



William D. Reilich
Supervisor

TOWN OF GREECE

BOARD OF ZONING APPEALS MINUTES

NOVEMBER 17, 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

Randy T. Jensen

Cathleen A. Nigro

Bradford Shea

Christopher A. Schiano, Esq., Deputy Town Attorney

Scott Copey, Planner

Maryjo Santoli, Zoning Board Secretary

Absent

Andrew P. Forsythe

John T. Caterino, Planning Assistant

Additions, Deletions and Continuances to the Agenda

Announcements

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Old Business:

1. Applicant: Sharon DeVoe
Location: 150 Fielding Drive
Mon. Co. Tax No.: 074.11-6-28
Zoning District: R1-E (Single-Family Residential)
Request: An area variance for a proposed 6.0-foot-high, closed-construction fence (12± linear feet) to be located in a front yard, where fences in a front yard shall not exceed 4.0 feet and shall be of open construction. Sec. 211-46L

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 150 Fielding 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 Ms. Nigro and duly put to a vote, which resulted as follows:

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

Motion Carried

Mr. Shea then offered the following resolution:

Regarding the application of Sharon DeVoe for an area variance for a proposed 6.0-foot-high, closed-construction fence (12± linear feet) to be located in a front yard, where fences in a front yard shall not exceed 4.0 feet and shall be of open construction.

This parcel is located at 150 Fielding Drive and is located in an R1-E (Single-Family Residential) Zoning District. The parcel is located on the northwest corner of Cabot Road and Fielding Drive, and is approximately 105 feet wide and 136.89 feet in depth.

The applicant, Sharon DeVoe, was before the Board of Zoning Appeals on November 4th and stated her intent to construct the fence in its shown location. Ms. DeVoe has lived at the property for approximately 11 years and would like to construct the fencing on the western property line. The primary reason the applicant is requesting a fence of this height and type is because she believes it would assist in reducing the barking of the neighboring property owner's dog. It was noted at the November 4 meeting that Ms. DeVoe had already installed a fence on the western portion of the property without a building permit and was cited by the Town's Code Compliance Staff. Since then, Ms. DeVoe has removed the fence and applied to this Board to have the fence re-installed in that exact location. During the public hearing, Ms. DeVoe stated that while the fencing was up, it did not completely solve the issue of the neighbor's dog barking. Also, at the November 4th meeting, the Board heard testimony from Elizabeth Bertrand, the owner of 162 Fielding Drive, which is the property to the west. Also present was Ms. Bertrand's brother, Greg Ferguson. Ms. Bertrand's property would be the most directly affected by the installation of the fence. Ms. Bertrand and Mr. Ferguson presented to the Board their concerns, principally potential security issues and questioning whether fencing of this height and type would alleviate the applicant's issues.

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 will be produced in the character of the neighborhood. Currently, no property on Fielding Drive has a 6.0-foot-high, closed-construction fence in the front yard area. Also, the location of the proposed fence would be in close proximity to an existing picket fence. No testimony was given that would address the maintenance of grass and weeds or other debris that may build up between the two (2) fences. Furthermore, the placement of two (2) fences of different heights and construction in close proximity to one another can be viewed as undesirable and detrimental to the adjoining property.
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. Other methods are available for the applicant to pursue. The applicant could install plantings which would produce the same outcome as a fence and would not require an approval from the Board of Zoning Appeals and/or a building permit. Also, as stated by the applicant, when the fence was up, it did not solve the issue of barking from the neighbor's dog, which was the applicant's primary reason for the fencing.
3. Whether the variance is substantial. Although the amount of fencing is not substantial, the overall application is substantial because, as stated previously, no property on Fielding Drive has a 6.0-foot-high, closed-construction fence in the front yard area. Furthermore, the requested variance is substantial when compared to

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what is permitted by the zoning ordinance. The proposed fence is two (2) feet taller than what is permitted for fencing in a front yard area and the full height of fencing is closed construction, instead of open construction.

