

TOWN OF WALES ZONING BOARD OF APPEALS
PUBLIC HEARING MEETING MINUTES
March 18, 2026

The meeting of the Zoning Board of Appeals of the Town of Wales was held on the 18th day of March 2026 at the Wales Community Center, 12345 Big Tree Road, Wales Center, New York.

CALL TO ORDER

Chairman Edward Wilkolaski called the meeting to order at 6:00pm EST

ROLL CALL

Chairman Edward Wilkolaski – present

Board Member Mark Geitler - present

Board Member Russel Clothier – present

Board Member Kevin Ingraham – present

Board Member James Cornell - absent

OTHERS PRESENT

Applicants – David Schaub, Twinwood Forest, LLC and Daniel Schaub.

There were (2) other town residents in attendance, it is on file with the Town Clerk's office.

PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA

MOTION # __ By Board Member Mark Geitler, second by Board Member Russel Clothier, Jr., to accept the Zoning Board of Appeals Agenda. Carried ayes-4 nays-0

The agenda and documentation are on file with the Clerk and on our Town website.

ACCEPTANCE OF MINUTES OF PRIOR MEETING

MOTION # __ By Board Member Mark Geitler, second by Kevin Ingraham, to accept the Zoning Board of Appeals meeting minutes of both Workshop of February 4, 2026 and October 8, 2025 Public Hearing. Carried ayes-4 nays-0

OLD BUSINESS – none.

NEW BUSINESS

CASE#1 Applicant: David Schaub, Twinwood Forest, LLC. SBL# 216.00-1-30

The applicant at Carpenter Road, South Wales, New York would like to appeal the frontage requirements for an accessory building on vacant property, accessory use limitations and penalties for offenses: ***Wales Code Section 200-13, 200-28 B (1), 200-41 B, 200-52 and 200-74 A and B*** - Area and Use Variance.

Town Case 2026-1

CASE#2 Applicant: David Schaub, Twinwood Forest, LLC. SBL# 216.00-1-30

The applicant at Carpenter Road, South Wales, New York would like to appeal the frontage requirements for an accessory building on vacant property, accessory use limitations and penalties for offenses: ***Wales Code Section 200-13, 200-28 B (1), 200-41 B, 200-52 and 200-74 A and B*** - Area and Use Variance.

Town Case 2026-2

The applicants are requesting relief with the Use and Area Variance to allow two accessory structures for seasonal camping and hunting use without a principal dwelling and without required road frontage.

Description of Application

Chairman Wilkolaski stated that the application was originally submitted as a Use Variance and subsequent correspondence referenced an Area Variance. After review and consultation with the Town Attorney, the Board determined that the request is properly characterized as a combination of Use and Area variance based on violations cited by the Code Enforcement Officer.

Amended Variance application

The Applicant was requested to amend the application form to check both Use and Area variance boxes, and to initial and date the master copy on file with the Town Clerk. Applicant, David Schaub so acknowledged and initialed document which is on file with the Clerk's office.

Brief synopsis

Chairman Wilkolaski acknowledged that himself, Kevin Ingraham and Russ Clothier Jr. were up to speed due to attending the Workshop meeting. Mark Geitler needed to be updated by the applicants. He asked the applicants to give a brief synopsis of the events to get everyone up to date.

The Applicants stated they purchased approximately 25 acres and he purchased two Amish built sheds on the property, one small shed containing a septic-connected bathroom/bathhouse and the other is a 12'x26' shed with

two beds. He stated he insulated it and put plywood walls in there, it's a glorified hunting shed. There is electricity but no kitchen. He stated that they will also use ATV's on the property. Applicants stated that before purchasing this land we did our research and we asked many people questions about this beforehand. He did state he tried to be transparent.

The Applicants further stated that:

- The shed with sanitary facilities is constructed on concrete piers with rebar, extending approximately 4 feet below grade, with skirting around the perimeter.
- The primary support posts are bolted to the piers.
- As a licensed home inspector, the Applicants believed the support system is equivalent in substance to a crawl-space foundation used in many additions, and that the structure is stable and not temporary.

