



**TOWN OF HURLEY  
ZONING BOARD of APPEALS  
PO BOX 569/10 WAMSLEY PLACE  
Hurley, New York 12443  
[planning@townofhurley.org](mailto:planning@townofhurley.org)  
(845)331-7474 Ext. 6**

**Draft Minutes for 2024-03-14**

**Present:** Josh Vogt, Chair; Member Alex Marra; Member Kara Snyder; Member Orin Shands

**Absent:** Member Andrew Shapiro; Member Liston Freeman

Also Present: Paul Economos, Zoning Enforcement Officer; Matt Jankowski, Town Attorney, Deb Dougherty, Town Board Liaison

- I. Chair Josh Vogt called for a motion to open the meeting at 7:00PM and asked everyone to stand for the Pledge of Allegiance and acknowledged a quorum of Members was present.
- II. 7:02PM-Member Orin Shands motioned to open the meeting; Member Alex Marra seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent
Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, two (2) Absent, Member Andy Shapiro and Member Liston Freeman; and 0 Abstention

**III. 7:04PM-Public Comment**

Chair Josh Vogt called three (3) times for public comment. There being none, Chair Josh Vogt motioned to open and close public comment; Member Alex Marra seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent
Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, Two (2) Absent, Member Andy Shapiro and Member Liston Freeman; and 0 Abstention

**IV. 7:06PM-Public Hearing:**

**1. File 2024-#03-Madonna-SBL-55\_4-6-12\_1-AV**

Property Address: 46 Dewitt Mills Rd/R1/1.1 acres

Building Permit Date: 2024-02-01; ZEO denial date: 2024-02-04; Application received 2024-02-05



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Update: Classified a Type II action under SEQRA at the 2024-02-08 meeting  
Application is for a side-yard setback variance of ten feet (10') four inches (4") to construct a new two-car garage/addition

Applicant Kevin Madonna was present to represent the file

**Official Actions**

Chair Josh Vogt motioned to open the Public Hearing at 7:08PM; Member Kara Snyder seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent
Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, Two (2) Absent, Member Andy Shapiro and Member Liston Freeman; and 0 Abstention

Chair Josh Vogt asked if there were any comments from the public? There were none

Chair Josh Vogt motioned to close the public hearing at 7:10PM; Member Orin Shands seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent
Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, Two (2) Absent, Member Andy Shapiro and Member Liston Freeman; and 0 Abstention

**Board Comments Questions**

Member Kara Snyder asked what size the garage/ addition is? Answer twenty-four feet by twenty-four feet for a total of five-hundred-seventy-six square feet (24' x24'=576 sq. ft.)

I. Zoning Board review of the request against the criteria for an Area Variance:



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In making its determination regarding a request for an area variance, the Board shall take into consideration 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. In making such determination, the Board shall also consider:

[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.

**Board Discussion:** The Board felt allowing the proposed two-car garage/addition to be placed at only fifteen feet eight inches (15'8") from the side property line will not alter the character of the neighborhood nor will it create a detriment to nearby properties as there is no immediate neighbors and it is the only logical place for the structure.

**Determination:** Having considered all possible impacts of allowing the reduced setback, the Board determined that there will be no negative impacts on the neighborhood or nearby properties.

[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.

**Board Discussion:** Chair Josh Vogt went to the property and noted that due to the location of the Applicant's septic and there being a small cliff on the property, that in order for the garage/addition to be functional, the reduced setback and granting of a ten-foot (10') four-inch (4") variance is the most appropriate action.

**Determination:** Having looked at all other potential methods feasible to the applicant as well as the benefits, that a ten-foot (10') four-inch (4") variance is the most appropriate course of action

[3] Whether the requested area variance is substantial.

**Board Discussion:** The requested variance is greater than fifty percent (50%) of the required setback of twenty-five (25'), but the property is bordered by park land which lessens the potential impact thereby reduced the substantialness

**Determination:** Due to the location and lack of potential impact on any neighbors and taking into consideration the limitations on the property, the Board determined that a greater than fifty percent (50%) setback reduction is not substantial

[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

**Board Discussion:** There are no environmental conditions on or near the property to be impacted by a reduced setback and there will be no impact to the neighboring parkland.

**Determination:** Having looked at all potential impacts physically and environmentally, the Board determined allowing the twenty-four-foot (24') by twenty-four-foot (24') five-hundred-seventy-six square-foot (576 sq. ft.) to be setback at ten-feet (10') four (4") will not create any negative environmental or physical conditions.

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance. (b) The Board, when granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate to alleviate the difficulty shown by the applicant and that also will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.



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**Board Discussion:** Having conducted a site visit, the Board noted that the Applicant does not have many choices in regard to placement. The request of a two (2) car garage and addition is not an abnormal request and is allowed by right as determined by the ZEO.

