



William D. Reilich
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS MINUTES

MARCH 21, 2017

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 F. 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: Philip Haberek
Location: 190 Montvale Lane
Mon. Co. Tax No.: 058.04-3-83
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for a proposed attached garage addition (869.7± square feet), resulting in a total gross floor area of 1595.1± square feet in all accessory structures, where 800 square feet is the maximum gross floor area permitted for lots with a lot area less than 16,000 square feet. 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 190 Montvale, 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 to not 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	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. Hartwig then offered the following resolution and moved its adoption:

Mr. Chairman, regarding the application of Philip Haberek, 190 Montvale Lane, Mr. Haberek appeared before the Board of Zoning Appeals this evening, requesting an area variance for a proposed attached garage addition (869.7± square feet), resulting in a total gross floor area of 1595.1± square feet in all accessory structures, where 800 square feet is the maximum gross floor area permitted for lots with a lot area less than 16,000 square feet.

WHEREAS, the findings of fact are as follows. On February 21st, Philip Haberek, who resides at 190 Montvale Lane, in an R1-E (Single-Family Residential) zoning district, appeared before this Board to request an area variance for a proposed attached garage addition (869.7± square feet), resulting in a total gross floor area of 1595.1± square feet in all accessory structures, where 800 square feet is the maximum gross floor area permitted for lots with a lot area less than 16,000 square feet. Mr. Haberek stated that he has owned this property for five years. His existing garage currently accommodates two vehicles, workbench, bikes and a snow blower. He also has a 192-square-foot storage shed in the rear yard; however, the need for the 869.7-square-foot garage addition at this time is due to increased storage needs. This proposed garage addition will house two summer cars, which are currently placed in paid storage, jet skis, and personal tools, including a table saw, air compressor and welder. Mr. Haberek mentioned that these tools were used on his property and a rental property that he owns. The exterior finishes of the addition will match the finishes of lots primary structure. The additions roof pitch, roofline and height will be the same as the existing garage. The only utility to be run to the addition will be electrical service. Discussion then continued relative to the size of the proposed addition. No other total amount of accessory structures of this size (once the proposed addition is included) exists in the general neighborhood. Consequently, Mr. Haberek was asked if the addition size could be reduced; he stated that he would review his square footage needs. In order to give Mr. Haberek time for this review, the application was continued to the Board's meeting of March 7th.

On March 7th, Mr. Haberek re-appeared before this Board to present the revised plan for his proposed garage addition. His revised plan reduced the size of the proposed addition from its original 869.7 square feet by 211.7 square feet to 658 square feet, thereby reducing the total gross floor area of all accessory structures that include the existing garage, the proposed addition and the storage shed to 1383.4 square feet, which is still excessive for the neighborhood. Consequently this application was continued to March 21st in order to give Mr. Haberek an opportunity to review his options further.

This evening, March 21st, Mr. Haberek re-appeared before the Board with a second revised plan for the proposed garage addition. This evening, his current addition size is 555.72 square feet, which is a 314 square feet reduction over the original proposed addition size. With this reduction, the total accessory square footage now comes to 1281.12 square 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, requiring no further action by this Board, I move to approve this application with the following conditions:

1. That Mr. Haberek obtains all necessary permits relative to this addition.
2. That the addition not be any larger than 555.72 square feet, meaning the total accessory square footage on the property shall not exceed 1281.12 sq. ft.

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3. And that Mr. Haberek will also agree to periodic visits by Town personnel to ensure that the garage is not being used for commercial purposes with the tools that are being stored in the garage.

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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2. Applicant: Daniel Studeman
Location: 21 Fireweed Trail (Pvt.)
Mon. Co. Tax No.: 025.03-3-42
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed attached garage addition (10.0 feet x 22.3 feet; 223.0 square feet) to have a (south) side setback of 6.9 feet, instead of the 9.2 feet minimum required. Sec. 211-11 D (2), Table I
b) An area variance for a proposed detached garage (16.0 feet x 24.0 feet; 384.0 square feet) to have a (west) rear setback of 18.2± feet, instead of the 30.0 feet minimum required for a through lot. Sec. 211-11 E (1), Table I
c) An area variance for existing and proposed accessory structures which result in a total gross floor area of 1102.1± square feet, instead of the 1000 square feet maximum gross floor area permitted for accessory structures on lots with a lot area of 16,000 square feet to one (1) acre. Sec. 211-11 E (1), Table I

On a motion by Mr. Jensen and seconded by Mr. Hartwig, it was resolved to close the public hearing on this application and reserve decision until the meeting of April 4, 2017.

