

**TOWN OF STONY POINT
ZONING BOARD OF APPEALS
Minutes of October 17th, 2024**

PRESENT:

Mr. Keegan (absent)
Mr. Anginoli
Mr. Lynch
Mr. Strieter
Ms. Davis
Mr. Veras (active duty)
Chairman Wright

ALSO PRESENT:

Dave MacCartney, Attorney
John Hager, Building Inspector

Chairman Wright: Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of October 17, 2024, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

Chairman Wright called for the first item on the agenda.

Request of Christopher Reagan – 4 Hidden Hills Drive – App. #24-03 (Area Variance)

Installation of 6' privacy fence within a 50' setback of lot line (residential)

Section 215-24 Side and rear yard and setback exceptions.

Section (C) - A fence or wall no more than four feet in height is permitted along any lot line and no more than six feet in height along that part of any lot line behind the required front yard. A fence or wall over the six-foot height is permitted, if it is set back from the lot line a distance equal to 2/3 its height

Section: 19.02

Block: 2

Lot: 39

Zone: RR

On October 17, 2024, the following resolution was offered by Ms. Davis; seconded by Mr. Anginoli and carried, based upon the evidence in the record:

BOARD OF APPEALS

TOWN OF STONY POINT, COUNTY OF ROCKLAND

In the Matter of Application #24-03 of Christopher Reagan for an area variance from the requirements of Town Code Chapter 215-24.C, to permit the construction of a six-foot fence along the lot line and within the required front yard of an existing single-family residence on premises located at 4 Hidden Hills Drive, Stony Point, New York, designated on the Tax Map as Section 19.02, Block 2, Lot 39 in the RR Zoning District.

WHEREAS members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about July of 2024; and

WHEREAS this is a Type II Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS a public hearing was held on September 5 and October 3, 2024; and

WHEREAS all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings and conclusions:

The applicant is the owner of the subject parcel measuring just over one acre and which is improved with a single-family home. The property is directly between Hidden Hill Drive and Willow Grove Road and the house and driveway face Hidden Hill Drive. The lot spans the entire distance between Hidden Hill and Willow Grove, and so visually what would otherwise be thought of as the home's rear yard actually fronts on Willow Grove Road, and so that side also counts as a front yard under the Code.

The applicant has installed a six-foot high fence along the entire easterly property line running from Hidden Hill Drive all the way back to Willow Grove Road, and also across the "back yard" on the Willow Grove Road side (which is considered a front yard under the Code). The Code prohibits a fence greater than four feet in any front yard, so the applicant has applied to this Board for a variance to permit those portions of his six-foot fence which lay in the 50-foot prohibited front yard on both Hidden Hill Drive and Willow Grove Road top remain. The location of the fence and the portions of same which require a variance are clearly set forth in the plans submitted to this Board with the application, showing the areas of the fence where a variance is required in red and the remainder of the fence which does not require a variance in blue.

The neighboring property owner to the north appeared and initially opposed the application. Apparently, there has been ongoing litigation between the applicant and the property owner to the north regarding ownership of the land upon which the fence exists along that northerly property line. However, on the second day of the public hearing, October 3, 2024, this Board was advised that the dispute between those parties regarding ownership had been resolved, and the Board was provided with a settlement agreement and release relating to same.

The application was referred to the Rockland County Department of Planning for a General Municipal Law review. County Planning issued its letter dated September 17, 2024, recommending a modification and providing several enumerated comments. Comment 1 is that a review must be completed by the County Highway Department and any comments or concerns addressed and any required permits obtained. Compliance with that requirement is made a condition hereof. Comment 2 is that the Town of Haverstraw should be given the opportunity to review the variances. This comment has been complied with, and no comments were received from the Town of Haverstraw. Comment 3 points out that a question on the EAF was answered incorrectly. This comment is overridden, since this application for area variances is a Type II action under SEQRA.

Comments 4 and 5 are statements of law with which this Board will comply. The remaining comments are observations only and are duly noted.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicant's request for a variance, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that on the conditions stated herein, the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

- (1) There was no evidence presented that the proposed variances would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties on the conditions stated herein. The vast majority of the fence on the Willow Grove Road side is set back from the edge of pavement sufficiently, and it is obscured by both a berm and trees and shrubs. The fence which sits beyond that foliage is not only obscured from view, it also does not seem out of character or out of place along Willow Grove Road in the unique circumstances of this particular lot, all things considered. It does not present any sight line obstruction in that location, so long as it remains in the spot where it is now, and as indicated on the plans submitted. Regarding Hidden Hill Drive, that small portion of the fence that sits in the front yard also provides no sight line obstruction and is sufficiently set back from the edge of pavement. It does not present any significant impact on the neighborhood or nearby properties in this Board's view, given its location and the layout of this particular property and neighborhood.
- (2) There was no evidence presented of any other feasible means to achieve the benefit sought without the variances requested.
- (3) The variances are substantial, but not substantial enough under all the circumstances for this factor to warrant a denial of the relief sought, given the configuration of the property.
- (4) There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- (5) The alleged difficulty was self-created.

NOW, THEREFORE, BE IT RESOLVED, that the application for area variances is hereby approved on the conditions set forth below:

CONDITIONS:

1. Compliance with the plans submitted to this Board as part of the application.
2. Compliance with any requirements of the Rockland County Highway Department including obtaining any permits required.
3. Compliance with all other applicable laws, rules, codes, and regulations.

The matter is remanded to the Building Inspector for further consideration in compliance with the terms and conditions hereof.

