



TOWN OF SOUTHPORT

1139 Pennsylvania Avenue
Elmira, NY 14904

*Minutes Approved
by Board of Appeals
July 18, 2018
(See: Corrections in Blue)*

ZONING BOARD OF APPEALS
WEDNESDAY, MAY 16, 2018
7:00 PM

PUBLIC HEARING
CHARLES HOUCK, II
29 SUNSET ROAD, WELLSBURG, NY 14894

Minutes of the Zoning Board of Appeals, Town of Southport held at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York on May 16, 2018 at 7:00 p.m.

Item No. 1 - Call to Order

Attendance

Board Members Present: James Gensel
John Arikian
Deborah Eames
Justin Faulkner
Susan Silvers

Others Present: Peter Rocchi, Town Code Enforcement Officer
Bonnie Balok, Secretary-Zoning Board of Appeals

Absent: Leslie Mauro, Town Attorney

Chairman Gensel called the meeting to order. A brief discussion took place concerning the term of office for Ms. Eames, Ms. Eames advised she would follow up by contacting the Town Clerk.

Item No. 2 – Approval of Minutes of April 18, 2018

Chairman Gensel advised the next item on the Agenda is the Minutes of April 18, 2018 and asked if there were any changes or corrections. Mr. Arikian made a motion to approve the minutes; seconded by Ms. Silvers. Minutes of April 18, 2018 were unanimously approved.

Item No. 3 – New Business

Public Hearing– Charles Houck, II

Attendance: Applicant Charles Houck, II and Diana Cook

Chairman Gensel called the meeting to order and advised the public hearing is being held for Charles Houck, II, 29 Sunset Road, Wellsburg, NY 14894, concerning an area variance at 29 Sunset Road, Wellsburg, NY 14894 to allow for a twelve foot (12') by twenty four foot (24') accessory structure to be erected within the front yard setback as per Section 525-26 (B) (3), Town Code, Town of Southport, County of Chemung. There are two front yards Sunset Road and Route 14 The property is located in an AR zone and is commonly known as 29 Sunset Road, Wellsburg, NY 14894, Tax Map 119.00-2-10,

Mr. Houck advised he would like to put up a twelve foot (12') by twenty four foot (24') shed on the Broadway side of his property. Mr. Houck further advised he has a driveway in common with a neighbor, but the shed will not interfere with the neighbor. The purpose of the shed is to store equipment such as a motor cycle, riding tractor, snow blower, rototiller, as well as bags of mulch, and to get everything out of the weather that is currently in the yard. The shed will be thirty feet (30') from the house and the property will look better with everything under cover. Mr. Houck explained he also has two (2) trucks, one is a plow truck, but the shed is not a garage and therefore will not house the trucks.

Chairman Gensel explained Mr. Houck would need to provide answers to the five (5) area variance questions and then the hearing could be opened to the public. Five questions were reviewed and responded to by Mr. Houck as follows:

Q1. Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance?

A: *Mr. Houck – No. There will be better drainage with water flowing away from the building and far enough from the drive so it won't block anyone's view.*

Q2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

A: *Mr. Houck – No. The shed will allow the things in the yard to be stored inside the shed and in the loft, will be enhanced with shrubs, and the shed can't be put any place else because of the septic.*

Q3. Whether the requested area variance is substantial?

A: *Mr. Houck – Explained he was confused about this, but the building won't affect anyone else, won't bother anyone else, and is two hundred foot (200') from one side or another for setback.*

Chairman Gensel advised setback is defined by the property line, don't measure from center line of the road.

Q4. Whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

A: *Mr. Houck – No. Same water hits the ground; not changing where coming off.*

Q5. Whether an alleged difficulty of compliance with the zoning requirement was self-created, which is relevant to the decision but shall not necessarily preclude the granting of the area variance?

A: *Mr. Houck – Where else would I put things if I don't have the shed; must be self-created. Should be able to do what I want on the property. It is a long way from the highway and the things I own I need to protect them.*

Chairman Gensel opened the hearing to the public portion of the meeting advising anyone speaking should provide their name and address. Seeing no one in attendance, the public hearing portion was closed.

Mr. Rocchi submitted Mr. Houck's receipt from the "Star-Gazette" and a copy of the advertisement from the "Star-Gazette" to Secretary Balok for the permanent record.

Discussion took place between the Board members, Mr. Rocchi and Mr. Houck concerning setback; Chairman Gensel advised the appropriate measurement is to look at the property line not the road edge; the corner of the building is forty feet (40') from the property line, so Mr. Houck is actually asking for fifteen feet (15') relief, reducing the setback by fifty percent (50%) depends on where Mr. Houck lines this up. Mr. Rocchi explained it is a twenty four foot (24') shed with six foot (6') space wherever it is. Mr. Houck advised he removed his motor home from the site and put it back with no problems from the neighbors, he also has a thirty foot (30') camper which is six feet (6') away from the building and ten feet (10') from a lilac bush.