Applicants stated that before purchasing this land we did our research and we asked many people questions about this beforehand. He stated he talked to real estate attorneys and even the guy who wrote the codes and even some people who work for the Town, but he didn't want to name names. He thought everything they did would be ok, or they wouldn't have done it. We were told Dan is relatively new at his job and is still learning as we go. He has his hands full, things of that nature. The Applicants stated that Dan kept saying refer to the code. When Dan showed up, he stated he was going to deny it anyway, it has nothing to do with him personally but he was just enforcing the code, as stated by the Applicants. Chairman Wilkolaski asked if he was for or against any of the variances? The applicant said he has nothing new, he stated that he doesn't know code and the very little that he does know he read about it. The Chairman stated that he would be happy to go through and reiterate the ones that were cited. He summarized the Code Enforcement Officer's denial and cited violations, as included in the record:

- 1.) Habitable dwelling construction requirements: A habitable dwelling must be constructed on a continuous, fully enclosed foundation extending below the frost line in accordance with the New York State Fire Prevention and Building Code and designed to be insect and vermin protective. The current structures do not meet the Town's definition of a dwelling nor the required foundation standard.
- 2.) Accessory buildings as dwelling: Accessory buildings shall not be used or occupied as dwellings; no accessory buildings shall be erected before the main building has been started, and under no circumstances may an accessory building be used for living quarters. This is intended to prevent long-term occupancy of garages, barns, or sheds in lieu of required primary dwellings.
- 3.) Use of accessory buildings without principal structure: In any district, no private garage or other accessory building shall be erected prior to commencement of the principal building on the lot. The two sheds were installed without a principal dwelling underway.
- 4.) Frontage requirement: No dwelling shall be erected on any lot which does not have immediate frontage on an existing or platted street or highway or an approved right-of-way, in accordance with Schedule of Area and Bulk Requirements for all districts. The subject parcel lacks qualifying frontage under current Town standards.
- 5.) General penalty provisions: The violation notice referenced the standard penalty clause (fine up to \$250 and/or imprisonment not to exceed 15 days, or both), which is not directly before the Board for variance but included for clarity of the enforcement statute.

The Chairman noted that, after review, items 1-4 represent the substantive zoning provisions for which Variances are being sought, and item 5 is the generic enforcement remedy language.

The Applicants thanked the Chairmen for explaining. He stated he didn't know. The Chairman stated he was advised. The Applicant then stated thank you for the reminder. The Applicant stated that they did go 4 feet deep with pillars and is enclosed. The Chairman stated that a habitable dwelling must be constructed on a continuous full enclosed foundation extending below the frost line. The concrete piers wouldn't count. It must be a legitimate foundation. The Applicant said as he was reading the code he wanted to emphasize that there is no kitchen in either of the accessory buildings. The Applicant believes it's a legit foundation and it is not going anywhere. He stated he doesn't know the code in this Town, and he wouldn't pretend to know it.

Property Address

The Chairman stated that the Applicants don't have an official address. Applicants stated that they purchased it from a realtor that provided them with a number. They acknowledged that the property currently does not have a formal postal address in the Town's system and is identified primarily by its SBL number, although prior to sale and online records from real estate site has the address as 11665. The Chairman stated that Erie County has no known address for the lot.

Electric

The Chairman also asked about the electric. He asked where does the bill get sent to? Daniel Schaub stated that it goes to my house in Marilla, just down the road. David Schaub stated that there was a shed there that had a smart meter. There is another building there that is 16' x 22' looks like it's been there since the 1800's.

Easement

Board Member Geitler asked if the Applicants have a right-of-way into the property? The Applicant stated that they have an easement. Board Member Geitler asked which one of the neighbors do you have an easement with? The Applicants stated that if you are facing it, it is to the left. He stated that the easement was from he thinks from 1991.

