Town of Washington Zoning Board of Appeals

A meeting and public hearing of the Town of Washington Zoning Board of Appeals was held on January 21, 2020 at 7:30 P.M., the Town Hall, 10 Reservoir Drive, Millbrook, New York to consider the applications of Mimas Farm LLC, (Oliver and Rima Lordonnois) 301-303- North Tower Hill Road, Chris NeJame (Matthew Houston, Richard Bernado) 701 Shunpike, for area variances from the Town Zoning Code, Article III, Section 310, Paragraph 2, Schedule of Area and Bulk Regulations (Appendix B) to allow increasing the existing pool that falls closer to the property line than the new spa. At 701 Shunpike, the property is zoned RR 10, Justin Galli for area variances from the Town Zoning Code, Article III, Section 310, Paragraph 2, Schedule of Area and Bulk Regulations. (Appendix B) to allow installation of an in-ground 16'x32' gunite pool at 672 Stanford Road. The property is zoned RL 5.

Members Present: Chairman, John Parisi, Peter Audia, Fletcher Coddington, Ken Holzberg, also, Al DeBonis, councilman/liaison, Howard Schuman, Conservation Advisory Commission representative.

Chairman Parisi opened the meeting at 7:30 P.M., announced the agenda order, Mimas Farm, NeJame, 701 Shunpike, Justin Galli, 672 Stanford Road applications, next called for a motion to approve the November meeting minutes. 

A motion to approve the November 19, 2019 meeting minutes as submitted was made by board member Audia, seconded by board member Coddington, 4 ayes.

Chairman Parisi next read a letter from Mark R. Graminski, P.E. . L.S., Consulting Engineer and Land Surveyor dated January 5, 2020 writing on behalf of Mimas Farm LLC, 301-303 North Tower Hill Road, Millbrook, New York 12545 to inform the Town of Washington Zoning Board of Appeals that the pending area variance application is being withdrawn. Should you require any additional information or clarification, please do not hesitate to contact the undersigned.

Chairman Parisi stated that the public hearing on this application was closed at the November 19, ’19 meeting and gave attorney Allan Rappleyea time to review, research, the meeting minutes, records, to see if he could find a variance that would allow relief on that property. Attorney Rappleyea did not find anything that resulted in a variance. The Mimas Farm owners have agreed to convert the current residence into an accessory building by tearing out the kitchen appliances, the bedroom petition, the closet. They are to be given a building permit but no certificate of occupancy until they demonstrate that the current dwelling has been reset.
Board member Audia questioned the amount of time given to get a C of O for their new home? Chairman Parisi said the Mimas Farm owners actually have to demo first before the building inspector will give them a C of O. They will be given a building permit to build a new house on the foundation area of the original house that Heidi Otto had that burned down. Explained that the house that Heidi Otto had, burned down, there is a smaller house in the front area of the property that has to be demo before they can get a C of O. Board member Audia questioned which one they taking the closet, kitchen appliances out? The smaller house up front that they are currently living in. Said, if they every try to convert it back will need to return to this board for approval for that use.

Chairman Parisi asked for a motion to withdraw the Mimas Farm variance. A motion to accept the Mimas Farm LLC application variance withdrawal was made by board member Coddington, seconded by board member Audia. 4 ayes.

The application request of Justin Galli is for area variances from the Town Zoning Code Article III, Section 310, Paragraph 2, Schedule of Area and Bulk Regulations (Appendix B) to allow installation of an in-ground 16'x32' gunite pool at 672 Stanford Road. The property is zoned RL 5.

Jesse Conklin, President, Conklin Pools Inc. Pleasant Valley, NY appeared before the board representing the applicant. Said, the request is for a 25 ft. side yard variance to install the swimming pool. The pool is for personal use. The property owner also owns the adjoining property.

Mr. Galli is asking for a 25 ft. side yard setback variance, as a result of the size of the pool. He cannot bring the pool in the direction pointed out on the plan due to the existing septic tank, cannot be placed in the area of the property pointed out, the grade drops off, wouldn’t work. The orientation submitted is the only reasonable installation for the pool on this site.

Board member Audia questioned about the fence? The fence is off the side of the house, comes around, down below the house. Board member Audia remarked that he is fencing the whole property for the use of the pool. “Exactly.” There will be a walk-in gate. Board member Holzberg questioned if the adjoining property is owned by the same owner? Yes.

Chairman Parisi questioned about the size (area) of the adjoining lot? Mr. Conklin said he believes the lot size is five acres, the second lot in question overlaps the property.
Board member Audia spoke to a former application where the applicant was made to place a fence around the pool also, there being a closer proximity. Mr. Conklin said sometimes people want to fence the entire large area of their property they put in a simple deer fence. That fence that encompasses a larger portion of the property might not meet the pool code. The opening is larger than four inches. In this proposal, the grading drops off; as long as everything is fenced and meets the pool code.