The Board reviewed the five (5) area variance questions as follows:

Q1. Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance?

A: Yes 0 No 5

Q2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

A: Yes 0 No 5 Side yard has septic; other option(s) the building might block the front door.

Q3. Whether the requested area variance is substantial?

A: Yes 5 No 0 Substantial - fifty percent (50%).

Q4. Whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

A: Yes 0 No 5

Q5. Whether an alleged difficulty of compliance with the zoning requirement was self-created, which is relevant to the decision but shall not necessarily preclude the granting of the area variance?

A: Yes 5 No 0

SEQR form, Part 2 (Short Form) completed and on file in Houck permanent file.

(Q 1-11 No; Negative Environment Impact).

Ms Silvers made a motion to approve the completed SEQR' seconded by Ms. Eames, Unanimously approved,

Ms. Silvers made a motion to approve a fifteen feet (15') to twenty feet (20') area variance for Mr. Houck; Seconded by Ms. Eames. Area variance granted unanimously.

March 21, 2018 – Houck Public Hearing Adjourned: 7:35 pm.

Original on File:

- C: Town Clerk
- Board of Appeals
- Town Board
- Planning Board
- Town Supervisor
- Town Clerk
- Town Attorney
- Town Assessor
- Town Code Enforcement Officer
- Applicant: Charles Houck, II, 29 Sunset Road, Wellsburg, NY 14894

Bonnie Balok, Secretary-
Zoning Board of Appeals,
May 17, 2018

Item No. 3 – Old Business – Upstate Tower Company Application

Discussion took place concerning Upstate Tower Company, specifically the “shot clock” timing. Chairman Gensel advised shot clock basically means the Town has so many days within which to approve such a matter.

Chairman Gensel made the following Motion:

The Town has not received information requested and therefore declines the application for lack of supporting documentation requested at a previous meeting and suggests the applicant reapply.

Mr. Faulkner seconded the Motion.

Discussion on the Motion took place with Mr. Arikian Abstaining.

Motion Approved

Ayes - 4; Noes – 0; Abstention - 1

Faulkner, Eames, Silvers, Gensel – Ayes Abstained: Arikian

Item 3 – Old Business - Election of ZBA ~~Vice President~~ *(Corrected to: Vice Chairman)*

Mr. Williams was serving as ZBA ~~Vice President~~ *Vice Chairman*. Due to the vacancy created by Mr. Williams’ term of office expiration, the ZBA must fill that open position. Mr. Arikian made a motion to elect Mr. Faulkner as the ZBA ~~vice president~~ *vice chairman*; seconded by Ms. Silvers. Nominations were closed. Mr. Faulkner was unanimously approved to serve as ~~Vice President~~ *Vice Chairman* of the ZBA for the remaining months of the year 2018.

Item No. 5 - Discussion

Discussion took place concerning an application received to fill the position of alternate ZBA board member. The matter was tabled to next month to request additional information from the applicant.

Item No. 6 – Adjournment

Ms. Eames made a motion to adjourn; seconded by Mr. Faulkner. Adjournment unanimously approved.

Meeting Adjourned: 7:44 pm

Bonnie Balok

Secretary-Zoning Board of Appeals

May 17, 2018

Original on File:

Town Clerk

C:

Board of Appeals, Town Board, Planning Board

Town Supervisor, Town Attorney, Town Assessor, Town Code Enforcement Officer

Charles Houck, II, 29 Sunset Road, Wellsburg, NY 14894

**ZONING BOARD OF APPEALS
TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK**

**RESOLUTIONS
2018**

RESOLUTION NO. 8

AREA VARIANCE APPROVED

PROPERTY:	TAX MAP 119.00-2-10, COMMONLY KNOWN AS 29 SUNSET ROAD	ZONED AR WELLSBURG, NY 14894
APPLICANT:	CHARLES HOUCK, II 29 SUNSET ROAD	WELLSBURG, NY 14894
OWNER:	CHARLES HOUCK, II 29 SUNSET ROAD	WELLSBURG, NY 14894
RESOLUTION:	SILVERS	SECONDED: EAMES

WHEREAS, Charles Houck, II, 29 Sunset Road, Wellsburg, NY 14894 applied for an area variance at 29 Sunset Road, Wellsburg, NY 14894 to allow for a twelve foot (12') by twenty four foot (24') accessory structure to be erected within the front yard setback, and there are two (2) front yards Sunset Road and Route 14, at 29 Sunset Road, Wellsburg, NY, 14894, as per Chapter 525-26 (B)(3), Town Code, Town of Southport, County of Chemung. The property is located in an AR zone and is commonly known as 29 Sunset Road, Wellsburg, NY 14894, Tax Map No. 119.00-2-10, and

