

**Town of Kinderhook
Zoning Board of Appeals
3211 Church Street
Valatie, NY 12184
April 1, 2021**

Draft

Minutes
[Zoom Meeting Recording](#)
Access Passcode: Y?5L+2z1

The Town of Kinderhook Zoning Board of Appeals met on Thursday, April 1, 2021, at 7:00pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The Chairman called the meeting to order and the secretary called the roll.

A. Roll Call

Present

Walt Simonsmeier, Chair
Regina Rose
Lorne Dawes
Timothy Stever
James Waterhouse
Andy Howard, Attorney
Nataly D. Jones, Secretary

Excused

Absent

B. Correspondence

1. Review of Minutes from 11/5/2020 and 3/4/2021;

Mr. Stever made a motion to approve the minutes as drafted from the 11/5/2020 meeting. Mr. Dawes seconded the motion. All in favor. Motion carried.

Ms. Rose made a motion to approve the minutes as drafted from the 3/4/2021 meeting. Mr. Stever seconded the motion. All in favor.

2. Letter from the Village of Valatie regarding the Greenfield Subdivision Area Variance Application;
3. Letter in response from Mr. Buono;
4. Letter from Mr. Better regarding the Greenfield Subdivision Area Variance Application

C. Public Hearings

1. 7:02 PM - Greenfield Subdivision (Anthony Buono o/b/o Greenfield Real Estate, LLC), Rod and Gun Club Road, Valatie, NY – Area Variance for side yard setback for Lots 2-4;

Mr. Evan Young of Crawford and Associates addressed the board and distributed plans for review. He stated that the proposal is for a 4-lot conservation subdivision of an existing 5-acre parcel on Rod and Gun Club Road. The application is requesting relief from the side yard setbacks and is requesting a 15’ variance from the required 50’ side yard setback as stipulated in the code. Mr. Young stated that the variance would provide for building envelopes that are more consistent with the surrounding properties. The

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proposal calls for 3-lots of slightly over .5-acres each at the front of the property along the road and 1 larger parcel at the rear of the property.

The secretary read the notice of public hearing as published.

Mr. Stever made a motion to open the public hearing. Mr. Waterhouse seconded the motion. All in favor. Motion carried.

Mr. Simonsmeier invited the public to address the board and applicant.

Ms. Veronica Mangione inquired about what the variances would mean in practical terms and in relation to the location of her property. She expressed concerns about drainage. Mr. Young explained that drainage would be addressed in the review by the Planning Board. Additionally, he addressed the variance request which would allow more flexibility and allow buildings to face the road in a manner consistent with other houses in the neighborhood.

Mr. Robert Wheeler expressed concern about the traffic on the Rod and Gun Club Road.

Access to the lots from Rod and Gun Club Road was reviewed.

Ms. Linda Wheeler inquired about why the applicant is proposing 4-lots.

Mr. Young stated that water would be provided through the Village of Valatie municipal system. Waste management is proposed to be through individual septic systems.

Mr. Roy Minor addressed concerns about an additional load on the water system.

Mr. William Better representing Sean Scism addressed the board. He noted that the plans being reviewed tonight are different from the initial proposal previously submitted. Mr. Better addressed the history and topography of the property and the previous subdivision. He inquired about the practical difficulties associated with the lot that precipitated the need for a variance. He noted that if the proposal was for two lots, no variance would be needed. He reviewed additional criteria required for variance approval. He noted that the applicant's desire to create 4 lots was motivated by potential financial gain and a self-created situation. Additionally, Mr. Better expressed concern about traffic and safety around the intersection of Route 203 and Rod and Gun Club Road. He also expressed concern about the water supply and waste management.

Mr. Chuck Yeager inquired whether safety concerns is one of the factors the ZBA considers in their review and potential approval. He also asked about the procedures for the final determination.

Mr. Kevin Forbes expressed concern about tree clearing and the water table.

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Ms. Linden Mackenzie, owner of the parcel adjacent to the parcel in question, inquired why the proposal couldn't be more consistent with her residence instead of those across the street.

Mr. Better inquired who would own the open space and who would be responsible for maintenance. Mr. Better also had questions about the driveway for the proposed rear lot.

The open space and driveway location were identified on the plans and additional discussion ensued.

