

**Town of Bennington
Zoning Board of Appeals
February 5, 2020**

Present were Chairman David Best, ZBA members Al Files and Tim Pyszczynski, Acting Secretary Ellen Grant, and variance applicants David and Mary Anne Kowalewski, 148 Kern Road, Cowlesville NY 14037. Mr. Files made a motion, Mr. Pyszczynski seconded, to open the meeting at 7:03 p.m, with Chairman Best leading the pledge of allegiance to the flag.

Motion by Mr. Pyszczynski, seconded by Mr. Files to open the Public Hearing at 7:05 p.m. The Chairman reviewed the area variance application. Mr. Kowalewski explained that he is seeking the variance due to the difficulty placing the garage in any other practical location. It would require additional work and expense to locate it behind the garage, as the dirt fill (due to slope) and more blacktop would exceed \$10,000 - \$11,000. The septic system is in the front yard, so that option is not available. The Chairman read two statements received from neighbors, Waldron's and Dusel's, stating no objections as long as no trees were removed from their own properties. The proposed garage would be stick built, 32' x 32', with a poured foundation. Mr. Files asked about heating, and potentially they would have some heat in it in the future but none planned at this time. The contractor has not yet been selected. Mr. Pyszczynski questioned if they had considered making it one bay wide and two deep, and the replied that it would not be practical for moving vehicles in and out. Chairman Best explained that the Board would keep the hearing open for a minimum of 30 minutes to accommodate anyone wanting to speak that might be late.

Other Business: Members reviewed the December meeting minutes. Motion was made by Mr. Pyszczynski, seconded by Chairman Best, to approve. All ayes, carried. A new variance application was reviewed and will be scheduled for the March meeting. Copies will be mailed to those not present. Zoning Book updates: Mr. Files book has been updated and Chairman Best will leave his for review and updating. Mr. Pyszczynski requested a notebook, as he does not have a copy. Vouchers: Vouchers for the meeting were distributed and completed,

reflecting a change in stipend to \$25/meeting for members and \$30/meeting for the Chairman. The Secretary was asked to contact Mr. Dluhy regarding his continued interest in serving on the Board.

Kowalewski Variance Public Hearing: Motion was made by Mr. Files, seconded by Mr. Pyszczynski to close the public hearing at 7:35 p.m. All ayes, carried.

Chairman Best reviewed the criteria to determine the variance. Each member reviewed the five criteria and signed off on each item, including site visitation. Variance was unanimously granted as applied for. The Chairman completed the paperwork and a copy was given to the applicant.

Motion was made by Mr. Files, seconded by Mr. Pyszczynski to adjourn. All ayes, carried. Meeting adjourned at 7:48 p.m.

Ellen Grant
Acting Secretary

**Town of Bennington
Zoning Board of Appeals
March 4, 2020**

Present were Chairman David Best, ZBA members Al Files, Tim Pyszczynski, and Mike George, Acting Secretary Ellen Grant, and variance applicant Ronald Files, 1303 Friedman Road, Darien Center NY. Mr. Al Files made a motion, Mr. Pyszczynski seconded, to open the meeting at 7:03 p.m, with Chairman Best leading the pledge of allegiance to the flag.

Motion by Mr. Files, seconded by Mr. Pyszczynski to open the Public Hearing at 7:04 p.m. Board members reviewed the minutes of the February meeting, and approved them on a motion by Mr. Pyszczynski and a second from Mr. George. All ayes.

The Chairman reviewed Area Variance Application by Mr. Ronald Files for an attached garage at his residence at 1303 Friedman Road.

Ronald Files Variance Public Hearing: He has a 20 foot side setback on the west side and is seeking a variance from the 30 foot requirement per Article II, Section 2.1.4B. Mr. Best noted that the notice read a detached garage, and Mr. R. Files confirmed that it would be attached, stating that it was the only area to place an attached garage. The proposed width is 26 feet. No neighbors have expressed any opposition and there is enough land and natural screening to the west for the neighbor to build in the future. He would like to do the build in May, and doesn't have his contractor yet. Discussion was held on building codes.