Septic and Well

The Chairman asked how the applicants went about getting the septic and the well. He did emphasize that they were not going to get into if that is legal or illegal. He stated that can certainly factor into the decision on the sheds. He asked Applicants if they had to get permitting? The Applicant stated yeah and he has the paperwork but didn't bring it with him. The Board has information from Erie County Health Department. The Applicants stated they were legal according to Meyer Septic and they were good to go. The Chairman asked the Clerk what information she obtained from Erie County Health Department. She stated that a Certificate of Completed Works Approval was not granted, a Certificate of Completion essentially. There will not be one granted by Erie County Health Department because there is no address. The Applicant stated he never knew. The Chairman stated he was surprised that they would have allowed that to happen before having an address. The Clerk stated that it was the Engineer, Jennifer Delaney that was in touch with our office on this. Board Member Clothier stated that the County doesn't know if there is a house there or ten houses there, they just go by your engineers' submitted drawings. Chairman stated that I would assume they would check if there were a house number before granting a permit. The exit criteria is an address, you would think the entrance criteria would be an address too. Board Member Ingraham said while we are on this subject of septic, it looks like a sizeable one, like a 1,500 gallon tank dual chamber. When you were getting the septic built, how do they size that? The Applicant stated the minimum, or he stated I wanted the cheaper option but then they said for around \$500 more he could get the next biggest. Board Member Clothier stated that in Erie County you can't put anything in that is less than 1,500. Chairman asked if they have a leach field? Applicant stated they do have a leach field. Applicant stated that it is a \$23,000 septic system. He stated that the septic did go in first, then the well. Then we had the sheds dropped off and they fixed them up.

Cease and Desist Orders

Board Member Ingraham asked about the cease and desist orders, there were two that were sent out by the Town. The Board Member stated that they have two copies of the stickers from the USPS with the letter that was contained in each mailing. The Chairman asked the Applicant if they received the cease and desist after everything was done, correct? The Applicants stated they started everything within a month of closing, everything was built or being built within a month. Most of it was done by the first month of ownership. The Chairman asked if they closed on the property in August? The Applicant believes it was in September. The Applicant stated he had to get the permit test while previous owner owned it, he stated of course he got permission to do that from the previous owner. We tried to do as much research as possible. Many people told him he would maybe have to wait to get the septic installed, like a waiting list. So as soon as he put in a offer he got permission from the realtor to start the process in July. They wanted it done before winter. They stated that when the Building Inspector/CEO Dan Whitehead came, it was like 90% done.

Information obtained prior to purchasing the property

Board Member Geitler asked about the phone call and email from July 8, 2025, prior to the Applicants purchasing the property. Board Member Geitler stated he has the e-mail correspondence from Dan Whitehead stating in that email answers to questions the Applicant asked. There were eight questions that were asked in the email by the Applicants and eight answers to those questions by the Building Inspector/CEO Dan Whitehead. Some that was asked was like am I allowed to put in a driveway with that easement access, where Dan responded that building anything across an easement is not allowed. In the correspondence the Applicants asked what am I technically allowed to build on the property based on current zoning, Dan informed you that according to current zoning requirements, you cannot build on the property. Other questions referred to Short Term rentals, solar projects, tree removal and taxes. The correspondence with Dan Whitehead happened prior to the Applicants purchasing the property. Board Member Geitler stated it was very clear that Dan communicated you couldn't build anything or have sheds there. The Applicant stated yeah. I was asking many questions at the time off the top of my head, we wanted to put an offer in at the time. The Applicant stated he