**Determination:** Since the use is allowed by right, and a common request, the Board determined that the request is not self-created and that the request is the minimum necessary to achieve the as of right use

**Determination:** Having weighed all the factors in the Variances request against the laws in the Town of Hurley Code and the possible positive and potentially negative physical and environmental factors, Chair Josh Vogt motioned to approve the variance request of ten-feet-four-inches (10' 4") thereby allowing the proposed structure to have a final setback of fifteen feet eight inches (15' 8") to the side property line instead of the required twenty-five feet (25'); Member Orin Shands seconded the motion. With the motion having been made and seconded, there was a call for a vote.

The Clerk conducted the following is a Roll Call of the members present:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent
Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by a vote of Four (4) Ayes, Zero (0) Nays, Two (2) Absent, Member Liston Freeman, Member Andrew Shapiro; and Zero (0) Abstentions and the Variance request was approved without conditions at 7:15PM

1. 7:16PM-File-2024#02-DoglasTrust-SBL-55\_2-1-8-Appeal  
Appellant Address: 8 Dug Hill Rd  
Subject Property: 55\_2-1-8-1756 Hurley Mtn Rd/A4/5.9Acres  
ZEO denial: 2023-12-05; Appeal submitted: 2024-01-04  
Need: SEQRA Classification/Determination; Public Hearing

Shawn Kemp, ESQ. was present to represent the Complainant/Applicant

Michael Moriello, ESQ. was present to represent the Property Owners: Andrew Zell and Lee Winnie

**Official Actions**

Chair Josh Vogt motioned to open the public hearing; Member Kara Snyder seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent



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Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, Two (2) Absent, Member Andy Shapiro and Member Liston Freeman

The Clerk read the names of the Members of the Public signed up to speak

- Keifer Sutherland-8 Dug Hill Rd-stated according to his opinion, there uses occurring at 1756 Hurley Mtn Rd. are not agriculture. There is a constant, never-ending construction going on. He offered to buy the applicants a new property and pay to move their operation there;
- Chris Zell-237 Thomas St-Is a past Member of the ZBA, a Hurley resident for 50 years. This Use has existed for 9 years. Two different ZEOs inspected the site and found no issues. The only thing that changed is the neighbor. He could have easily seen what was happening when he bought the property;
- Barbara Zell-237 Thomas St-is a previous Town Board Member and owns property in Hurley. Her son owns the property in question. Why would someone buy a property without seeing the uses around it;
- Alan Hayes-1764 Hurley Mtn Rd. Lives closest to the property. Property Owners Winnie and Zell are great neighbors. They help him out when needed. Sometimes it is a little noisy, but it is manageable;
- Chris Winnie- 5014 Rte. 213 Olivebridge- Lee Winnie is his brother. He and Andrew went through this once already in 2014 and it was found to be legal. It benefits the Community. They employ local people; people can buy local goods. This is a farm community;
- John Matthew-120 Newkirk Rd-Kingston-supports Messrs. Winnie and Zell. They provide a local service
- Dave Douglas-12 Wamsley Place-Hurley-Support Messrs. Winnie and Zell. They run a top-notch business. There is no smoke, it is natural decomposition;
- Jernice Winnie-216 Mill Rd Olivebridge- lee Winnie is her son. They run a top-notch business and support the Community;
- Andrew Zell-575 Creekside Rd- they agree there was a very cordial meeting when Mr. Sutherland first bought the property. They did offer to buy a property at 220 Sawkill Rd. It is largely in a flood zone and is full of Native American artifacts. They are still willing to talk and try to work something out;
- Rachel Hymen-Rose262 Rte. 308 Rhinebeck-the Hudson valley is changing. Whether you put your head down in Hurley or anywhere else, if you live in a residential area, laws should be followed;
- Gerald Greeves-259 Old Rte. 209-have known both Lee Winnie and Andrew Zell his whole life they are law-abiding, decent people;
- Andy Doyle-82 Tanglewood- has watched Hurley deteriorate. Andy and Lee pay sales tax and property tax. If you call either one of them, they come right away. They are volunteer firefighters;
- Ernie Vandemark-1819- has worked for Andy for 40 hrs. a week. Here are no fires, no constant machines. They helped people during the ice storm and never charged people;
- The clerk read an email from Jeannie Benson-
- **Jeannie Benson** <[bensonjeannie@yahoo.com](mailto:bensonjeannie@yahoo.com)>

Thu, Mar 14,  
4:36 AM

Although I'm not directly, visually, impacted by the property at 1756 Hurley Mtn Rd., I am concerned about the impact this has on the nearby properties. Meaning, although I do not have to see the piles of dirt, trees, or debris, or the many vehicles on the property, the noises/activities, do affect more than the property owner at 8 Dug Hill Rd. I can clearly hear the machinery when it is in operation. Since working from home since July 2023, at times it is quite disturbing.