James White (via Zoom) expressed concerns about traffic safety and water access.

Mr. Howard addressed the board and public. He reviewed the process and the status of the application before the Planning Board.

Ms. Rose made a motion to close the public hearing. Mr. Waterhouse seconded the motion. All in favor. Motion carried.

Ms. Rose stated that if taken to a vote, her vote would be no based on the substantial request and environmental concerns, the situation is self-created and financially driven, and does not represent a hardship.

Mr. Waterhouse noted that if there is an alternate way of achieving the goal, a variance wouldn't be necessary. The applicant has other options in this circumstance. For this reason, his vote would be no as well.

Mr. Simonsmeier addressed the criteria. He does not feel that the application as submitted does not meet the criteria for approval.

Ms. Rose made a motion to disapprove the application. Mr. Dawes seconded the motion.

Mr. Dawes – Yes, deny;

Mr. Waterhouse – Yes;

Mr. Stever – Yes;

Mr. Simmonsmeier – Yes, deny the application.

All in favor Motion carried. Variance denied.

2. 7:10 PM - Caroline Eastern Vail, Inc (CaroVail), 831 CR 28, Niverville, NY – Area Variance for side and rear yard setback and lot coverage;

Mr. George Schmidt, Engineer with CPL, representing the applicant, addressed the board and reviewed the application. He noted that CaroVail owns the adjacent residential lot and would like to demolish the existing house and barn in order to construct a storage facility. He noted the proposed storage facility would allow for increased efficiency on site. The proposal as submitted requires side and rear yard setback variances and lot coverage variance. It was noted that the existing structures are pre-existing and non-conforming. Location and dimensions of the proposed structure were reviewed.

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Mr. Waterhouse made a motion to open the public hearing. Mr. Stever seconded the motion. All in favor. Motion carried.

There was no public in attendance who wished to address this application.

Mr. Dawes inquired about the neighbors who may be impacted by the proposal.

The side yard would require a 12' variance from 25' to 13'. The rear yard would require a 20' variance from 35' to 15'. Mr. Schmidt noted that the proposed dimensions are more in compliance than with the existing conditions.

Mr. Schmidt addressed lot coverage. He stated that the code requires 50% lot coverage. The lot is currently at 76%. The proposal would increase that to 90%.

Mr. Waterhouse inquired about the 99-year lease with CSX. Mr. Schmidt stated he thought the lease started in 2014. He inquired about the size of the leased lot. The exact size was unknown, but Mr. Schmidt estimated the area behind the lot in question to be about .75-acre. If the entirety of the area were considered as a whole, what would the lot coverage be?

Ms. Rose addressed the nature of the business and concerns about the environmental and health impacts to the residents. She addressed her concerns about safety and fire risks. She inquired about additional truck traffic. Mr. Schmidt stated that there would not be an increase to truck traffic. Access to the building would be from the site and not from the road.

Mr. Waterhouse inquired about the proposed size of the structure. Mr. Schmidt stated that the building had been scaled back from original conception and is the smallest size to make it practical for its purpose.

Mr. Simonsmeier inquired about the type of materials being stored. Mr. Schmidt stated they are the same materials used in the other facilities. Mr. Simonsmeier inquired if the proposed building would have a fire sprinkler system installed.

Mr. Stever addressed CaroVail's compliance with New York State fire code, noting there is nothing on site that is hazardous or explosive.

Mr. Waterhouse made a motion to close the public hearing. Ms. Rose seconded the motion. All in favor. Motion carried.

After reviewing the criteria for approval, Mr. Waterhouse made a motion to approve the application as submitted. Mr. Stever seconded the motion.

Mr. Dawes – Approve

Ms. Rose – Approve

Mr. Waterhouse – Approve

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Mr. Stever – Approve
Mr. Simonsmeier – Approve
All in favor. Motion carried.

D. Old Business

1. None

E. New Business

1. None

G. Liaisons

1. Village Planning Boards;
1. Town Board;

H. Other

1. Public Comment

Mr. Dawes made a motion to adjourn the meeting. Ms. Rose seconded the motion. All in favor. Motion carried. Meeting adjourned at 8:54pm.

Respectfully submitted,

Nataly D. Jones, Secretary