The Board held a discussion on applications for members & secretary. Ellen was asked to contact Kyle regarding his status. Updated copy of the zoning book was given to Mr. Best and copies will be made for Mr. Pyszczynski and Mr. George. Sites need to be checked for accurate owner/addresses for notices in the future. Discussion was held on town projects.

At 7:31 p.m., motion was made by Mr. George, seconded by Chairman Best to close the public hearing. The Chairman explained the process the Board takes in reviewing the application and applying five criteria to make a decision. Mr. Al Files states that he will abstain from the process and voting due to a possible conflict.

The Board reviewed Criteria 1 – 5, stating the criteria, discussing each and provided a written vote. The criteria on a self-created hardship was reviewed. There were no conditions to be added to the decision and each had inspected the property prior to the meeting. Each member voted Little to No adverse effect. Variance #2020-4 was approved by a vote of 3 ayes, 0 nays, 1 abstain & 1 absent. The Chairman completed the paperwork and a copy was given to the applicant.

Motion was made by Mr. Pyszczynski , seconded by Mr. Files to adjourn. All ayes, carried. Meeting adjourned at 7:50 p.m.

Ellen Grant
Acting Secretary

Town of Bennington
Zoning Board of Appeals
June 24, 2020

Present were Chairman David Best, ZBA members Tim Pyszczynski and Mike George, Acting Secretary Ellen Grant, and variance applicant Aaron Quinn, 1484 Friedman Road, Darien Center NY. Motion by Mr. Pyszczynski to open the meeting at 7:01 p.m, with Chairman Best leading the pledge of allegiance to the flag.

Motion by Mr. George, seconded by Mr. Pyszczynski to open the Public Hearing at 7:02 p.m. Board members reviewed the minutes of the March meeting, and approved them on a motion by Mr. George and a second from Mr. Best. All ayes. Copies of the Zoning Law binder were given to Mr. Pyszczynski and Mr. George. An update was provided to the members on the Local Law recently enacted by the Town to prohibit burials of human on private property (outside of a cemetery.) The Town is considering contracting with the County for zoning enforcement and will have another presentation done on what services are available.

The Chairman reviewed Area Variance Application 2020-19 by Mr. & Mrs. Aaron Quinn for an pool house/shed at their residence at 1484 Friedman Road.

Aaron Quinn Variance Public Hearing: The zoning application was denied due to Article IV, Section 3 of the zoning law that prohibits accessory structures from being located in a front yard. The structure would be placed 240 feet from the road frontage. The Quinn's have their home situated sideways on the lot, so although the shed would be technically in the front yard, for their purposes it is in the back yard, behind the house. Neighbors were sent letters regarding the project and no complaints or comments have been received. Mr. Quinn said that the shed will help with screening their yard/pool from the road, and he also plans to put up a fence in the future. They recently had an in-ground pool installed and had 90+ trees removed to do so. He also explained the reasoning for the location of the shed.

Motion was made and seconded (Pyszczynski/George) to close the public hearing. All ayes, carried and the hearing was closed at 7:33 p.m.

The Chairman explained the process the Board takes in reviewing the application and applying five criteria to make a decision. The Board reviewed Criteria 1 – 5, stating the criteria, discussing each and provided a written vote. There were no conditions to be added to the decision and each had inspected the property prior to the meeting. Each member voted Little to No adverse effect. Variance #2020-19 was approved by a vote of 3 ayes, 0 nays, 2 absent. The Chairman completed the paperwork and a copy was given to the applicant. Mr. Quinn asked about the process for land separation and was told that he needs to contact the Planning Board.

Motion was made by Mr. Pyszczynski , seconded by Mr. Best to adjourn. All ayes, carried. Meeting adjourned at 7:45 p.m.