talked to many people after he received that email, he didn't want to name names and even real estate attorneys. He stated we talked to the guy who built the code, he is still around. We were under the impression that this would be ok, otherwise we wouldn't have done this. We were told that Dan is relatively new at his job and is still learning and has his hands full and things of that nature. The Applicants stated that everytime they talked to Dan he stated please refer to the zoning code, then when Dan showed up we wanted to walk him through everything we were doing. He said I have to deny this anyway, it has nothing to do with me, it is the code. He refused to look at everything because he stated I'm going to have to deny it anyway due to the zoning codes. The Chairman asked why did Dan come out? The applicants stated we wanted him to come out for more clarification. They said Dan kept stating I have to deny this due to the codes. The Applicants stated they would have loved to know why Dan came out to their property. The Chairman stated that I believe the Applicants stated previously that they invited Dan to come out. The Applicants said Oh yeah, we aren't trying to hide anything, we wanted to know if this is ok, also we wanted to show him the piers. They were already built, we wanted to show him it. We wanted to say hey before we close this or something we wanted him to see it as much as possible, because once you close it you can't really see it anymore. It just kind of made sense to us. Applicant stated he needed to get the electric inspected by an electrical inspector. The Applicants asked Dan is there anything you want us to do when he visits the property. The Chairman asked the Clerk if she remembers any correspondence or reason that Dan would have visited that property. The Clerk stated yes, it is common practice for the Building Inspector/Code Enforcement Officer to visit a property shortly after a change in ownership has occurred, that is part of his job. The Clerk stated that Dan's Clerk has a list for him. The Applicant stated that was interesting, so whenever a property gets purchased he goes and checks it out? The Clerk replied that it's not only new purchases, but new builds, additions etc, essentially, he had to look at all the processes, it's his job. The Applicant stated that he didn't know why he invited Dan and he didn't want to lie, he didn't remember, but they wanted him to come. Board Member Geitler stated that usually with construction they(meaning Building Inspectors/CEO) have to come out. The Applicants neighbor helped them pour the piers four feet into the ground.

The Board discussed the distinction between Use and Area Variances and how the present request involves elements of both:

- Use Variance component: Using accessory-type sheds for seasonal occupancy on a lot without a principal dwelling appears to differ from the uses permitted as-of-right in the district.
- Area Variance component: The lack of required road frontage and the prohibition on accessory structures prior to a principal structure are dimensional/lot configuration issues that are treated as area relief.

Board members noted that the Town Attorney had reviewed and concurred that the matter should be treated as both a Use and Area Variance. The Board Members also discussed:

- Whether the existing concrete piers and skirting constitutes a "continuous fully enclosed foundation" as required by code; the consensus was that they likely do not meet the strict definition, even if structurally adequate.
- The long-standing policy basis for prohibiting occupancy of accessory buildings without an associated principal dwelling, including concern about de facto residential use in barns or garages.
- The lack of official address assignments by the Town because the lot does not meet frontage requirements; the Board acknowledged that address assignment is within the authority of the Building Inspector/Code Enforcement Officer of the Town of Wales. Board Member Geitler stated that it truly is the cart before the horse, without a legal address assignment nothing can happen. We technically don't have an address to tie the Variance to. The Board members concurred that was a very good point. Board Member Ingraham stated that on the official form that the Board has to fill out, it states first an address and then a SBL after, we don't even have an address here. Board Member Geitler stated we need a clear address number for this process.
- The Chairman stated that our Town Attorney has been intimately involved, she is Cc'd on all correspondence. He stated that the Attorney and him talked in length about this case about the Use and Area specifically. The Attorney stated what was a Use and what was an Area Variance. This has her blessing on it.

Applicant's Rationale

The Applicant stated that the reason they did things out of order was that at any day now his wife is going to be giving birth to their third kid. So he didn't have the luxury of waiting until after the winter, it was either do it now or don't do it at all and he couldn't stick it on his brother to do it, he has four kids. They decided to do it. I

knew with three in diapers, it would get. The Applicants asked the Board does it take long to get an address? Board Member Geitler stated it took him quite a while to obtain one. The Clerk stated according to Dawn, our Town Assessor, it is in our code that it is the Building Inspector/Code Enforcement Officer in the Town of Wales who assigns the address numbers. Board Member Ingraham asked what does Dan do first, go to the County? She stated that it has to fit the criteria, that's the reason why he could not issue one to the Applicant's. The Clerk stated it is in the correspondence section of the Boards folder that the Applicant's wanted an address so they could get WiFi or something out on their property. Dan could not give the Applicants an address as requested by the Applicants because there was no frontage and it didn't meet our codes in the Town. The Applicants asked if the Board could vote on a condition if they get an address? It was agreed that was not a task for the Board. The Chairman and Board Member Ingraham explained to the Applicants an example of a condition that were done in the past such as you can build a shed but you have to move it three feet to the left, examples like that.

