

**TOWN OF ALLEGANY ZONING BOARD of APPEALS
& PUBLIC HEARING MINUTES
MONDAY, OCTOBER 16 at 3pm Town Hall**

UNAPPROVED

PRESENT:

Jones, John (Chairman)
Baxter, Jeffrey
Kyser, Ronald
Sue, Don
Ozella, Carol

ALSO PRESENT:

Mike Higgins, Town Supervisor; John Krist, CEO; Michele Lovern, Building & Zoning Clerk; Tom & Kathy Martin; Jeff & Virginia Horth; Steve Golembiewski.

Salute to the Flag

OPENING OF ZBA MEETING BY: J. Jones

PUBLIC HEARING:

3:00 – 3:31

1) Jeff & Virginia Horth/Steve Golembiewski (SBL# 93.004-2-3) 3901 Carey Hollow Road, Allegany, NY 14706 is looking for an Area Variance to put a cold storage building next to the 2 current sheds just off right of way of Carey Hollow Road. There was an open discussion as Steve, their contractor, explained that there was no place else to put it. They are requesting a 40' Variance from the northerly center of Carey Hollow Road, as they will be building on the line of the Right of Way once it is measured out by the Highway Superintendent.

3:31 – 3:56

2) Thomas & Kathleen Martin (SBL# 94.061-1-7) 3193 Cranberry Road is looking for a 7' Variance to place a 24x 36 garage 3' from the east property line. There was an open discussion as Kathy explained that this was the only place to put the garage, since the other side of the house had a studio and Airbnb, thus needing to keep that side driveway open for clients. Also, the neighbor on the east side was not willing to sell part of land to avoid this request. A driveway will be put in on that side of the house to Cranberry Road. Shrub line will stay. Public water and sewer will be under the driveway and the owner is fully aware of that. It will need to be surveyed and clearing marking the property lines before going any further.

END PUBLIC HEARING: Motioned by J. Jones; 1st by J. Baxter; 2nd by C. Ozella; Aye by R. Kyser; Aye by D. Sue; CARRIED

MINUTES: Motion to Approve the Minutes from July 31, 2023 by C. Ozella; 1st by J. Jones; 2nd by J. Baxter; Aye by R. Kyser; Aye by D. Sue; CARRIED

NEW BUSINESS:

A) Jeff Baxter brought up a conference they should go to on November 16 in Salamanca. All members decided to attend and M. Lovern will take care of the registration for J. Jones, J. Baxter, R. Kyser, D. Sue, and C. Ozella.

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B) Jeff & Virginia Horth/Stephen Golembiewski (SBL# 93.004-2-3) in an A-F at 3901 Carey Hollow Road, Allegany, NY 14706 is looking for 40' Area Variance to put a storage building on the edge of right of way of Carey Hollow Road.

ZBA BOARD AREA VARIANCE FINDINGS & DICISION:

1) Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties:

Board vote: NO

Reasons: *Neighborhood is similar residential use with similar garages nearby. Other property owner has no objection for the structure as long as it doesn't affect or impede their use of Carey Hollow Rd as noted in attachment B1*

2) Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

Board vote: YES & NO

Reasons: *Could build on same side of the road. Building is limited by Right of Way of Carey Hollow Rd and by small stream behind proposed structure.*

3) Whether the requested variance is substantial:

Board vote: YES

Reasons: *In terms of effecting the 40ft set back it is substantial if they need the entire 40ft.*

4) Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:

Board vote: NO

Reasons: *Neighborhood is similar in residential use with accessory uses.*

5) Whether the alleged difficulty was self-created:

Board vote: YES

Reasons: *Applicant knew or should have know about the Town Road Right of Way limits and the existence of the near aby small stream limiting buildability of prosed structure.*

The ZBA, after taking into consideration the above five factors, finds that the benefit to the applicant DOES outweigh the Detriment to the Community with a unanimous decision to grant the applicant the 40' variance with the following conditions:

- 1) *Survey the right-of-way limit on the northerly west side of Carey Hollow Road.*
- 2) *Have Highway Superintendent point out where town road is to be sure building is not encroaching on Carey Hollow Road Right of Way.*

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ATTACHMENT: B1

Michele Lovern

From: Matt <mpeck003@gmail.com>
Sent: Wednesday, October 11, 2023 3:32 PM
To: Michele Lovern
Subject: Building variance for 3901 Carey Hollow Rd

Michelle

I talked with John Jones about the variance for Jeff Horth at 3901 Carey Hollow Rd. We (THE Hill LLC) have no issue with him building there as long as there is something in the variance that he cannot block in anyway the Town Road / Right of Way that runs through his property to ours. I think John was going to look what they have for a road width through his property (10' or 15'). Where the current garage is doesn't interfere with us driving past so as long as the new building does not get any closer there should not be an issue.

I will not be able to attend the hearing so John suggested I email you this one request.

Thank You

Matt Peck

Sent from [Mail](#) for Windows

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C) Thomas & Kathleen Martin (SBL# 91.061-1-7) in a R-1 at 3193 Cranberry Road is looking for an Area Variance of 7ft to place a garage 3ft from their east property line.

ZBA BOARD AREA VARIANCE FINDINGS & DICISION:

1) Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties:

Board vote: NO

Reasons: *The project is in a neighborhood with similar residential structures including accessory structures. Near by property owner affected has no objection to the structure being 3ft. from the property line as noted in attachment.*

2) Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

Board vote: YES

Reasons: *Depending on applicants' reason for building where they have designated, there could be an alternative site on other side of their home. These other locations are not practical as explained by the applicant in the open hearing.*

3) Whether the requested variance is substantial:

Board vote: YES

Reasons: *Taking or encumbering 7ft of a 10ft setback is a substantial request.*

4) Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:

Board vote: NO

Reasons: *The project and outcome are similar to the neighborhood.*

5) Whether the alleged difficulty was self-created:

Board vote: YES

Reasons: *Applicants want to do what is not permitted by zoning regulations and the other alternative are not practical to applicants.*

The ZBA, after taking into consideration the above five factors, finds that the benefit to the applicant DOES outweigh the Detriment to the Community with a unanimous decision to grant the applicants a 7ft variance with the following conditions:

- 1) *A property line survey of east property line be done.*

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ATTACHMENT: C1

September 27, 2023

I, Arwilda Williams, 3187 Cranberry Road, have no objection to a variance allowing Tom and Kathy Martin to construct a garage 3 feet from the property line dividing our two parcels.

Signed Arwilda Williams

Notary Kelly E Stone

KELLY E. STONE
Notary Public, State of New York
Reg. No. 01ST0008953
Qualified in Cattaraugus County
Commission Expires 06/02/2027

OLD BUSSINESS: None

FROM THE FLOOR: None

NEXT MEETING: None scheduled at this time

ADJORNED: at 4:42pm, Motioned by J. Jones; 1st by C. Ozella; 2nd by D. Sue; Aye by R. Kyser; Aye by J. Baxter; CARRIED

Respectfully submitted by,
Michele Lovern
Building & Zoning Clerk
10/20/2023