

**TOWN OF SCHODACK - COUNTY OF RENSSELAER - STATE OF NEW YORK  
ZONING BOARD OF APPEAL JULY 8, 2013  
CALLED TO ORDER BY: CHAIRMAN CALARCO AT: 7:00 P.M.**

**PRESENT**

David Calarco, Chairman  
Ed Brewer  
Anthony Maier  
David Smith  
Lou Spada  
Attorney Robert Linville, Esq.  
Nadine Fuda, Director of Planning and Zoning

**MEMBERS ABSENT**

**APPROVE MINUTES - June 10, 2013**

Spada Moved Calarco seconded that the minutes be approved as amended

5 Ayes. 0 Noes

Ayes: Brewer, Calarco, Maier, Smith, Spada

Oppose: None

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Nadine Fuda, Director, read the hearing notice(s) as published in the Troy Record on the following variance application(s):

Don Essenter published on May 6, 2013

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Public hearing open 7:00 p.m.

Public hearing closed 7:05 p.m.

Don Essenter  
1514 Maple Hill Road  
Proposed - Area Variance

Z719-13/R-20/200.3-3-1

Don Essenter, applicant was present for this meeting.

Mr. Essenter stated they are looking to put a car port on the side of their home next to the existing garage. The car port will be 10 feet by 24 feet and 8 feet high.

Chairman Calarco stated this is a pre-existing non-conforming structure. And reminded everyone that before this meeting the applicant had made adjustments to the property by moved the existing shed giving it the 10 foot separation from the house and extended the side yard more than 5 feet. also Mrs. Fuda the Planning and Zoning Director and Mr.

Ziegler Schodack Building inspector found the side yard to be 23 feet instead of 15 feet. That makes the remaining side yard 13 feet, which is less substantial than what was originally proposed.

Mr. Spada asked if the car port was open on all sides

Mr. Essenter stated yes except on the garage side where it will be attached. He has no intentions of closing it in.

Chairman Calarco asked if there was any member of the public that wished to make comments.

There were no public comments.

### **Zoning Review Action**

Please be advised that the Rensselaer County Bureau of Economic Development and Planning has acted on the above subject as follows:

After having carefully reviewed the information submitted as part of the subject referral, the Bureau of Economic Development and Planning has determined that the proposal does not have a major impact on County plans and that local consideration shall prevail.

<u>Planning Board Approval</u>	<u>4/15/2013</u>	<u>Recommendation to the ZBA</u>
Don Essenter 1514 Maple Hill Road Proposed - Side Yard Setback		Z713-13/R20/200.3-3-1

Haber moved, LaVoie seconded a **"FAVORABLE"** recommendation to the Zoning Board of Appeals.

6 Ayes. 0 Noes. Motion carried.

Ayes: Church, Haber, Johnson, LaVoie, Mayrer, Puccio

Oppose: Timmis

### **AREA VARIANCE CRITERIA**

- 1) Can the benefit be achieved by other means feasible to the applicant? **No**
- 2) Will the granting of the variance create an undesirable change in the character of the neighborhood or to nearby properties? **No**
- 3) Is the request substantial? **Yes**
- 4) Will the request have an adverse physical or environmental effect? **No**

5) Is the alleged difficulty self-created? **Yes**

Maier moved, Smith seconded that the Zoning Board of Appeals be **LEAD AGENCY** relative to the variance only.

5 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Maier, Smith, Spada

Oppose: None

Brewer moved, Spada seconded a **NEGATIVE DECLARATION**.

5 Ayes. 0 Noes. Motion carried.

Ayes: Brewer, Calarco, Maier, Smith, Spada

Oppose:

Smith moved, Brewer seconded that the area variance be **GRANTED**.

<u>Brewer</u>	<u>Calarco</u>	<u>Maier</u>	<u>Smith</u>	<u>Spada</u>
Yes	Yes	Yes	Yes	Yes

Conditions:

- That the car port is never closed in.

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**Nadine Fuda, Director, read the hearing notice(s) as published in the Troy Record on the following variance application(s):**

**Bikram Thapa published on**

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Public hearing open 7:10 p.m.

