

TOWN OF SCHODACK - COUNTY OF RENSSELAER - STATE OF NEW YORK  
ZONING BOARD OF APPEAL FEBRUARY 14, 2022  
CALLED TO ORDER BY: CHAIRMAN CALARCO AT: 7:00P.M.

**PRESENT**

David Calarco, Chairman  
Ed Brewer  
Anthony Maier  
Lou Spada  
Craig Crist, Esq.  
Nadine Fuda, Director of Planning and Zoning  
Melissa Knights, Assistant to Director

**MEMBERS ABSENT**

Bob Loveridge

**APPROVE OF DRAFT MINUTES DATED JANUARY 10, 2022**

Maier moved, Spada seconded that the minutes be approved as amended, as the official minutes of this meeting.

4 Ayes. 0 Noes

Ayes: Brewer, Calarco, Maier, Spada

Absent: Loveridge

Before the meeting began Chairman Calarco read a statement explaining the zoning process and what the applicant can expect from the board members and how they arrive to their decision.

Chairman Calarco stated this was sent to the **Rensselaer County of Economic Development** and Planning and after review they determined the proposal does not have a major impact on any county plans and that local consideration should prevail.

This application received a Favorable recommend from the Planning Board on February 7, 2022.

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**Melissa Knights, Planning & Zoning office, read the hearing notice(s) as published in the Troy Record on the following variance application(s):**

**Jeffrey Ives published on February 4, 2022**

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public hearing open 7:00 p.m.

public hearing closed 7:20 p.m.

Jeffery Ives

Z806-22/R-40/199.4-2-5

ZBA 2/14/22

6-2022

1305 Maple Hill Road  
Proposed - Area Variance

Jeffery Ives, applicant was present for this meeting,

Mr. Ives stated he applied to the building department to construct a 26x36 two story detached garage at the end of his driveway, 5 feet from the property line, the building inspector notified him that he was 246 feet over his allowed 10% coverage.

Mr. Maier asked if the overage square footage include the shed that you plan to remove?

Mr. Ives stated no.

Mr. Maier asked if the garage is going to be at the end of the driveway.

Mr. Ives stated correct.

Mr. Spada stated the new structure is 2 story and the house 1 correct. The applicant stated Yes: also, the plans show the garage 5 feet from the property line, it would seem to him with the height it would be difficult to service that side of the garage without going into the neighbor's property, you may need more of a distance between the garage and the property line.

Mr. Ives stated the entrance to the garage is right in line with the driveway, he is planning a 9x18 foot single door instead of the two showing on the plans also where it is set puts the garage 10 feet from the house.

Chairman Calarco asked why is there a need for a 2 story garage.

Mr. Ives stated he wanted a lot for extra storage. His home is rather small and not enough storage.

Chairman Calarco stated the reason he inquired is because the board usually has conditions added to the variance such as, no livable space, meaning no kitchen, bathroom, or sleeping area, meaning no apartments

Mr. Ives stated he never intended to have anyone living in the garage attic.

Chairman Calarco also agrees with member Spada stated about the 5-foot side yard setback and the ability to construct and maintain that side of the garage and roof. If you're amenable to moving the garage to at least 8 feet from the property line that would

help with your request.

Mr. Maier stated the applicant stated he needed 10 feet from the house.

Mr. Ives stated that's a good point, he had the garage on the 5-foot line to get the 10-foot separation from the house. The garage is now 6 to 8 feet behind the house.

Chairman Calarco stated if you could move the garage over from the property line and back it would give you clearance to maintain the structure and to even get a vehicle or other equipment around the side. And asked if he would be amendable to moving the structures,

Mr. Ives stated yes, absolutely.

Mr. Ives neighbor Mr. Ranalli stated he has no problem with the garage, he lives directly across the street and will see it and he is fine with it.

Mr. Spada asked what is the percentage he is over by.

Chairman Calarco stated the coed enforcer has the dwelling 1320 sq. ft. the porch or deck as 280 sq. ft. giving a total of 1312 sq. ft. take that from the allowed coverage of 2003 sq. ft. it leaves you 691 sq. ft. to play around with, now the proposed garage is 936 sq. ft. putting the lot coverage over 245 sq. ft. making this about 11  $\frac{1}{2}$  percent over.

Mr. Brewer stated he thinks that the garage being side by side with the other driveway giving a bigger distance from the home next door.

Chairman Calarco stated the application is going to say as amended, and your agreeing to that amendment that the garage will be 8 feet from the property line and how ever far you have to go to make that 10-foot distance from the house.

**The Board members reviewed the area variance criteria.**

**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? NO
- 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**

ZBA 2/14/22

8-2022

relative to the variance only.