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 Closed and Decision Reserved
Until the Meeting of April 4, 2017**

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3. Applicant: Dennis J. Ras, Jr.
Location: 139 Shoreway Drive
Mon. Co. Tax No.: 026.03-2-4
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for a proposed shed (10.0 feet x 14.0 feet; 140.0 square feet), resulting in a total gross floor area of 936.0± square feet in all accessory structures, where 800 square feet is the maximum gross floor area permitted for lots with a lot area less than 16,000 square feet. 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 139 Shoreway 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 to not 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. 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

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

Mr. Chairman, with regard to the application of Dennis Ras of 139 Shoreway Drive, the Applicant appeared before the Board of Zoning Appeals on March 7, 2017 requesting the following: An area variance for a proposed shed (10.0 feet x 14.0 feet; 140.0 feet square feet), resulting in a total gross floor area of 936± square feet in all accessory structures,

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where 800 square feet is the maximum gross floor area permitted for lots with a lot area less than 16,000 square feet.

WHEREAS, the findings of fact are as follows. The parcel is located at the southwest end of Shoreway Drive and is located within an R1-E (Single-Family Residential) zoning district. The property is 80 feet wide by 150 feet deep, meaning 12,000 square feet. Also, the property backs up to public land to the south, which is owned by the State of New York.

The Applicant has lived at the property for approximately seven years, and is requesting the 140-square-foot shed to provide additional storage room at his residence. Currently, his existing attached garage is approximately 796± square feet, which complies with the Code for accessory structures. However, the need for the shed is based on the fact that the Applicant stores four (4) vehicles: a 2003 Geo Tracker; a 2006 Cadillac STS; and two (2) Pontiac Trans Ams. The shed will be used for the storage of a lawn mower and lawn/patio equipment which otherwise would not be able to fit into the garage. Also, the shed would be constructed of 2 x 4 wood frame construction, plywood, and would include no utilities. The look of the shed would be similar to the existing house in terms of the type of siding and shingles used for the exterior.

The Board did receive testimony from Joe Sherman of 143 Shoreway Drive and John Ahern of 135 Shoreway Drive, who voiced their concern and opposition over the proposal. Mr. Ahern and Sherman's concerns included, but were not limited to: the presence of restrictive covenants on the property; the bylaws of the Marlands Shore Association; equipment being stored outside on the property for business purposes; and the loss of the "forever wild" land to the rear of the property. It should be noted that this Board does not enforce or have control over restrictive covenants or any approvals that would be needed from a homeowners association. The Board concluded the March 7th meeting by closing the public forum and would render a decision on March 21st.

In making its determination, the Board of Zoning Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. In making such determination, the Board shall also consider the following:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. An undesirable change in the character of the neighborhood will not be produced, nor would there be a detriment to nearby properties. Other properties on Shoreway Drive and even the south side of Lowden Point Road have storage sheds in the rear yard and this application would be no different than those.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the area variance. There is no other method that is feasible for the applicant to pursue.
3. Whether the variance is substantial. The variance is not substantial. The applicant is requesting a shed that will result in an accessory structure square footage that is 136 square feet more than what code allows.
4. Whether the proposed variance will have adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There will be no adverse effect or impact on the environmental conditions in the neighborhood or district. As mentioned previously, other properties on Shoreway Drive and even the south side of Lowden Point Road have storage sheds in the rear yard, and this application would be no different than those. Also, in terms of environmental conditions, the shed would not be located within any floodplains or wetlands, which are in this area of Shoreway Drive.

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5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance.

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. The Applicant shall obtain all necessary permits of the Town of Greece.
2. The Applicant shall sign a hold harmless agreement with the Town of Greece as it relates to any action that could be brought forth as a result of the restrictive covenants and/or the bylaws of the Marlands Shore Association, which would be a third-party action that this Board does not have any control over.