Ellen Grant
Acting Secretary

**Town of Bennington
Zoning Board of Appeals
August 5, 2020 Minutes**

Present: Chairman David Best, Members Al Files & Tim Pyszczyński. Applicants for Variance #2020-6 & 7 Mark Overall of Buffalo Solar, and Kimo Brandon & Chet Zymowski from Bennington Fire Co.; Variance #2020-8 Applicant Callin Wade.

Motion by Files to open the meeting at 7:04 p.m. All ayes, carried. Chairman Best leads the pledge to the flag.

Motion was made and seconded (Best/Files) to approve the minutes of the last meeting with a correction to the meeting date to June 24, 2020. All ayes, carried.

Variance application #2020-8 - Callin Wade, 102 N. Shore Drive, Alden. Area variance to place a storage building within the side set back. Motion was made and seconded (Pyszczyński /Files) to open the public hearing at 7:07 p.m. All ayes, carried. Chairman Best explained the process to hold the public hearing, maintaining it for one half hour to ensure anyone has the opportunity to appear and be heard. The Board has received the paperwork from the Highland Glen homeowners association approving the variance according to their regulations. Mr. Wade was questioned about the location, and was told that the site was selected due to the existing stone driveway and that there previously had been a storage shed on the spot. All members present had reviewed/visited the site and the application. There was no one present tonight to speak regarding the project.

Variance application #2020-6 E2I/Bennington Fire Co. Area variance to construct a commercial solar project on a lot of less than the required 10 acres. #2020-7 Use variance to construct a commercial solar project within a Business zoned district. Motion was made and seconded (Files Pyszczyński) to open the public hearing at 7:13 p.m. Mr. Overall stated that even though the footprint of the project is small (1.7 acres), an area variance is needed as commercial projects require a minimum of 10 acres per Bennington Town Zoning Law. The area would be enclosed with a chain link fence. The Fire Company property is only 4.5 acres, which is under the minimum. If the parcel had been larger, the project still would have been the 1.7 acres as the company applying (E2I) is focused on small sized projects. Chief Brandon stated that the Company no longer uses the area for anything and requires maintenance. They would benefit by less maintenance on their part, a significant reduction in their energy costs and an annual lease payment of \$1,000, all of which would reduce the financial burden of the Fire Company and its taxpayers. The Company works hard to maintain financial viability and the increase revenue/decrease cost would benefit both their members who work hard on fundraising efforts as well as their taxpayers. All of their members agreed to the proposal and it would be a 25 year

lease/commitment, with incremental increases every five years to the lease payments. Discussion was held on the visual impact of four foot high panels and possible screening to improve the impact. Neighbors Debbie Lamkin and Rodney Baker expressed concerns with the visual impact of panels from their homes/properties. Tall trees used for screening would cast a shadow, but shorter ones spaced farther apart from the panels would provide some buffering. A letter from the Baker family was read, expressing their concerns for both variances. They would like the land to remain open, and the main concern would be the visual impact. A brief discussion was held on use of the field for other Fire Company needs such as Mercy Flight. The Chief explained that it is not desirable for that due to access in snow or muddy weather. Supervisor Grant explained to those present the process of steps the applications are taking, from the County Planning Board review, the ZBA review and action on variances, the Town Planning Board review later in August on the site plan where screening and other issues would be addressed, and finally a September public hearing and action by the Town Board for the actual Special Permit application to go ahead or be denied. This meeting is the first of three that would include local input.

Variance #2020-8 C. Wade. There being no comments submitted, a motion was made and seconded (Files/ Pyszczyński) to close the public hearing. All ayes, carried. Hearing closed at 7:43 p.m. Chairman Best reviewed the criteria the Board would make their determination on and each member voted and signed for each. All were in favor of each criteria, and the variance was granted by a vote of 3 ayes, 0 nays, 2 absent. The acting Secretary will deliver the completed paperwork to Mr. Wade so he can proceed with his building permit application.

Variance #2020-7 E2I/Bennington Fire Co. Motion was made and seconded (Pyszczyński/Files) to close the public hearing on the use variance. All ayes, carried. Hearing closed at 7:48 p.m. Chairman Best reviewed the criteria the Board uses to make their determination. Each member voted and signed the attestation of their vote. All voted yes on each of the criteria, and the use variance was granted by a vote of 3 ayes, 0 nays, and 2 absent.