Public hearing closed 7:17 p.m.

Bikram Thapa  
69 Miller Road  
Proposed – Area Variance

Z714-13/PD1/178.-3-16

Bikram Thapa, applicant was present for this meeting.

Mr. Thapa stated that he wants to build a deck on the front of his home, five feet on both sides of this existing front steps, and he is also looking to place a roof over the entire area of the porch to help keep the water out of the basement.

Chairman Calarco asked if he is intending to anything with the concrete steps.

Mr. Thapa stated he is not removing them he is just going to repair them.

Mr. Spada asked if the he had considered removing the steps and building a new porch straight across the entire front of the home.

Mr. Thapa stated yes he could do that but he does not have the money to do it that.

Chairman Calarco asked if there was any member of the public that wished to make comments.

There were no comments on this applicant.

Chairman Calarco stated this application is for the expansion of a preexisting nonconforming structure.

Mr. Maier stated in our variance process it does not matter if he leaves the steps or removes them it is still the same distance from the boundary line.

Chairman Calarco stated the expansion of a preexisting nonconforming further into the front yard setback which is not actually further but just expanding the amount of the building it will cover.

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After having carefully reviewed the information submitted as part of the subject referral, the Bureau of Economic Development and Planning has determined that the proposal does not have a major impact on County plans and that local consideration shall prevail

Haber moved, LaVoie seconded a **"FAVORABLE"** recommendation to the Zoning Board of Appeals.

6 Ayes. 0 Noes. Motion carried.

Ayes: Church, Haber, Johnson, LaVoie, Mayrer, Puccio

Oppose: Timmis

### **AREA VARIANCE CRITERIA**

- 1) Can the benefit be achieved by other means feasible to the applicant? **No**
- 2) Will the granting of the variance create an undesirable change in the character of the

neighborhood or to nearby properties? **No**

3) Is the request substantial? **Yes**

4) Will the request have an adverse physical or environmental effect? **No**

5) Is the alleged difficulty self-created? **Yes**

Maier moved, Calarco seconded that the Zoning Board of Appeals be **LEAD AGENCY** relative to the variance only.

5 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Maier, Smith, Spada

Oppose: None

Calarco moved, Brewer seconded a **NEGATIVE DECLARATION**.

5 Ayes, 0 Noes. Motion carried.

Ayes: Brewer, Calarco, Maier, Smith, Spada

Oppose: None

Maier moved, Smith seconded that the area variance be **GRANTED**.

Brewer	Calarco	Maier	Smith	Spada
Yes	Yes	Yes	Yes	Yes

**Conditions:**

- New porch be across the front of the house no closer than 29 feet to the road.
- Removal of front steps with landing unless there is a reason why they cannot be removed.

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**Nadine Fuda, Director, read the hearing notice(s) as published in the Troy Record on the following variance application(s):**

**John Tafilowski published on**

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Public hearing open 7:32 p.m.

Public hearing closed 8:00 p.m.

John Tafilowski  
1690 Julianne Drive  
Proposed – Area Variance

Z715-13/PD3 /189.3-1-47

John Tafilowski, applicant was present for this meeting.

Chairman Calarco asked the applicant to tell the board what it is he is looking to do.

Mr. Tafilowski stated he want to thank the board, Mrs. Fuda and the Building Inspector Mr. Ziegler for all help in understanding the code and what the town laws are. Then stated that is request is to keep 3 hens in his back yard. When he moved in he noticed that someone had a goat and assumes that chickens were not going to be an issue. He does not feel that it will have a huge impact on the neighborhood. He is not asking to put 20 hens just 3. He has a fenced in 4 x 5 run and a coup for the birds.

Chairman Calarco stated there are two requirements for have having chickens one is a minimum of 5 acres and at least 150 foot distance between all property lines.

Mr. Tafilowski stated he feels there is no difference from 3 chickens in his yard then everyone on his street having a dog going in their yard. That is why he is looking for a variance.

Chairman Calarco explained the code and stated the board members may not all agree with the codes requirements but we as a board have to abide by them. We cannot grant variances that go against the original intent of the legislating. So for some reason the legislative body of the town said to have fowl would require 5 acres.