4. Whether the proposed variance will have adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Although there would be no environmental impact, the proposed fence would have a physical impact on the neighborhood because, as previously stated, no property on the street has a 6.0-foot-high, closed-construction fence in the front yard area.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. The difficulty is self-created because the applicant installed the fence without a permit. The applicant has stated that while the fence was in place, it did not prevent the neighboring property owner's dog from barking.

Based on the aforementioned data, I move to deny this application.

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	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Denied

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2. Applicant: Thomas Kunz
Location: 2780 Edgemere Drive
Mon. Co. Tax No.: 026.15-1-3
Zoning District: R1-E (Single-Family Residential)
Request: a) An area variance for a proposed attached garage addition (13.6 feet x 35.9 feet; 488.2 square feet) to have an (east) side setback of 4.0 feet, instead of the 6.0 minimum required. Sec. 211-11 E (1), Table I
b) An area variance for a proposed attached garage addition (13.6 feet x 35.9 feet; 488.2 square feet) to have a rear setback of 28.0 feet (measured from the north right-of-way line of Old Edgemere Drive), instead of the 33.2 feet minimum required. Sec. 211-11 E (1), Table I
c) An area variance for existing and proposed accessory structures, totaling 863.4 square feet, where 800 square feet is the maximum gross floor area permitted for lots less than 16,000 square feet in lot area. Sec. 211-11 E (1), Table I
d) An area variance for an existing and proposed (west) side setback of 1.1 to 2.0 feet, instead of the 6.0 feet minimum required. Sec. 211-11 E (1), Table I, Sec. 211-22 B (1) (a) [2]
e) An area variance for an existing deck (404± square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only; and for said deck to have a proposed front setback of 86.0 feet (measured from the north right-of-way line of Old Edgemere Drive), instead of the 80.0 feet maximum established by the neighborhood average; and for said deck to have a proposed (west) side setback of 2.0 feet, instead of the 6.0 feet minimum required. Sec. 211-11 E (3), Sec.211-11 D (2), Table I, Sec. 211-11 E (1), Table I
f) An area variance for a proposed second-story deck (6.0 feet x 12.0 feet; 72.0 square feet) to be located in the front yard of a waterfront lot, 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 2780 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

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application constitutes a Type II action under SEQRA. (SEQRA Regulations, §617.5(c)(10) & (12).)

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	Absent
	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, with regard to the application of Thomas Kunz, 2780 Edgemere Drive, with the request for an area variance for a proposed attached garage addition (13.6 feet x 35.9 feet; 488.2 square feet) to have an (east) side setback of 4.0 feet, instead of the 6.0 minimum required; an area variance for a proposed attached garage addition (13.6 feet x 35.9 feet; 488.2 square feet) to have a rear setback of 28.0 feet (measured from the north right-of-way line of Old Edgemere Drive), instead of the 33.2 feet minimum required; an area variance for existing and proposed accessory structures, totaling 863.4 square feet, where 800 square feet is the maximum gross floor area permitted for lots less than 16,000 square feet in lot area; an area variance for an existing and proposed (west) side setback of 1.1 to 2.0 feet, instead of the 6.0 feet minimum required; an area variance for an existing deck (404± square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only, and for said deck to have a proposed front setback of 86.0 feet (measured from the north right-of-way line of Old Edgemere Drive), instead of the 80.0 feet maximum established by the neighborhood average, and for said deck to have a proposed (west) side setback of 2.0 feet, instead of the 6.0 feet minimum required; and an area variance for a proposed second-story deck (6.0 feet x 12.0 feet; 72.0 square feet) to be located in the front yard of a waterfront lot, where accessory structures, such as decks, are permitted in rear yards only.

WHEREAS, the findings of facts are as follows. This parcel is located at 2780 Edgemere Drive in an R1-E, Single-Family Residential district and is approximately 110 feet x 50 feet. Larry Fenity, of Fenity Associates, appeared before the Board representing Mr. Kunz, and stated that the home was built in 1890, and in 1929 was bought by the Kunz family, who used it as a summer home. Mr. Kunz has purchased the home and intends to remodel it for use as a full-time residence. The proposed garage addition is to provide basic storage of automobile and miscellaneous lawn and basement items. There is an intended storage/shop area for convenience as the existing garage is across the street. Construction will be overseen by a contractor and the entire outside of the home, including the garage,

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will be re-sided with a vinyl siding. It will sit on a concrete foundation. There will not be a second story in the garage. There will be electricity to provide lighting; there will be no gas or water. A back door will provide outside access. Tonight, after discussion with the Board, Mr. Fenity and Mr. Kunz initially proposed to change the garage setback to 31.3 feet, which is the same setback as the proposed new open porch. Further discussion with the Board determined the ability to push the garage setback to 32.3 feet; however, the setback of the new open porch will remain at 31.3 feet.