Board member Audia questioned if Mr. Conklin has a map of the adjoining property? No, knows it’s a large lot, believes its five acres or more, is almost rectangular. Chairman Parisi spoke to the adjoining property line having 260 ft., 400 ft across the front, it doesn’t appear that the lot size is five acres. The question becomes if he owns the adjoining property, is it in the same exact title as the lot that the pool is being proposed? Mr. Conklin said he believes that the adjoining property is an LLC, Chairman Parisi questioned if the owner can move the property line 50 ft? Mr. Conklin said he is sure that is possible but is not sure he would want to make that investment, he can ask.

A motion to open the Galli public hearing was made by board member Audia, seconded by board member Coddington. 4 ayes

Howard Schuman, CAC representative questioned if there are any wetlands located on the property? Mr. Conklin said he is not aware of any wetlands.

A motion to close the Galli public hearing was made by board member Audia, seconded by board member Holzberg. 4 ayes.

A motion to adjourn the Galli application to February 18, 2020 was made by board member Coddington, seconded by board member Audia. 4 ayes.

The application request of Chris NeJame (Matthew Houston, Richard Bernado) is for area variances from the Town Zoning Code Article III, Section 310, Paragraph 2, Schedule of Area and Bulk Regulations (Appendix B) to allow increasing the existing pool that falls closer to the property line than the new spa at 701 Shunpike. The property is zoned RR 10.

Stephen O’Brien appeared before the board representing the applicants. Said, there is an existing pool on the property that has a vinyl liner, they built a gunite pool inside the vinyl liner pool and added a 64 sq. ft. gunite spa to the pool. The existing pool falls closer to the property line than the new spa and does not meet the setbacks,
Chairman Parisi questioned Mr. O’Brien if he has a survey map that shows where the pool is located in relation to the property line? Mr. O’Brien presented a map, pointed out the pool, the house, gravel driveway, has a forty foot setback from the road to the patio, and approximately another twenty feet from the patio to the pool edge, is sixty feet from Bangall Road.

Board member Holzberg requested that the spa that is at issue be pointed out on the map. Board member Audia questioned the definition of a spa. The spa is a hot tub. Mr. O’Brien said the spa is attached to the pool, is part of the pool. Said, the pool was 16x44, they shrunk the size of the pool out of the spa to the far end, didn’t come closer to the road with the spa. The client owns four one half to five acres.

Board member Holzberg questioned if the spa is extending further into the side yard setback than it was before? Yes. Board member Holzberg questioned if Mr. O’Brien is before the board because its within the front yard setback that they changed or are seeking relief to amend the side yard from the side yard setback? Board member Holzberg questioned if the spa is now extending further into the side yard setback? Mr. O’Brien said its extending toward the side yard but no way is it encroaching on the setback. Thinks the issue at hand is that the spa needs a variance because it’s a has pool inside a pool that already has relief from the building department which was allowed to be built. There was no permit needed to build the pool inside the pool, The problem is that the spa was added on to the spill that they didn’t have a permit to build it, now they are asking for relief for the spa. Board member Audia remarked it doesn’t extend beyond the original boarders of the pool. Mr. O’Brien said it extends beyond the original boarders of the pool but doesn’t encroach on the side yard setback. Board member Holzberg said it is pretty close to the side yard property line also. Mr. O’Brien said correct, to Bangall Road.

Board members felt that a front yard variance is needed. Board member Audia remarked that the Board is dealing with unknowns. Chairman Parisi said the board needs a survey map showing where the property line is in front of the house and the distance from the property line to the spa, What he has is a diagram of the distance from the edge of the road to the spa, the edge of the property is not necessarily the edge of the road, some property lines are in the middle of the road, some are set back from the road.

Mr. O’Brien said they didn’t require a building permit for the pool because they were renovating an existing pool. Questioned about the setbacks. Chairman Parisi quoted the setbacks, 100 ft. front yard, 75 ft each side, 75 ft rear in the RL 5 district.
The board was unable to determine the distance calculations for the size of the variance, requested the applicant to draw in the pool on the map with the dimensions, return to the February 18th meeting. Chairman Parisi stated that the applicant is to return to the board with a survey map that shows the property lines, in front of the house and the distance from the property line to the spa.

**A motion to adjourn the NeJame (Houston, Bernado) public hearing to February 18, 2020 was made by board member Coddington seconded by board member Audia. 4 ayes.**

There being no further discussion, business, a motion to adjourn the meeting was made by board member Coddington, seconded by board member Audia. The meeting was adjourned at 8:20 P.M.

Respectfully submitted,

Nikki Caul, secretary