Public comments

The Chairman asked for anymore comments to the two residents that were at the Public Hearing. The one resident was there due to him wanting a shed in the future. The Chairman stated that these proceedings are not for a typical shed. The resident stated that he knew Wally was cool but heard Dan was a little more strict and wanted to see how this goes. He wanted to actually talk to Dan directly. The Clerk stated she would give him Dan's contact information.

Identifying the codes

The original application was for a request of "2 sheds", traditionally, this in and of itself would be an Area Variance, but given that the permit was denied under several code violations, see the following:

200-13 Habitable dwellings must be constructed on a continuous fully enclosed foundation extending below the front line. It's an **Area Variance** because:

- A requirement about how a structure must be built(continuous enclosed foundation below the frost line) is usually part of the building code or sometimes the zoning dimensional standards for structures.

200-28 B (1) No accessory building shall be occupied as a dwelling. It's an **Use Variance** because:

- This rule controls what activities (Use) are allowed in a building, not a dimensional or physical feature.

200-41 B In any R, A, or B District, no private garage or other accessory building shall be erected before the main building has been started, and under no condition shall an accessory building be used for living quarters unless attached to a dwelling. **Use Variance** because:

- Using an accessory building as living quarters unless attached, is a use restriction, it limits the allowed use of the accessory building. Converting or using an accessory building for living quarters in this context violates the zoning's use regulations.

200-52 No dwelling shall be erected on any lot which does not have immediate frontage on an existing or platted street or highway or right of way in accordance with the Schedule of Area, Lot and Bulk Requirements for all districts. An **Area Variance** because:

- Frontage is a dimensional/site requirement, not a use restriction. The rule that a dwelling must have immediate frontage on an existing or platted street, etc in accordance with the Schedule of Area, Lot and Bulk Requirements controls lot configuration and access (a physical/dimensional requirement).

The Chairman asked Applicants if they have any closing remarks? The Applicants stated that they are just trying to use it for seasonal use, just trying to camp.

The Chairman explained Use Variances are typically harder to obtain then an Area Variance which typically is about lot/sizing requirements. We chose to start with the Use Variance, there is four questions that are asked, you don't have to pass or fail all of them, it could be all pass, all fail and still discretionary Yea or Nea overall.

Case #1 Use Variance – 200.28 B (1) and 200.41 B

Test: No use variance will be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The following tests must be met for each and every use allowed by zoning on the property, including uses allowed by special use permit. (the burden is on the applicant to show hardship under the listed tests for each permitted use before a use variance can be approved).

- 1.) The Applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial:

ZBA Chairman Edward Wilkowlaski – No

ZBA Board Member Mark Geitler – No

ZBA Board Member Russell Clothier, Jr. – No

ZBA Board Member Kevin Ingraham – No

ZBA Board Member James Cornell – absent

Proof: The Applicant will simply not be able to use the new, unpermitted sheds. Modifications of the existing shed could be an option. This property still has value for other approved uses and could be sold. The property can be used reasonably as is. Any financial issues are self made.

2.) The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood):

ZBA Chairman Edward Wilkowlaski – No

ZBA Board Member Mark Geitler – No

ZBA Board Member Russell Clothier, Jr. – No

ZBA Board Member Kevin Ingraham – No

ZBA Board Member James Cornell – absent

Proof: The Applicants were given previous acknowledgement that a permit was required for building on property. This property is under the same regulations as the other properties in the same zone. No main building, being used as living quarters.

