



VILLAGE OF RHINEBECK

**VILLAGE OF RHINEBECK
ZONING BOARD OF APPEALS
76 EAST MARKET STREET
RHINEBECK, NY 12572
MEETING MINUTES (draft)**

July 16, 2020

Beginning at 7:00 PM

Virtual Zoom videoconference Meeting

**Present: Colton Johnson (Chair), Rachel Cavell, Kevin Curry,
Christopher Tavener, Lydia Hill Slaby (Alternate Member), John
Fenton, ZEO**

Absent: Judy Merritt

ANNOUNCEMENT: Due to public health and safety concerns related to COVID-19, the Zoning Board of Appeals or ZBA, will not be meeting in-person. In accordance with the Governor's Executive Order 202.1, on Thursday, July 16, 2020 beginning at 7:00 PM; the Zoning Board of Appeals meeting/hearing will be held via videoconferencing, and a transcript will be provided at a later date. The public will have an opportunity to see and hear the meeting live and provide comments if they desire once the Chair has opened the public hearing. *** Please be respectful and adhere to appropriate meeting decorum. ***

The public can watch the live meeting online through the Zoom video service, and later a recording of the meeting will be posted on the Village of Rhinebeck's website (www.rhinebecknyvillage.org). Please contact via email the Zoning Board of Appeals Clerk for a Zoom meeting invitation at rdowden@villageofrhinebeckny.gov prior to the meeting day, or you may follow the proceeding information on the night of the meeting. To login for this virtual Zoom meeting please follow the invitation link and prompts: <https://zoom.us/j/98405387415> Password: 593796 **OR by telephone**

Dial by your location: +1 929 205 6099 US (New York)

Please be aware this login and access information can only be utilized on the night of and not beforehand.

If you prefer a different method, comments can be called in during the meeting to an assigned phone number that will be provided, see above. An alternative method instead of using Zoom to send in comments we recommend they be emailed before the meeting to Ryan Dowden, Zoning Board of Appeals Clerk, at rdowden@villageofrhinebeckny.gov, and the Chair will address your comments, questions, concerns, etc. at the appropriate

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876-5453 Fax
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time. **Please check the Village of Rhinebeck website for updates and announcements that may pertain to this hearing.**

INSTRUCTIONS TO ACCESS THE VIRTUAL MEETING: If you have a computer with a camera and microphone, tablet or smartphone; once you click on the link, follow the next prompt, and enter the provided password; you will then enter the “Waiting Room.” The clerk or “host” will then admit you to the meeting at the appropriate time; you will then be an attendee to the Zoom meeting. If you prefer to just listen, and not be seen or heard please turn off your camera and microphone upon entering the meeting. On the evening of July 16, 2020, shortly before 7:00 p.m., log in with your computer, tablet, smartphone, or telephone. Questions about accessing the Zoom videoconference should be emailed to the clerk before the 16th, at rdowden@villageofrhinebeckny.gov Thank you

Agenda:

Public Hearing:

Robert Weinstein

25 Livingston Street (Grid #: 6170-15-504288-0000)

Rhinebeck, NY 12572

Request – One Area Variance – Side Yard

Proposed area variance for a hot tub to be located 5 ft. from the eastern property; between the existing fence and rear part of the house. Creating an impact to the 10 ft. required side yard setback; *Relief sought of 5 ft.*

Chairman, Colton Johnson, opened the meeting and determined there was a quorum for the Zoning Board of Appeals or ZBA to meet having 5 ZBA members present. Chairman, Colton Johnson asked if the board members had a chance to review the draft meeting minutes from the last ZBA meeting on February 20, 2020, and if the members were satisfied with the draft requested a member to make a motion to approve the minutes as drafted.

A motion was made by Christopher Tavener to approve the February 20, 2020 ZBA meeting minutes as drafted, seconded by Rachel Cavell. All voted by roll call vote. Colton Johnson, Chair, Aye; Kevin Curry, Aye; Rachel Cavell, Aye; Christopher Tavener, Aye; Lydia Hill Slaby, Alternate, Abstain. **The motion carried 4 to 0 to 1.**

(Alternate member Lydia Hill Slaby had to abstain from voting because she was not a member of the ZBA at the time this meeting took place and was not present for this meeting). Minutes approved.

ZBA member, Christopher Tavener requested permission from the Chair to read into the record the review criteria the ZBA uses when reviewing variance requests. ZBA member, Rachel Cavell, supported the idea, and Mr. Tavener read the standards and criteria for requests for an area variance found in the Village of Rhinebeck Zoning Code, Chapter 120, section 25, subsection B. Chairman, Colton Johnson, proceeded to read into the record the Positive Recommendation from the Planning Board;

“**A motion** was made by John Clarke for a positive recommendation to the Zoning Board of Appeals for the proposed hot tub location 5 ft. within the 10 ft. required setback. Seconded by Mary Quinn. All voted aye in favor by roll call vote. David Miller, Chair; Aye, Timothy Decker; Aye, Michael Ghee; Aye, Mary Quinn; Aye, John Clarke; Aye. The motion carried 5 to 0. The applicant will return to the July 21, 2020 meeting to seek final site plan approval.”

The applicant, Mr. Weinstein, appeared before the Board and presented his request for an area variance to locate his proposed hot tub 5 ft. within the 10 ft. side yard setback, and asking the ZBA to grant him relief of 5 ft. Mr. Weinstein proceeded to explain that the hot tub will be located on the east side of the house behind a 6 ft. privacy fence that separates their property from their neighbor the Lutheran Church to the east. The privacy fence will remain and be maintained in order to respect the privacy and the Church’s use of their side yard. Mr. Weinstein continued by adding that the 6 ft. privacy gate blocks any view of the hot tub’s location from the street. To the north the hot tub’s location is screened by his wife’s garden and other landscape features they have planted. The hot tub will be installed to the standards issued by the manufacturer. ZBA member, Christopher Tavener, inquired if a concrete slab will be needed for the hot tub to set on for it to be at grade. Mr. Weinstein stated there may be a need for a concrete slab but will work with the contractor to make sure it is compliant and does not further impact the setback.

