 square feet, and the Palermos have agreed to this, so that dimension for the upstairs would be 14.6 feet x 24 feet. In addition, this evening, the Palermos also have agreed to reduce the overall height of the garage from 23 feet to 20 feet.

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

1. That all necessary building permits are first obtained and all Town codes are satisfied.
2. That the Palermos provide documentation to the Town showing that they obtained any required NYSDEC approvals/permits prior to building permits being issued.
3. That the second floor mezzanine cannot not exceed 348 square feet.
4. That the footprint of the building be built as submitted in their drawings, not to exceed 1440 square feet, and that the second floor not exceed 348 square feet and no taller than 20 feet, as they reduced it to.

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

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

Motion Carried
Application Approved
With Conditions

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3. Applicant: Ozgur Ercan
Location: 83 Brick Landing
Mon. Co. Tax No.: 058.03-3-90
Zoning District: R1-E (Single-Family Residential)
Request: a) A special use permit for an existing in-law apartment. Sec. 211-11 (C) (2) (e)
b) An area variance for a proposed addition to an existing in-law apartment (13.0 feet x 18.0 feet; 234 square feet) resulting in a gross floor area of 813± 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). Sec. 211-11 C (2) (e) [2]
c) An area variance for a proposed deck (202± square feet) to be located in a side yard, where accessory structures, such as decks, are permitted in rear yards only. Sec. 211-11 E (3)

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 83 Brick Landing, 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:

WHEREAS, the applicant came before the Town of Greece Board of Zoning Appeals (the "Board of Zoning Appeals") relative to the property at 2676 Edgemere 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:

5. 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)(9) & (10).)
6. 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.

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

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

Motion Carried

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

Mr. Chairman, regarding the application of Ozgur Ercan, of 83 Brick Landing, Ozgur and his wife, Stacy, appeared before the Board of Zoning Appeals this evening, requesting a special use permit for an existing in-law apartment; an area variance for a proposed addition to an existing in-law apartment (13.0 feet x 18.0 feet; 234 square feet), resulting in a gross floor area of 813± 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); and an area variance for a proposed deck (202± square feet) to be located in a side yard, where accessory structures, such as decks, are permitted in rear yards only.

WHEREAS, the findings of fact are as follows. This parcel is located at 83 Brick Landing in an R1-E Single-Family Residential district. The parcel is approximately 87 feet wide by 190 feet deep. It contains a two-story, single-family dwelling, with an attached garage. The applicant, Ozgur Ercan, and his mother, Hatice Ercan, appeared before the Board on December 15th, and Mr. Ercan and his wife, Stacy Ercan, appeared this evening. It was stated that they have lived in the residence since its purchase in July of 2015 and knew that it contained an in-law apartment. His mother, Hatice Ercan, has lived in the current apartment to help care for the child and to be a closer part of the family. The existing apartment has a living area, bedroom, bath and kitchen. Hatice Ercan would like to expand the in-law for comfort and to be able to entertain and have a bit more separation of living and kitchen area due to noise and space. Upon discussion, it was noted that the in-law was approved in 2006 for 467 square feet. Unfortunately, this was disregarded as the current square feet, after staff re-measured, is 542 square feet. The requested size for the proposed addition is approximately 234 square feet, but the homeowner agreed to decrease the size to 10 feet x 18 feet, resulting in a total square footage of 722 square feet. The addition will be constructed to blend with the existing home. The shared laundry area serves as a common area between the in-law apartment and the principal residence. The in-law has its own entrance located at the east side of the apartment. There is no separation of utilities, and the proposed in-law does not cause traffic problems within the neighborhood nor will parking be an issue. Regarding item "C," the variance for a proposed deck, the homeowner has agreed to withdraw that request. Additionally, no neighbors spoke opposing this request.

In going through the in-law apartment requirements for a Special Use Permit:

1. The in-law apartment may be occupied only by members of the family unit occupying the main part of the dwelling or by in-laws of the member of the family unit. As stated, it is occupied by his mother, Hatice Ercan.