WHEREAS, the Town of Southport Zoning Board of Appeals held a public hearing on May 16, 2018 at 7:00 p.m, or as soon thereafter as it could be heard, at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York, with no one voicing concerns for or against the proposal, and

WHEREAS, this matter was submitted to the Chemung County Planning Board and thirty (30) days has expired with the Board taking no action on the matter, and

WHEREAS, upon deliberation, consideration and discussion, and following inspection of the property, the members of the Zoning Board of Appeals were of the opinion that an area variance of fifteen feet (15') to twenty feet (20') should be granted allowing for a twelve foot (12') by twenty four foot (24') accessory structure to be erected within the front yard setback, and

NOW THEREFORE BE IT RESOLVED, that an area variance of fifteen feet (15') to twenty feet (20') be granted to Charles Houck, II, 29 Sunset Road, Wellsburg, NY 14894 with respect to 29 Sunset Road, Wellsburg, NY 14894, Tax Map 119.00-2-10 and the Building Inspector of the Town of Southport be and hereby is authorized to issue a permit for said use.

Ayes:	Arikian, Eames, Faulkner, Silvers, Gensel
Noes:	None
Carried.	Area variance granted.

May 16, 2018

*Resolution for Minutes of May 18, 2018 - Houck
Approved by Board of Appeals
July 18, 2018*

**ZONING BOARD OF APPEALS
TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK**

**RESOLUTIONS
2018**

RESOLUTION NO. 9

**JUSTIN FAULKNER – ~~VICE PRESIDENT~~ VICE CHAIRMAN
ZONING BOARD OF APPEALS
FOR THE REMAINING MONTHS OF 2018
(JUNE – DECEMBER 2018)**

Appointment of Justin Faulkner, Vice Chairman of the Zoning Board of Appeals, Town of Southport for the remaining months of the year 2018.

Resolution by: Arikian

Seconded by: Silvers

Whereas, the Zoning Board of Appeals met on May 18, 2018, a regularly scheduled meeting, and at said meeting completed the election of a ~~vice president~~ vice chairman to fill the unexpired term of retiring Board member Daniel Williams for the remaining months of the year 2018; specifically, June – December 2018), and

Whereas, Mr. Arikian made a motion to nominate Justin Faulkner as Vice Chairman. Ms. Silvers seconded the motion. Resolved, Justin Faulkner will serve as Vice Chairman of the Zoning Board of Appeals, Town of Southport for the remaining months of the year 2018; June – December 2018.

Ayes: Arikian, Eames, Silvers, Gensel

Abstained: Faulkner

Noes: None

Carried.

DATED: MAY 18, 2018

*Resolution for Minutes of May 18, 2018 – Faulkner, VP ZBA
Approved by Board of Appeals
July 18, 2018
(See: Corrections in Blue)*

**ZONING BOARD OF APPEALS
TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK**

**RESOLUTIONS
2018**

RESOLUTION NO. 10

**MATTHEW KERWIN, BARCLAY DAMON
O/B/O UPSTATE TOWER CO., LLC
AND
BUFFALO-LAKE ERIE WIRELESS SYSTEMS
(BLUE WIRELESS)
125 EAST JEFFERSON STREET
SYRACUSE,, NY 13202**

**RE: BUDD STREET & MORLEY PLACE
ELMIRA, NY 14904
TAX MAP #109.07-5-45
ZONED: INDUSTRIAL**

**REQUEST FOR AREA VARIANCE
DECLINED**

Discussion by the ZBA Board members took place on May 16, 2018, at the regularly scheduled Board meeting, concerning Upstate Tower Company, specifically the “shot clock” timing. Chairman Gensel advised shot clock basically means the Town has so many days within which to approve such a matter.

Chairman Gensel made the following Motion:

The Town has not received information requested and therefore declines the application for lack of supporting documentation requested at a previous meeting and suggests the applicant reapply.

Mr. Faulkner seconded the Motion.

Discussion on the Motion took place with Mr. Arikian Abstaining.

Motion Approved

Ayes - 4; Noes – 0; Abstention – 1

Ayes: Faulkner, Eames, Silvers, Gensel

~~Abstained:~~ **Recused:** Arikian

Carried.

DATED: MAY 18, 2018

*Resolution for Minutes of May 18, 2018 – Upstate Tower Co. (Blue Wireless)
Approved by Board of Appeals
July 18, 2018
(See: Corrections in Blue)*