Variance #2020-6 E2I/Bennington Fire Co. Public discussion continued. Mr. Overall stated that the project is under 500 kw, so the area being used would never get any larger. He was questioned as to what benefits the neighbors get. They have the opportunity to purchase reduced rate electricity if they desire. A discussion ensued on electricity purchasing. Chief Brandon suggested people visit his family's farm on Maxon Road to view the small solar project there and see what the panels look like and if there is any noise emitted from the panels. Mr. Zymowski suggested Buffalo Solar stake out the area in question so it is easier for people to visualize the project size. A decommissioning plan was discussed. The productivity of the project and any potential property valuation changes were also discussed. Motion was made and seconded (Pyszczyński/Files) to close the public hearing. All ayes, carried. Hearing closed at 8:12 p.m. Chairman Best reviewed the criteria for the variance and each member voted and signed for their

vote on each criteria. All voted yes on each of the criteria, and the area variance was granted by a vote of 3 ayes, 0 naves, and 2 absent. The completed paperwork will be provided to Mr. Overall.

There being no further business to come before the Board, a motion was made and seconded (Files/Best) to close the meeting. All ayes, carried. Meeting adjourned.

Respectfully submitted,

Ellen Grant, Acting Secretary

**Town of Bennington
Zoning Board of Appeals
October 20, 2020 Minutes**

Meeting called to order at 7:00 p.m. by Chairman David Best on a motion and second (Files/Pyszczyński) with members Al Files, Mike George and Tim Pyszczyński present, as well as applicant Christopher Stewart.

V-09-2020 Christopher Stewart, 1603 Friedman Road. Motion made and seconded (George/Pyszczyński) to open the Public Hearing on the Area Variance application. Carried. Chairman Best explains the process for the public hearing to Mr. Stewart. Mr. Stewart presented a note from a neighbor to the east (T. Weber) who had no objection to the variance. The project would align the garage with the existing driveway, which would mean it would be setback 25 feet from the property line. Members Best and Files visited the site and noted that the property line is on an angle, so the building may be anywhere from 24' to 28' from the line. There is a stoned area for the construction site. He is also trying to buy the adjoining narrow strip of land to the east (owner is considering it.) The applicant doesn't believe there's enough room on the west side of the house for the garage, the septic is in front yard and there are underground power lines in the rear. The variance is his preferred choice to give him some siting options. Members discussed the zoning application which was initially denied, then approved at the alternative location, but Mr. Stewart would like to pursue the variance. He was asked if his measurements were taken from the foundation or the eaves (foundation.) No further questions. Tom Weber's note was read into the minutes: "I, Thomas Weber, have no issues with a building being built less than 30 foot, approximately 25 foot from property line. Signed: Thomas Weber 10/20/20"

Board Business:

- Minutes from the last meeting were read and approved on a motion and second (Pyszczyński/Files.) 3 ayes; 1 abstain (George, not present at prior meeting.) Carried.
- Discussion held on notifying neighbors of variance hearings. M. George would like an assurance that neighbors are being notified, and questions if we should continue to do the mailings.
- Discussion held on changing the meeting date from Wednesdays to Tuesdays, as more convenient for members. The Town Board would need to approve and change the notices. A key could be made for the Chairman and future Secretary.

Motion was made and seconded (George/Best) to close the public hearing. All ayes, carried and meeting closed at 7:30 p.m.

Chairman Best reviewed the process and criteria used to determine if the variance is warranted. Each criteria was read, and members indicated their vote in writing. Members who did a site inspection signed off on that report. Voting on V-09-2020: Approval – Best, Files, George, Pyszczyński. Noes – 0. Application approved. The applicant stated that he would be doing the construction himself and starting soon. Copy of the approved variance prepared for the applicant and County Zoning Office.

It was noted that the Bennington Fire Co. withdrew their solar project shortly after receiving their variance approval.