Upon roll call, a vote to pass the foregoing resolution was as follows:

	Aye	Nay	Abstain	Absent
Thomas Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Edward Keegan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Joseph Anginoli	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Lynch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Strieter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lou Ann Davis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Luis Veras	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

There being (5) votes in favor of the motion, (0) votes against the motion, and (2) abstentions thereto, the Chairman declared the motion carried and the resolution adopted. The Clerk was directed to file a copy of this decision in the Office of the Town Clerk of the Town of Stony Point and to notify the applicant accordingly.

Chairman Wright called for the next item on the agenda.

Request of Victor Zugibe, Jr. - 240 Bulsontown Road - App. #24-04 (Area Variance)

1 FAMILY - subdivide to build a new single-family house Lot#1 - 3 lot major realty subdivision
 Town of Stony Point Zoning Code, Chapter 215, Article V Bulk Requirements, 215-15 Bulk Table, paragraph A requires: “ ...Each of the uses within each group is regulated by the bulk regulations for the indicated use group.”

Chapter 215, Article V Bulk Requirements, 215-15 A,
 215 Attachment 15, Table of Bulk Requirements IA, column 3 requires:
 Minimum lot width required = 175’
 Lot width proposed = 80.4’
 Variance necessary = 94.6’

Chapter 215, Article V Bulk Requirements, 215-15 A,
 215 Attachment 15, Table of Bulk Requirements IA, column 8 requires:
 Minimum street frontage required = 100’
 Street frontage proposed = 80.4’
 Variance necessary = 19.6’

Section: 15.01 Block: 5 Lot: 13 Zone: RR

****No representatives of the applicant were present at this meeting****

Chairman Wright called for any members of the public to come forward if they would like to comment on this application. No members of the public came forward.

Chairman Wright called for a motion to continue the public hearing at the November 7th meeting.

*****MOTION: Mr. Anginoli made a motion to continue the public hearing; seconded by Mr. Lynch. All in favor; the motion was carried.**

John Hager added to the record that in the Rockland County Planning letter, the discrepancy of the calculations was indicated incorrectly for the road frontage dimension (comment #3). However, the calculations on the applicants engineer documents are in fact noted correctly.

Chairman Wright called for the final item on the agenda.

Request of Jennier Burke - 25 Fairview Drive - App. #24-05 (Area Variance)

Town Zoning Code chapter 215-A Bulk Table, attachment 15-part IA
 Use group d.1, column 7, Required side and rear yard depth:
 Minimum rear yard depth required = 10’
 Proposed rear yard depth = 3.0’
 Variance required = 7.0’
 Minimum side yard depth required = 10’
 Proposed side yard depth = 7.6’* (*dimension to encroaching neighboring building)
 Variance required = 2.4’

Town Zoning Code chapter 215, Art VII, Supplementary Building Requirements

Chapter 215-30 Spacing, B. The distance between the principal building and an accessory building shall not be less than 15 feet.

Proposed spacing = 10.6'

Variance required = 4.4'

Section: 10.01

Block: 1

Lot: 48

Zone: RR

Chairman Wright called for the applicant or representative to come forward. Jennifer Burke, owner and applicant, approached the Board. Chairman Wright asked if she had gone over other options such as reducing the size of the shed or repositioning the shed on the plans. Mrs. Burke confirmed she had gone over all options with John Hager.

Chairman Wright called for any members of the public who would like to comment on this application to please come forward. Steve Cohen, son/representative to the neighboring property owners at 1 Lakeview Drive. Mr. Cohen goes on to explain the history behind the property and its uniqueness. The house at 1 Lakeview Drive was constructed with the southernly foundation wall 1-2 feet onto the property of 25 Fairview Drive. Prior to the sale of 1 Lakeview Drive back in the 1960s, an easement agreement was entered into the deed by the predecessor, giving them a permanent easement that runs with the land. That includes up to the foundation wall and access to it, which created a unique situation where the property line of 1 Lakeview Drive along with the easement is the foundation wall, without the typical setbacks. He goes on to explain that the current owners of 25 Fairview Drive purchased the property with the knowledge that the unique layout of the land and should have considered the quantity of their belongings before purchasing the property. Additionally, he raises his concerns about emergency vehicles having access to both homes if the shed is in the way of the easement.

Mr. Anginoli suggested moving the location of the shed, but Mrs. Burke advised that part of the open area is considered a front yard, and the other open area is where their septic is. Mr. Lynch also suggested that they look for a slightly smaller shed, as well as moving the location just slightly. Chairman Wright concluded that they would keep the public hearing open for the next meeting so they can go over their new options.

Chairman Wright called for a motion to keep the public hearing open to the next meeting.

*****MOTION: Mr. Lynch made a motion to keep the public hearing open to the next meeting; seconded by Mr. Strieter. All in favor; the motion was carried.**

Linda Kubis, representative of the neighboring property (1 Lakeview Drive), approached the Board with a question.

Chairman Wright called for a motion to continue discussion of the public hearing.

*****MOTION: Mr. Lynch made a motion to continue discussion of the public hearing; seconded by Mr. Strieter. All in favor; the motion was carried.**

John Hager and Mr. MacCartney discussed the concerns regarding drainage that were mentioned in the Rockland County Planning letter. Chairman Wright asked for Mr. Hager's opinion based on his experience, if he foresees there being drainage issues. Mr. Hager advised he does not feel that drainage would be an issue unless there is grading, which this shed does not meet that requirement.

Chairman Wright called for a motion to keep the public hearing open to the next meeting on November 7th.

*****MOTION: Mr. Anginoli made a motion to keep the public hearing open to the next meeting on November 7th; seconded by Mr. Lynch. All in favor; the motion was carried.**

Chairman Wright called for a motion to close the meeting.

*****MOTION: Mr. Anginoli made a motion to close the meeting; seconded by Mr. Strieter. All in favor; the motion was carried.**

Respectfully submitted,

Nicole Flannigan

Secretary
Zoning Board of Appeals