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
Application Approved
With Conditions**

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4. Applicant: Anchor Baptist Church
Location: 25 Arcampus Drive
Mon. Co. Tax No.: 045.12-2-42.331
Zoning District: BP-2 (Professional Office)
Request: An area variance for 17 existing parking spaces, instead of the minimum 44 parking spaces required. Sec. 211-45 E

The applicant has withdrawn this application

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5. Applicant: Bell Atlantic Mobile Systems of Allentown, Inc. (d.b.a. Verizon Wireless)
- Location: 1510 Maiden Lane
- Mon. Co. Tax No.: 059.19-3-1.1
- Zoning District: R1-18 (Single-Family Residential)
- Request: a) A special use permit for a proposed cellular service telecommunications facility, consisting of a freestanding antenna tower (119 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 (188± 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 Ms. Nigro and seconded by Mr. Shea, it was resolved to continue the public hearing on this application until the meeting of April 4, 2017 per the request of the applicant.

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 April 4, 2017

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New Business:

1. Applicant: Andrea Whipple
Location: 506 North Greece Road
Mon. Co. Tax No.: 044.02-3-19.1
Zoning District: R1-E (Single-Family Residential)
Request: a) A special use permit for a proposed in-law apartment (710± square feet). Sec. 211-11 (C) (2) (e)
b) An area variance for a proposed in-law apartment to have a total gross floor area of 710± 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 such in-law apartment is located). 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 506 North Greece 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 "SEQRA Regulations") (collectively, "SEQRA"), and that the application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(9) & (13).)
2. According to SEQRA, Type II actions have been determined to not 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. Jensen 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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Ms. Nigro then offered the following resolution and moved its adoption:

Mr. Chairman, regarding the application of Andrea Whipple, 506 North Greece Road, Ms. Whipple appeared before the Board of Zoning Appeals this evening, requesting a special use permit for a proposed in-law apartment (710± square feet), and an area variance for a proposed in-law apartment to have a total gross floor area of 710± 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 such in-law apartment is located).

The findings of fact are as follows. This parcel is located at 506 North Greece Road, and is located in an R1-E (Single-Family Residential) District. The parcel is approximately 118 feet x 200 feet and it contains a two-story, single-family dwelling with an attached garage. The applicant, Ms. Whipple, appeared before the Board this evening and has stated that she has lived at this residence since December of 2016. She is constructing this in-law apartment for her mother, Gail Hover. The size of this addition or apartment will be approximately 710 square feet; the need for the additional square footage is to accommodate the basic living area for her mother. This is not overly obtrusive or unreasonable and 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. It will contain a kitchen, living dining area, bedroom and bathroom. There will be a common area between the in-law apartment and the principal residence, a separate entrance from the back of the garage, as well as a separate entrance into the home. Construction is planned as soon as possible and will be done by FAJ Construction. There will be no separation of utilities. The proposed in-law will not cause any traffic problems within the neighborhood, nor will parking be an issue. The existing driveway is wide enough for the additional car to be parked side by side and at least two deep. With this addition, construction would be made to blend with the existing house. Additionally, no neighbors spoke opposing this request. Ms. Whipple has also informed us that she will live there along with her two children.

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 by the applicant, it will be occupied by her mother, Gail Hover.
2. The floor area of the in-law apartment shall not exceed 30% of the gross floor area, exclusive of attached garage, of the one-family dwelling in which such apartment is located or 600 square feet, whichever is less. Actually it does exceed, but they are requesting an area variance at this time, which I do not feel is excessive.
3. 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 special use permit to continue the in-law apartment use.
4. 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 an internal access through the inside of the existing home.
5. 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.

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6. 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. This will be built to blend with the existing dwelling.
7. Any residence containing an in-law apartment shall be considered a single-family residence.
8. The in-law apartment shall meet the standards of Title 19NYCRR, the building code of New York State, for habitable space.

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 the in-law apartment will not exceed 710 square feet or require any other variances.
2. That the applicant will obtain all necessary permits for construction of this in-law.
3. This is non-transferable to subsequent owners.
4. The applicant must submit annually verification of who resides in the in-law apartment.
5. Staff will need to review final architectural drawings.

Seconded by Mr. Jensen 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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ADJOURNMENT: 7:45 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: April 4, 2017