4 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Oppose:

Brewer moved, Spada seconded a **TYPE II ACTION**.

4 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Oppose:

The Board members reviewed the area variance criteria.

Brewer moved: Maire seconded that the area variance be **GRANTED** as amended with the conditions discussed.

**6) Conditions:**

- the garage will not be used for habitable space or residential use and as such, there shall be no kitchen, shower facility.
- the construction shall be of like construction and like materials.

Brewer	Calarco	Loveridge	Maier	Spada
Yes	Yes	Absent	Yes	Yes

Brewer moved; Calarco seconded the Attorney Crist read the variance for Mr. Ives application .

4 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Maier, Spada

Oppose:

**Ann Griffin and Bruce Adams**

**1489 Maple Hill Road**

**Proposed - Area Variance**

**Z804-21/R-20/199.-4-4.15**

We are officially adopting the approvals below. This application was before the board as was approved on January 10, 2022

Maier moved; Calarco seconded to waive the reading of the area variance.

4 Ayes, 0 Noes

Ayes: Brewer, Calarco, Maier, Spada

Absent: Loveridge

ZBA 2/14/22

9-2022

**RESOLUTION/DECISION OF ZONING BOARD OF APPEALS**  
**APPROVAL ON AREA VARIANCE APPLICATION FOR GRIFFIN & ADAMS**

WHEREAS, the Town of Schodack Zoning Board of Appeals has received an Area Variance Application from ANN GRIFFIN AND BRUCE ADAMS who seek permission to locate three horses on their property, located at 1489 Maple Hill Road, Castleton, NY 12033 which is in an R20 zone.

WHEREAS, by letter dated January 5, 2022, the Town Code Enforcement Officer determined, in relevant part:

With respect to the use of the property to keep horses, Town Code Section 219-34(A) provides that the keeping of livestock—which include the keeping of horses- is permitted in all districts on a lot of 10 acres or more. The keeping of horses on the subject property, however, would not be permitted pursuant to this section since the parcel is approximately 5.5 acres in size, which is less than the 10-acre minimum provided by the Code.

Based on the foregoing, the keeping of horses on the subject property would not be permitted in the absence of either a valid pre-existing non-conforming use, or the granting of an appropriate variance by the Zoning Board of Appeals.

Since the keeping of horses on a lot of less than 10 acres is not permitted in an R-20 district and given my determination that there is no valid pre-existing, non-conforming use, it is my opinion that an area variance would need to be applied for and granted by the Zoning Board of Appeals in order to keep horses on the subject property.

APPLICANTS' NAME AND ADDRESS: ANN AND BRICE GRIFFIN, 1489 Maple Hill Road, Castleton, NY 12033.

PROPERTY OWNERS NAME AND ADDRESS: ANN AND BRICE GRIFFIN, 1489 Maple Hill Road, Castleton, NY 12033.

PROJECT NAME: Z804-21

LOCATION: 1489 Maple Hill Road, Castleton, NY 12033.

TAX MAP NO: 199.-4-4.15

ZONING DISTRICT: R-20

LOT SIZE: +/- 5.4 acres

NOW, THEREFORE, BE IT RESOLVED, that the Town of Schodack Zoning Board of Appeals, after due consideration of said Area Variance Application, and the requirements of the Code of the Town of Schodack and New York State Town Law 267-b, on January 10, 2022 a MOTION was made by CALARCO, SECONDED by BREWER and approved by a vote of 5 to 0 to grant approval of the Area Variance Application with the following two conditions: (1) the property shall not be used for more than three horses and; (2) at all times the property shall comply with all other requirements of Chapter 219-34 of the Code of the Town of Schodack, including 219-34(A)(2).

BE IT FURTHER RESOLVED that the Planning Board does hereby grant APPROVAL of the Area Variance Application hereinabove stated and identified as submitted, noting the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Notably:

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

It is the determination of this Board that no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variances. It is noted that the horse barn has been at the property for many years, and it is further noted that there is a fence surrounding Applicants' property.

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

There is no other way other than not having the desired horses at the property.

3. *Whether the requested area variance is substantial.*

The Board finds that the deficiency is substantial in that ten acres is required but the property is only +/- 5.54 acres.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*

It is the determination that it will not, including for the reasons set forth in #1, above.

5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.*

It is the determination of this Board that, as with most applications the difficulty was self-created.

CONDITIONS: As stated above, the following are the conditions of approval: (1) the property shall not be used for more than three horses and; (2) at all times the property

shall comply with all other requirements of Chapter 219-34 of the Code of the Town of Schodack, including 219-34(A)(2).