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2. 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.
3. In-law apartment use shall be able to have a separate means of ingress and egress, but must also have an internal access point connecting the two. There is a separate entrance to the property from the outside and there is internal access through the front foyer of the home.
4. 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 of the Town. The applicant understands that, should the in-law no longer be used by an in-law, it shall be used as a portion of the principal dwelling and not be a rental property.
5. Regarding exterior appearance, if an in-law apartment is located in or attached to the principal dwelling, the design of the unit and its entry shall be such that, to the degree reasonably feasible, the appearance of the building will remain as a single-family residence. And it will, it will be built to blend with the existing dwelling.
6. Any residence containing an in-law apartment shall be considered a single-family residence.
7. The in-law apartment shall meet the standards of Title 19NYCRR, the Building Code of New York State, for habitable space.

Based on the facts that the applicant meets all the criteria for a special use permit, I move to approve this application, with the following conditions:

1. That the total size of the in-law apartment will not exceed 722 square feet.
2. That the applicant must obtain all necessary permits for construction of the in-law addition.
3. It is non-transferable to subsequent owners.
4. The applicant must re-certify every year with the Town to verify the in-law's occupancy.
5. As offered and withdrawn by the applicant, item "C" has been withdrawn.

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

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

Motion Carried
Items "A" and "B" Approved
With Conditions
Item "C" Withdrawn

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New Business:

1. Applicant: J & T Management of New York, LLC
Location: 28 Falmouth Street
Mon. Co. Tax No.: 075.72-1-13
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for an existing 4.0-foot-high, closed-construction fence (91± linear feet) located in a front yard, where fences in a front yard shall be of open construction. Sec. 211- 46 L
b) An area variance for an existing 4.0-foot-high, closed-construction fence (26.5± linear feet) located in the clear visibility portion of a front yard, where fences located within such area shall not exceed 3.0 feet in height and shall be of open construction. Sec. 211-46 D, Sec. 211-46 L

Mr. Shea 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 28 Falmouth Street, 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. Forsythe and duly put to a vote, which resulted as follows:

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

Motion Carried

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Mr. Shea then offered the following resolution:

Regarding the application of J & T Management of New York, LLC of 28 Falmouth Street, Mr. Jim Gligora appeared before the Board requesting an area variance for an existing 4.0-foot-high, closed-construction fence (91± linear feet) located in a front yard, where fences in a front yard shall be of open construction; and an area variance for an existing 4.0-foot-high, closed-construction fence (26.5± linear feet) located in the clear visibility portion of a front yard, where fences located within such area shall not exceed 3.0 feet in height and shall be of open construction.

WHEREAS, the findings of facts are as follows. J & T Management, represented by Jim Gligora, appeared tonight before the Board, requesting two area variances. The property is located on the corner of Falmouth Street and Carlisle Street and is in an R1-E Single-Family Residential district. Homes on corner lots are considered to have their front yard on both the front of the home and the side of the home. The current fencing has been in place for 18 months. To replace the closed-construction fencing along Carlisle Street would be costly, but the fencing located in the visibility triangle, which is the northeast corner of the lot, presents a safety problem for any area residents using the sidewalks and roads. The applicant has agreed to modify the fence in that location of the northeast corner so as to comply with the visibility triangle where it allows for better visibility. The applicant has agreed to withdraw area variance item "B."

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 regulations, requiring no further action by this Board, I move to approve this application, with the condition that the applicant will modify the visibility triangle to comply with the Building Department and/or staff requirements.

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

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

Motion Carried
Item "A" Approved
With Condition
Item "B" Withdrawn

SPECIAL ZONING TOPICS

New Business:

Response to the Town Board notice of intent to become the lead agency for the coordinated environmental review of the request submitted by 999 Long Pond Road, LLC to rezone 7.28± acres from R1-18 (Single-Family Residential) and A-R (Agriculture) to BP-2 (Professional Office) on property located at 995 and 999 Long Pond Road and 19 Mill Road.

On a motion by Mr. Jensen and seconded by Ms. Nigro, it was resolved to vote to consent to the Town Board being the lead agency for the coordinated environmental review of the request submitted by 999 Long Pond Road, LLC to rezone 7.28± acres from R1-18 (Single-Family Residential) and A-R (Agriculture) to BP-2 (Professional Office) on property located at 995 and 999 Long Pond Road and 19 Mill Road, and duly put to a vote, which resulted as follows:

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

Motion Carried
Vote Approved

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ADJOURNMENT: 8:07 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: January 19, 2016