Staff testified that along Edgemere Drive we have had a number of properties that have exceeded the gross floor area. This is primarily generated by the size of lots along lakefront and the desire to maximize the living and storage space along the lakefront. Upon further discussion with the Board tonight, Mr. Fenity and Mr. Kunz agreed to decrease the accessory square footage to 806.2 instead of the 800 maximum permitted; this is due to the decreased size of the garage. The reason for the proposed deck is to provide a place for sitting outside overlooking the lake; second-story decks in this neighborhood are common. The deck will not be covered and there will be no plans for a multi-season room. The entire deck, including railings, will be made of wood. There will be no access from the outside by a stairway, and the applicant also agrees that there will be no hot tub or grill placed on the deck. Upon further discussion tonight with the Board, Mr. Fenity proposed that the balcony support be moved back one foot closer to the house. At that time, two different direct neighbors spoke to voice their concerns about the request as well this evening; Mr. Brennan, the east side neighbor, voiced his concerns as well. County comments were received and there was no concern. Additionally, for the front porch, latticework has been added.

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 applicant shall obtain necessary building permits.
2. The setback of the proposed garage shall be not less than 32.3 feet, and the setback of 31.3 feet shall be only for the proposed open porch.
3. The proposed porch shall not be enclosed.

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	Yes
	Mr. Meilutis	Yes	Ms. Nigro	Yes
	Mr. Shea	Yes		

Motion Carried
Application Approved
With Conditions

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New Business:

1. 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

On a motion by Mr. Hartwig and seconded by Mr. Bilsky, it was resolved to continue the public hearing on this application until the meeting of January 5, 2016 to order to give the applicant time to review his options.

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

**Motion Carried
Application Continued Until
Meeting of January 5, 2016**

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2. Applicant: Avid Indoor Golf & Fitness and Ridgemont Properties, LLC
Location: 3655 West Ridge Road & 3717 West Ridge Road
Mon. Co. Tax No.: 073.04-2-17.11
Zoning District: R1-E (Single-Family Residential) & R1-18 (Single-Family Residential)
Request: a) An area variance for a proposed building-mounted sign ("Indoor Golf & Fitness"; 3.0 feet x 8.9 feet; 26.7 square feet), where none (0) are permitted. Sec.211-52 A
b) An area variance for a proposed freestanding sign ("Avid Indoor Golf & Fitness"; 4.0 feet x 6.7 feet; 26.8 square feet), where none (0) are permitted. Sec. 211-52 A
c) An area variance for an existing freestanding sign ("Ridgemont Country Club"; 6.0 feet x 6.0 feet; 36.0 square feet), where none (0) are permitted; and for said sign to be located 6.0 feet from the south right-of-way of West Ridge Road, instead of the 15.0 feet minimum required; and for said sign to be more than four (4.0) feet above the nearest street grade. Sec. 211-52 A, Sec. 211-52 A (1)
d) An area variance for an existing freestanding sign ("Golf Instruction"; 6.0 feet x 6.5 feet; 39 square feet), where none (0) are permitted. Sec. 211-52 A
e) An area variance for an existing freestanding sign ("Ridgemont Country Club"; 8.0 feet x 8.0 feet; 64 square feet), where none (0) are permitted. Sec. 211-52 A

On a motion by Mr. Jensen and seconded by Mr. Hartwig, it was resolved to continue the public hearing on this application until the meeting of December 1, 2015 to give Monroe County time to respond with their comments on the request.

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

**Motion Carried
Application Continued Until
Meeting of December 1, 2015**

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ADJOURNMENT: 8:55 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: December 1, 2015

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