PLEASE NOTE the Zoning Board of Appeals has no authority to alter or determine the ownership of property and that the decision of the Board herein is not a determination of the underlying ownership of the subject property/ies.

DATED: \_\_\_\_\_, 2022

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David Calarco, Chairman, Town of Schodack Zoning Board of Appeals

I AGREE TO ALL OF THE FOREGOING:

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Ann Griffin

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Bruce Adams

Spada moved; Maier seconded to adopt this area variance as written

4 Ayes. 0 Noes

Ayes: Brewer, Calarco, Maier, Spada

Absent: Loveridge

**Michael Smith**

**Z805-21/R20/177.-8-13**

**2633 Brookview Road**

**Proposed - Side yard setback**

We are officially adopting the approvals below. This application was before the board as was approved on January 10, 2022

Brewer moved; Calarco seconded to waive the reading of the area variance.

4 Ayes. 0 Noes

Ayes: Brewer, Calarco, Maier, Spada

Absent: Loveridge

**RESOLUTION/DECISION OF ZONING BOARD OF APPEALS**  
**APPROVAL ON AREA VARIANCE APPLICATION FOR SMITH**

WHEREAS, the Town of Schodack Zoning Board of Appeals has received an Area Variance Application from Applicant MICHAEL SMITH, which Applicant subsequently amended, seeking to construct an addition to his existing residence in the form of a new covered porch/deck to the rear of his house, which is a pre-existing, non-conforming structure in that it has a deficient side yard setback as The Code of the Town of Schodack requires all such structures to be located at least thirty (30) feet from the side yard boundary.

APPLICANT'S NAME AND ADDRESS: MICHAEL SMITH, 2633 Brookview Road, Schodack, NY 12123.

PROPERTY OWNER'S NAME AND ADDRESS: MICHAEL SMITH, 2633 Brookview Road, Schodack, NY 12123.

PROJECT NAME: Z805-21

LOCATION: 2633 Brookview Road, Schodack, NY 12123.

TAX MAP NO: 177.-8-13

ZONING DISTRICT: R-20

NOW, THEREFORE, BE IT RESOLVED, THAT at the January 10, 2022 meeting of this Board, a MOTION was made by MAIER, SECONDED by SPADA and approved by a vote of 5 to 0, to grant approval of the Area Variance Application, as amended, by Applicant to construct an addition in the form of a covered deck on the rear of the structure, which is a pre-existing, nonconforming structure, upon the following conditions: (1) that the structure shall not encroach into the side of the property any closer than the back corner of the house; and (2) that the subject structure is not to be greater than 14' x 14'.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town of Schodack Zoning Board of Appeals, after due consideration of said Area Variance Application, and the requirements of the Code of the Town of Schodack and New York State Town Law 267-b, in granting said approval acknowledges that the benefit to the Applicant if the variance is granted exceeds any detriment to the health, safety and welfare of the neighborhood or community by such grant, and also makes the following determinations:

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

It is the determination of this Board that no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by



the granting of the area variance. It is noted that the structure will not be any closer to the neighboring property.

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

No; it is noted that Applicant did in fact undertake to modify its application. There is no other way for Applicant to do this other than put the addition on the rear of the property.

3. *Whether the requested area variance is substantial.*

The Board finds that the variance is not substantial especially because it does not increase the nonconformity in any way.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*

It is the determination that it will not, including for the reasons set forth in #1 and #3, above.

5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.*

As with most matters that come before this Board, the variance is needed because Applicant desires to build at variance with existing requirements. It is noted that Applicant purchased the property relatively recently.

PLEASE NOTE, the Zoning Board of Appeals has no authority to alter or determine the ownership of property and that the decision of the Board herein is not a determination of the underlying ownership of the subject property/ies.

DATED: \_\_\_\_\_, 2022

\_\_\_\_\_  
David Calarco, Chairman, Town of Schodack Zoning Board of Appeals

I AGREE TO ALL OF THE FOREGOING:

\_\_\_\_\_  
Michael Smith

Spada moved; Maier seconded to adopt this area variance as written

4 Ayes. 0 Noes

Ayes: Brewer, Calarco, Maier, Spada

Absent: Loveridge

#### **MEMBER DISSCUSSION**

Chairman Calarco went over the I90 & Rt.9 GEIS study which was put out by the Rensselaer County Industrial Development Agency (IDA) which will be held tomorrow night 2/15/22 At 7:00 here at the Schodack Town Hall

ZBA 2/14/22

14-2022

**ADJOURN**

Calarco moved, Maier seconded that the meeting be adjourned. There being no objections, Chairman Calarco adjourned the meeting at 8:25 p.m.

Respectfully submitted,  
Melissa Knights  
Planning & Zoning