

**TOWN OF NEW BALTIMORE ZONING BOARD OF APPEALS**  
**Regular Monthly Meeting**  
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The meeting was called to order at 7:48 p.m. by Patrick Linger, Chair followed by the Pledge of Allegiance. Other Board Members in attendance were Craig Albano, Jeff Carlson and Denise Taber. Mike Meredith was absent. Mr. and Mrs. Hildebrandt remained present.

Minutes – None available for approval.

Correspondence

From Greene Department of Economic Development, Tourism and Planning, 7/9/18 Response on Hildebrandt Variance Application stating that it is a local decision. There is no County impact.

**Rudolph Hildebrandt – Area Variance Application**

Public Hearing on this application was held just prior to the start of this meeting. Mr. and Mrs. Hildebrandt remained present. To re-cap, there were no comments from the Public. Property location is 1223 County Rte. 26, Tax Map # #27.04-2-1. Applicant wishes to construct a garage replacing another building on the site previously taken down but cannot meet the 40-foot setback specified in the Code of the Town of New Baltimore.

Proposed building is 20x18'. Residence is six feet from edge of road, 20 feet from the center of road, for a total of 26 feet. By drawing provided to Board, 40 feet would put the front of the building just behind the house leaving very little room to the septic system. Adding the 20 feet for the building, would put it over the distribution box and the leach field line. The property slopes down in the back as well. Thus, the reason you cannot meet the Code requirement and there is the need for an Area Variance which is less strict than a Use Variance. Per our Code, the use, placement of garage on the property, is allowed so there is not the need for a Use Variance.

Per the State statute, there are five items the Board has to consider before granting any Variance. The Board has to consider the negatives and positives and take those into consideration when making any determination. They are:

***(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;***

Mr. Hildebrandt advised the Board that the garage has been designed to be a close replica of the building that was taken down.

Mr. Linger re-capped the house is six feet off the edge of the road. It is extremely close but a fair amount of older homes in the Town are that way, close to the roads built in the seventeen and eighteen hundreds. That is the way it was done then. It would not appear to be an undesirable change occurring by putting the structure that close to the road.

***(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;***

As Mr. Hildebrandt has shown by his map to bring the building back 40 feet is not going to be feasible. What he is trying to do is closely duplicate the building taken down because of its dangerous condition. It was not known if there was another option to do that with the location of the septic system. You don't want the back side of the garage up against the septic system if it should ever have to be dug up. More than two feet would be needed to work around it. With the property sloping down in the back, a tremendous amount of material/fill would be needed to level the slope which would then create issues of stormwater runoff and erosion.

***(3) Whether the requested area variance is substantial;***

It was not felt the Area Variance would be substantial because the house is six feet off the road. If he was going six feet for the garage and the house was 30 feet, that would be a different matter. As far as distance goes, the set back is going to be, the house sets at 26 feet now from the center and we would look to 40 feet. We are talking about a 14-foot difference. It was pointed out that they did not know what would be considered "substantial". The Zoning Board needs to approve the least amount of an Area Variance as is possible. This Board could say instead of coming forward 14 feet, come forward 20 feet and we will split the difference with you. The problem with doing that from what can be seen with the size of the building and the location of the septic system, pushing the building back further would

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encroach on the septic system. “Substantial” is kind of a subjective term in this instance.

***(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and***

As previously mentioned, building placement close to road many years ago was common. The only environmental condition that can be seen as having any effect is the rain water hitting a metal roof rather than the ground and then running to the ground. It would be the same for any impervious roof surface like that and for an 18x20’ sized building; what would be collected would be almost negligible. Your property slopes down and we all know what direction water runs. As to run-off whether hitting roof or dirt, not known if negative impact but it needed to be said.

***(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.***

The house dates to the 1820’s. The septic system including a 1,000 gallon concrete tank is relatively new; and with the way the property is situated, it is placed where it had to go. The difficulty was not self-created. It is just what it happens to be. He is trying to work around it and is asking our permission to do that.

In response to if any Board Members had comments, Mr. Albano commented that he has it pretty well laid out where it has to go. Mr. Linger added it sets where it sets. He is not going to move the house and he did not feel that it would have a significant impact on anything out there that I would not be okay with. In response to question regarding the tree, Mr. Hildebrandt advised it might need some trimming but there were no plans to remove it.

The Board went through Part II of the Environmental Assessment. (Part I had been gone through in the Public Hearing.)

1. *Will the proposed action create a material conflict with an adopted land use plan or zoning Regulations?* - **Small or No Impact**
2. *Will the proposed action result in a change in the use or intensity of use of land?* - **NO**
3. *Will the proposed action impair the character or quality of the existing community?* - **NO**
4. *Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?* - **NO**
5. *Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?* - **NO**
6. *Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?* - **NO**
7. *Will the proposed action impact existing:*
  - a. *public/private water supplies?* - **NO**
  - b. *public/private wastewater treatment utilities?* - **NO**
8. *Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?* - **NO**
9. *Will the proposed action result in an adverse change to natural resources (e.g. wetlands, waterbodies, groundwater, air quality, flora and fauna)?* - **NO**
10. *Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?* – **NO or SMALL IMPACT**
11. *Will the proposed action create a hazard to environmental resources or human health?* - **NO**

Part 3 – Determination of significance.

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With all the answers having been No or Small Impact, there was not a need to answer the questions in this part in detail. Based on answers to questions in Part 2, box was checked that there would not be any significant adverse environmental impacts.

With the Board having the right to so impose, the Chair asked the Board Members if they wished to place any conditions on the Variance. With the Board feeling it was a very straight forward request, they proceeded to resolution as follows:

**WHEREAS**, Rudolph Hildebrandt of 1223 County Route 26, parcel bearing tax map number 27.04-2-1, wishing to construct a new garage submitted Building Permit Application, was denied by Code Enforcement Officer due to lack of minimum front setback and referred to Zoning Board of Appeals, submitted an Area Variance Application at the July 2, 2018, Zoning Board of Appeals Meeting; and

**WHEREAS**, required 239 was submitted to the Greene County Planning Board with response received that it was a local decision with no County impact; and

**WHEREAS**, a Public Hearing, having been duly published in THE DAILY MAIL, was held on said application at the New Baltimore Town Hall on August 1, 2018, with members of the public offering no comment; and

**WHEREAS**, after discussion by the members of the Town of New Baltimore Zoning Board of Appeals at its August 1, 2018, Regular Monthly Meeting, it was

**RESOLVED**, that this action be granted a negative declaration for the purpose of SEQRA; and be it further

**RESOLVED**, that the application for an Area Variance is hereby granted with no conditions.

Moved by: Albano  
Seconded by: Carlson

Ayes: Linger; Albano; Carlson; Taber  
Nays: None  
Abstained: None  
Absent: Meredith

Mr. Linger explained that this Variance is just for the front setback, all other setbacks have to meet the Town Code and Mr. Hildebrandt still has to go through the necessary steps remaining to get his Building Permit.

**Adjournment**

At 8:15 p.m., it was moved by Taber and seconded by Albano to adjourn the meeting.

Ayes: 4    Nays: 0    Abstained: 0    Absent: 1

Respectfully Submitted  
Marjorie Loux, ZBA Clerk