Chairman, Colton Johnson, asked for a motion to open the public hearing.

Open Public Hearing

A motion was made by Rachel Cavell, to open the public hearing, seconded by Lydia Hill Slaby, Alternate. All voted by roll call vote. Colton Johnson, Chair, Aye; Christopher Tavener, Aye; Rachel Cavell, Aye; Kevin Curry, Aye; Lydia Hill Slaby, Alternate, Aye. The motion carried 5 to 0 with all voting aye in favor.

Jim Ettenson, at 24 Livingston Street, was in support of granting the area variance and location of the hot tub. Chairman, Colton Johnson, read into the record a comment submitted by email to the clerk. The comment letter was from E. Stepan at 18 Chestnut Street, who was concerned about the potential noise created by the hot tub and overall impact to her at her property on Chestnut Street. ZBA member, Rachel Cavell, inquired if Mr. Weinstein was of aware of any offensive noise created by the hot tub. Mr. Weinstein understood that there would not be significant noise created, and John Fenton, ZEO, commented that whatever level of noise a hot tub may make that it is doubtful a decibel meter device would even pick it up. ZBA member, Christopher Tavener, stated he was in support of Mr. Weinstein’s choice of where to locate the hot tub because it was a location that would create the least amount of impact, but it was unfortunate that his lot was small requiring him to obtain this variance. Being that there were no additional neighbors or members of the public interested in commenting, Chairman Colton Johnson, requested a motion to close the public hearing.

Close Public Hearing

A motion was made by Lydia Hill Slaby to close the public hearing, seconded by Christopher Tavener. All voted by roll call vote. Colton Johnson, Chair, Aye; Rachel Cavell, Aye; Kevin Curry, Aye; Christopher Tavener, Aye; Lydia Hill Slaby, Alternate, Aye. The public hearing was closed by a vote of 5 to 0 all voting aye in favor.

ZBA member, Rachel Cavell, raised a concern she has had for 25 Livingston Street with respect to the historic nature and character of the house and property. Ms. Cavell stated that the historic home underwent major renovations some years ago and felt that much of the house that exists today has lost that historic character. She added that with this addition of a hot tub that she would be in favor and support specific conditions of approval be imposed in order to keep this type of request limited to this specific situation, and to prevent similar requests from impacting other historic locations in the Village. John Fenton, ZEO, shared some background about the final approvals the applicant previously received back in 2014 that the applicant preserved the original structural integrity of the home by building what exists today around the old structure with new studs and other brand new building elements. Chairman, Colton Johnson, recognized Ms. Cavell's overall concern about further endangering the historical character of this home, the neighborhood, and other historical locations in the Village. However, the ZBA was tasked to address the present variance request. ZBA member, Christopher Tavener supported Ms. Cavell's petition to impose conditions, and agreed with the Planning Board's condition that the 6 ft. privacy fence be maintained in perpetuity so as the Church's land would maintain its privacy and use of their side yard. He added that he would be in favor of adding that the hot tub only be used by the owners and not be offered to guests who are utilizing the owner's permit as a room rental establishment. John Fenton, ZEO, shared that there are specific conditions that the Board of Health enforces when offering an amenity like this to rental guests and would great more of a negative than a benefit for the owners. Mr. Fenton inquired about the installation standards that the owners will have to conform to the manufacturers installation standards, and that they'd have to take into consideration that when draining the hot tub that when they drain it the water cannot drain onto a neighboring property. The Board agreed to add those conditions to their approval.

Chairman, Colton Johnson, asked for a motion to grant the area variance as presented with the stated conditions.

A motion was made by Kevin Curry to grant the area variance as presented with the following conditions that the 6 ft. privacy fence would be maintained in perpetuity, the hot tub is to be installed by the manufacturer's standards, and when the hot tub is to be drained the owners take into consideration to not drain the water where it will drain onto the neighboring property and overall negatively impact the neighboring properties. Seconded by Alternate Lydia Hill Slaby.

The ZBA found that granting the variance will not be an undesirable change to the neighborhood due to the owner choosing a secluded location on their property where it is screened by a fence and gate; by granting the area variance there will not be an adverse

impact; it is a self-created hardship but does not affect the granting of the area variance because the owner picked a location for the hot tub that limits the overall impact to the surrounding area; by granting the area variance it will not have an adverse environmental impact due to the location and the owner will use best management practices when draining the hot tub, and though the historic impact is not particularly substantial at this house but at another location the impact could be substantial.

All voted by roll call vote. Colton Johnson, Chair, Aye; Rachel Cavell, Aye; Kevin Curry, Aye; Christopher Tavener, Aye; Alternate Lydia Hill Slaby, Aye. The area variance was granted by a 5 to 0 vote by all voting aye in favor with no member voting against or abstaining.

Adjournment: A motion was made by Christopher Tavener to adjourn the meeting, seconded by Rachel Cavell. All voted aye by roll call vote; Colton Johnson, Chair, Aye; Rachel Cavell, Aye; Kevin Curry, Aye; Christopher Tavener, Aye; Alternate Lydia Hill Slaby, Aye. The motion carried by a 5 to 0 vote the meeting was adjourned at 7:50 pm.

**Respectfully Submitted;
Ryan Dowden, Zoning Board of Appeals Clerk, (7/30/2020)
Planning & Zoning Department, Village of Rhinebeck**