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Wouldn't an inspection of the property be more complete if done while Hurley Mountain Farms, LLC are in operation? Most landscaping businesses are not fully operational in November or December when the inspections were previously done. Perhaps this issue could remain open until a full inspection could be done by the Town when they've resumed work.

Jeannie Benson;

- Attorney Kemp stated that he believes that the Use can be looked at and that what they are doing is not what they represented to this Board they would be doing when they were in front of them in 2014. This is not a legitimate Agricultural use; it is an industrial use. It doesn't matter if they are good members of the community, the question remains-is this a legal use or not. Just because it started 9 years ago doesn't make it legal. There is a sensitive stream on the property and it is in the A4 zoning district which is identified in the zoning law as one of the most sensitive areas of the Town. There have been multiple attempts to work this out;
- Mike Moriello, ESQ. tried multiple times to reach out to the Appellant, but never got a response from the Appellant. He further stated that accusing people of lying doesn't go well. Most of the Appellants statements are pejorative and don't help get to civility. This Use was found to be an Agricultural Use 9 years ago by this Board. If there is a problem, the proper forum is a Court not the ZBA. He hopes the Board affirms that this is an Agricultural operation, not a mulch processing plant. He hopes the Board can put this issue to rest after 9 years of investment in the Community, the jobs that families depend on.

**Official Actions**

Chair Josh Vogt motioned to close the in-person public hearing, but leave it open for written comments for 2 weeks (March 28, 2024) at 5:00PM; Member Orin Shands seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent
Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, Two (2) Absent, Member Andy Shapiro and Member Liston Freeman

V. 7:57PM-PM-Old Business-None

VI. New Business:

VII. 7:58PM-File **2024-#04-McClure-SBL-38\_6-5-62-AV**

Property Address: 37 Brittany Drive/R1/0.28

Building permit date: 2024-01-25; ZEO denial date: 2024-01-25;

Application received;

2024-02- 29

Need: SEQRA classification; schedule public hearing



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Clinton McClure was present to represent the file

**Applicant Statement**

The Applicant is proposing to add a one-hundred-twenty-five (125) square foot addition to their existing four-hundred-ninety (490) sq ft. deck attached to their pool located in their side yard. The deck is required to be setback fifteen (15) feet, but the Applicant proposes it to be setback at ten (10) feet thereby needing a side-yard setback area variance of five (5) feet.

**Board Statements/Comments/Questions**

None

**Consultant Comments/Questions**

- ZEO Economos asked the Applicant: the closest point the deck would be is ten feet (10') from the property line, correct? Yes

**Official Actions**

Chair Josh Vogt motioned to classify the action as a Type II under SEQRA thereby requiring no further action and that an Environmental Impact Statement will not be prepared and to hold a public hearing on 2024-03-14 at 7:11PM or thereafter as the Agenda allows and directed the Clerk to post as required; Member Alex Marra seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent
Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, Two(2) Absent, Member Andy Shapiro and Liston Freeman; and 0 Abstention

VIII. 8:01PM-Decisions: None

IX. 8:05PM-Minutes

Member Alex Marra motioned to approve the 2024-02-08 minutes; Member Kara Snyder seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

Member	Vote
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent





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Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, Two(2) Absent, Member Andy Shapiro and Liston Freeman; and 0 Abstention

X. 8:10PM-Action items: None

XI. 8:11-ZTF Report-None

XII. 8:12PM-Correspondence: None

XIII. 8:13PM-Other Business:

- Attorney Matt Jankowski asked ZEO Economos if he could submit an addendum to his original summary of the complaint regarding file-2024-#02-DoglasTrust-SBL-55\_2-1-8-Appeal. Please include what he assesses the character of the Use to be;
- Oaths-Chair and Member Shands- a reminder for them to stop in the Town Clerk's Office and sign their Oaths
- ZBA Secretary-Welcome Samantha Mort. Clerk Maggie Colan will be training Samantha.

XIV. 8:17PM-Next ZBA meeting: Thursday, April 11, 2024/ Submission deadline: Thursday, March 28, 2024

XV. 8:20PM Adjourn

**Official Actions:**

Member Orin Shands motioned to adjourn the meeting; Chair Josh Vogt seconded the motion. There being no discussion and the motion having been made and seconded, the motion was thereupon called to a vote, which passed with the following record of votes:

<b>Member</b>	<b>Vote</b>
Joshua Vogt, Chairman	Aye
Alex Marra	Aye
Andrew Shapiro	Absent
Orin Shands	Aye
Kara Snyder	Aye
Liston Freeman	Absent

Motion was carried by four (4) AYES; Zero (0) Nays, Two(2) Absent, Member Andy Shapiro and Liston Freeman; and 0 Abstention

**Adjourn at 8:23PM**

Respectfully submitted,

Maggie Colan, Clerk

Dated: 2024-02-23

Approved: