

DEERPARK ZONING BOARD OF APPEALS - AUGUST 16, 2012 – PG

The Deerpark Zoning Board of Appeals met for their monthly meeting on Thursday, August 16, 2012 at 7:30 p.m. at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

ZONING BOARD OF APPEALS MEMBERS

Gerald Cedrone, Chairman	Jane Lord	Jim Harrington
Marylou Maher	Martin D. Smith, Jr.	

OTHERS

Mr. David W. Bavoso, Town Attorney	Mr. Stephen Riordan, Applicant
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THE PLEDGE OF ALLEGIANCE

STEPHEN RIORDAN – PUBLIC HEARING

Represented by himself 629-3642

Owner/ Applicant Stephen Riordan is seeking a variance to construct a pavilion on property located at 250 Martins Road, Huguenot, N.Y.

It is an HMU (Hamlet Mixed Use) Zone Section – Block – Lot = 36 – 2 – 1.22
Application received July 9, 2012

SEE ATTACHED PUBLIC HEARING RECORD

Jane Lord said that the problem is, if an accessory anything would be allowed to be built, then the law would be changed back, which is what this applicant is wanting this Board to do, then it would open up a can of worms. She said that this Board has had people before them that had asked for something similar, and the Board had to say no.

Mr. Riordan said that he is new to this, but it is his understanding that the four questions that he has to demonstrate why it would be allowed or permitted, is that it doesn't have a great impact on that area. He said that what he is attempting to build is classified as a special use and that he is not trying to put something up that isn't already described in the zoning law.

Jane Lord said that the term accessory, means that you have to have something already there. She said it had become a problem because people were putting barns up just on open land, and it was being perceived by the neighbors as a problem.

Mr. Riordan said that the only people that would be impacted would be his adjoining property owners.

Jane Lord said right, and then it would become part of the law.

Mr. Riordan said that the law is already there and he is not asking to change the law.

Jim Harrington said that if this Board changes it for you, then it has to change it for other people.

Mr. Riordan said that if the other people did meet the criteria, then the Board should. He said that that is the law. He said that the law says that you can't put a building like this up on your property because you don't have a house, however, this is the avenue which the applicant is given to make an application to be allowed an accessory use, and that is why he is here tonight. He said that he sent the notice certified mailings to all of the neighbors, so that they would know, and they would have a chance to say, "hey we don't want it," and show up tonight to say that. He said that there is no one here from the public to speak against it tonight.

Jane Lord said that this Board represents the entire town.

Mr. Riordan asked, if the town has allowed it before, then denies me, then that's a liability on the town. He said that if an applicant meets the criteria, he should be allowed the relief.

Jim Harrington said that if this Board allows you to have it, and then denies somebody else, it's the same way too.

Jane Lord said that in the ten years that she has been on the Board, it has never happened that someone has been allowed to do this. She said that the law is that someone cannot put up an accessory building, without a house.

David Bavoso concurred and said that that is what the law is, and the fact of the matter is, that every case is different. He said that ultimately it is the Boards' determination, as to whether or not those criteria have been met, and based upon that determination, the Board takes the action. He said that ultimately this Board is charged with interpreting the law, and determining whether or not those criteria has actually been met.

Mr. Riordan said, as opposed to it's never been done before, and we're not going to start doing it now. He asked, is this a fair statement?

David Bavoso said that it's a fair statement, but it's certainly something the Board would consider in its' interpretation. He said that obviously every applicant will come forward and state that they believe they have met the criteria, because they believe they have. He said that whether or not the Board thinks they have, that's something different, obviously. He said that theoretically, if this applicant is proposing to build a one room cabin, and has met the building code and has gotten a building permit, and it was constructed and has gotten a c/o, then he wouldn't have to be before this Board, because this proposed structure would be an accessory structure to that cabin.

Mr. Riordan said that one of the criteria is financial hardship, and he said that he has had to rent a storage space.

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Jane Lord said that it is to store a luxury, and it's not because the applicant cannot afford food or a necessity. She said that several years ago an applicant had wanted to put up a shed to store tools on County Route 61, and the Board denied him, because he did not have a primary structure, and now the property is for sale.

Mr. Riordan said that that applicant must've not met the criteria, and met the four arguments that the applicant has to present to the Board. He said that it is the Boards' job to look at the criteria. He said that in his case, he was concerned that the Board wouldn't allow him to put up his structure, regardless of what he says here tonight. He said that he is hoping that the Board would look at his situation.

MOTION

Lord made a motion to deny the Riordan application. Harrington second. Roll call vote: Maher, abstain; Harrington, aye; Cedrone, aye; Smith, aye; Lord, aye. Motion carried.

Martin Smith advised Mr. Riordan to be creative and go back to the Building Inspector. He said that he thinks there's a lot of room there, in what is allowed.

ADJOURNMENT

Maher made a motion to adjourn. Lord second. Roll call vote: Harrington, aye; Cedrone, aye; Smith, aye; Lord, aye; Maher, aye. Motion carried.

Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Barbara Brollier, Secretary