Motion made and seconded (File/Pyszczyński) to close the meeting. All ayes. Meeting closed 7:42 p.m.

Ellen Grant, Secretary

Town of Bennington
Zoning Board of Appeals

November 17, 2020

Present: Chairman David Best, Tim Pyszczyński, Al Files, Mike George (7:05), Acting Secretary Ellen Grant, Applicant James Lake, and Vicki Kantor.

Motion and seconded (Pyszczyński/Files) to open the meeting at 7:00 p.m. All ayes, carried.

Variance #V-10-2020 James Lake, 9 North Shore, Alden NY. Motion made and seconded to open the public hearing at 7:01 p.m. All ayes, carried. Mr. Lake explains the need for additional storage and workshop space at his home. He would like to line the shed up with the existing garage and is seeking a variance 2.25 feet from the side set back and 3.01 feet from the front yard set back. Highland Glens Association approved the request unanimously (note: one of their Board members is a neighbor to Mr. Lake and had no objection.) Files, Pyszczyński, and Best visited the site and George did a drive by inspection and none had any concerns. Chairman Best provided a clear aerial photo of the property to examine. Mr. Lake is contracting the work out and hopes to have it completed prior to year end, weather permitting. Chairman Best explained the ZBA review process and the public hearing being open for a minimum of 30 minutes in case anyone wants to attend and speak.

Old Business: Minutes of the October meeting were read. Motion made and seconded (Files/George) to approve. All ayes; carried.

Vicki Kantor was introduced as being interested in serving with the ZBA as either a member, secretary or both. She has been a town resident for 17 years, is formerly a UPS Supervisor in the WNY area, and is looking for ways to become involved and serve the town. Chairman Best explains some of the typical workings of the ZBA, what type of applications come in, our zoning law, etc. Most meetings have very few in attendance – applicant and maybe one neighbor.

Jenna Marley, County Zoning Officer introduced herself and explained that Alyssa Cutcliff will be our regular ZO but is out on maternity leave until early next year. Jenna and Alyssa share 11 municipalities in the County and are also cross trained as building inspectors. She has reviewed a few recent applications for the Town, including a land separation/merger that the Planning Board will be handling. Regarding our Public Hearing process, she said that after reviewing our Zoning Law, we have no information on notifying neighbors of variance applications. They're practice has been to have the applicant take info to the neighbors and get them to sign off on a statement of no objection, or do letters with proof of mailing/delivery. The Chairman reviewed what we've been doing. Jenna suggests an action be decided on and then adopted into our Zoning Law, and she can supply the Town with some typical language. They have been

supplying the applicant with a list of the neighbors within 200 feet of the parcel boundaries to use, and they also draw up and place the ad in the legal paper and the applicant is billed for that. Mr. George asked about the fees and Jenna reviewed some of them. The Secretary noted that some are higher than what the Town had and others lower. The variance fee is now \$150 instead of \$250 (advertising and mailing costs assumed by the applicant.) The County Zoning Office has found that people are being compliant with neighbor notices, as they don't want to go through the process a second time if they drop the ball the first time around. Files on their applications are turned over to the Town two years following any decision/action, as the work is generally closed out.

There being no one present to speak on the variance application, a motion made and seconded (George/Files) to close the public hearing at 7:31 p.m. All ayes; carried.

V-10-2020 The Chairman again reviewed the process for the applicant and then read off each of the criteria by which they are judging the proposal. Papers are distributed to member to sign off their vote, and also to indicate if they made a site inspection. Roll call of the vote: Best – aye; Files – aye; Psyzczynski – aye; George – aye. Application granted. The Chairman will complete the paperwork and give to the Secretary to make copies and send to the Zoning Officer. The County will get the approved papers as well as building permit paperwork to the applicant upon receipt.

There being no further business, motion was made and seconded (Files/Psyzczynski) to close the meeting at 7:36 pm. All ayes; carried.

Respectfully submitted,
Ellen Grant, Acting Secretary