Mr. Tafilowski asked how he could go about changing the code from 5 acres.

Chairman Calarco stated that petition requesting the code change would have to be made to the Town Board. He then opened this item up for public comment.

Resident 1722 Julianne Drive stated they moved into the neighborhood thinking that it was a residential neighborhood and she just don't think this proposal is good for their neighborhood. If this was allowed she feels this would open the neighborhood up to all kinds of undesirable farm animals. She understands that the applicant want the chickens but maybe living in a little bit more rural area with more land is the best idea, not saying they should move but she is not in favor of this variance.

Resident 1698 Julianne Drive stated she is also is opposed to this variance request for a number of reasons. The legislation is as stands and we need to abide by it. It is a safety issue the chickens attract wild animals and they already have various wild animals in their area such as coyotes, coy dogs, fox, and a recurrence of a bear and she is concerned that having chickens in the area could pose more of a problem she is also concerned about the value of their property should chickens be allowed.

Resident 2 Star Terr. He lives 3 houses away from the applicant and he too is opposed to this application for a number of reasons one of which is the 150 feet from each property line cannot be met the distance is at best 20 to 30 feet. He feels this is a self-created hardship by the applicant since he moved into the neighborhood and purchased chickens

not knowing the town code 219-34 keeping of foul. Clearly for our neighborhood this would set a bad precedent should you grant this request. He feels the codes are there for a reason. Is it an undesirable change to the neighborhood, Yes they don't want the raising of chickens in their area.

Resident 1668 Julianne Drive she is also opposed to this variance request. The lots are real small in this development if granted with no specification in the code as to how many chickens are allowed he could change his mind and have 33 chickens or someone else might want chickens as well it could become a huge problem.

Resident 1708 Ridgewood Drive states he is all for the chickens he thinks it is a great idea he did research there are some pro's and con's to having chickens. He also stated he would buy the chicken waste for fertilizer, and would purchase eggs.

Applicant - asked if they could not have chickens could they have rabbits or a pot belly pig.

Mrs. Fuda stated the town does not zone rabbits so yes to that, but no to the pig, a pig is considered a farm animal, anything with a split hoof such as cows, pig, goats, and sheep ect.. are not permitted on property under 10 acres.

There were no more public comments

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Puccio moved, Johnson seconded a **"No Recommendation"** recommendation to the Zoning Board of Appeals.

6 Ayes. 0 Noes. Motion carried.

Ayes: Church, Haber, Johnson, LaVoie, Mayrer, Puccio

Oppose: Timmis

### **AREA VARIANCE CRITERIA**

- 1) Can the benefit be achieved by other means feasible to the applicant? **No**
- 2) Will the granting of the variance create an undesirable change in the character of the

neighborhood or to nearby properties? **Yes**

3) Is the request substantial? **Yes**

4) Will the request have an adverse physical or environmental effect? **No**

5) Is the alleged difficulty self-created? **Yes**

Maier moved, Spada seconded that the Zoning Board of Appeals be **LEAD AGENCY** relative to the variance only.

5 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Maier, Smith, Spada

Oppose: None

Brewer moved, Calarco seconded a **NEGATIVE DECLARATION**.

5 Ayes, 0 Noes. Motion carried.

Ayes: Brewer, Calarco, Maier, Smith, Spada

Oppose: None

Calarco moved, Smith seconded that the area variance be **DENIED**.

Chairman Calarco made a statement - that we have to work within the law, and he believes the town is going to address this zoning code for chickens in the very near future, I believes it will be less than 5 acres, however he does not think it will ever be lowered to 20,000 square foot lots.

<u>Brewer</u>	<u>Calarco</u>	<u>Maier</u>	<u>Smith</u>	<u>Spada</u>
Yes	Yes	Yes	Yes	Yes

## **ADJOURN**

Spada moved, Calarco seconded that the meeting be adjourned. There being no objections, Chairman Calarco adjourned the meeting at 8:05 p.m.

Respectfully submitted,  
Nadine Fuda  
Director of Planning & Zoning