3.) The requested use variance, if granted, will not alter the essential character of the neighborhood:

ZBA Chairman Edward Wilkowlaski – Yes

ZBA Board Member Mark Geitler – Yes

ZBA Board Member Russell Clothier, Jr. – Yes

ZBA Board Member Kevin Ingraham – No

ZBA Board Member James Cornell – absent

Proof: No immediate neighbors have opposed to the building of the sheds. This variance would allow for habitable structure to exist, in a manner not like the rest of the neighborhood. Area has multiple recreational type residents (Vermont Hill Club) also has existing buildings.

4.) The alleged hardship has been self-created:

ZBA Chairman Edward Wilkowlaski – Yes

ZBA Board Member Mark Geitler – Yes

ZBA Board Member Russell Clothier, Jr. – Yes

ZBA Board Member Kevin Ingraham – Yes

ZBA Board Member James Cornell – absent

Proof: The applicant was made aware of issue well in advance of even purchasing the property. This land is not suitable for the use as stated in the code. All variances are self created.

Determination of ZBA based on the above factors:

The ZBA, after reviewing the above four proofs, find that the applicant has failed to prove unnecessary hardship through the application of the four tests required by the state statutes.

The Vote on the Motion:

Chairman Edward Wilkowlaski – Nay

ZBA Board Member Russel Clothier, Jr. - Nay

ZBA Board Member Mark Geitler - Nay

ZBA Board Member Kevin Ingraham – Nay

ZBA Board Member James Cornell – absent.

The motion to grant the Use Variance is denied for Case#1-2026.

Case #2 Use Variance – 200.28 B (1) and 200.41 B

Test: No use variance will be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The following tests must be met for each and every use allowed by zoning on the property, including uses allowed by special use permit. (the burden is on the applicant to show hardship under the listed tests for each permitted use before a use variance can be approved).

1.) The Applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial:

ZBA Chairman Edward Wilkowlaski – No

ZBA Board Member Mark Geitler – No

ZBA Board Member Russell Clothier, Jr. – No

ZBA Board Member Kevin Ingraham – No

ZBA Board Member James Cornell – absent

Proof: The Applicant will simply not be able to use the new, unpermitted sheds. Modifications of the existing shed could be an option. This property still has value for other approved uses and could be sold. The property can be used reasonably as is. Any financial issues are self made.

2.) The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood):

ZBA Chairman Edward Wilkowlaski – No

ZBA Board Member Mark Geitler – No

ZBA Board Member Russell Clothier, Jr. – No

ZBA Board Member Kevin Ingraham – No

ZBA Board Member James Cornell – absent

Proof: The Applicants were given previous acknowledgement that a permit was required for building on property. This property is under the same regulations as the other properties in the same zone. No main building, being used as living quarters.

3.) The requested use variance, if granted, will not alter the essential character of the neighborhood:

ZBA Chairman Edward Wilkowlaski – Yes

ZBA Board Member Mark Geitler – Yes

ZBA Board Member Russell Clothier, Jr. – Yes

ZBA Board Member Kevin Ingraham – No

ZBA Board Member James Cornell – absent

Proof: No immediate neighbors have opposed to the building of the sheds. This variance would all for habitable structure to exist, in a manner not like the rest of the neighborhood. Area has multiple recreational type residents (Vermont Hill Club) also has existing buildings.

4.) The alleged hardship has been self-created:

ZBA Chairman Edward Wilkowlaski – Yes

ZBA Board Member Mark Geitler – Yes

ZBA Board Member Russell Clothier, Jr. – Yes

ZBA Board Member Kevin Ingraham – Yes

ZBA Board Member James Cornell – absent

Proof: The applicant was made aware of issue well in advance of even purchasing the property. This land is not suitable for the use as stated in the code. All variances are self created.

Determination of ZBA based on the above factors:

The ZBA, after reviewing the above four proofs, find that the applicant has failed to prove unnecessary hardship through the application of the four tests required by the state statutes.

The Vote on the Motion:

Chairman Edward Wilkolaski – Nay

ZBA Board Member Russel Clothier, Jr. - Nay

ZBA Board Member Mark Geitler - Nay

ZBA Board Member Kevin Ingraham – Nay

ZBA Board Member James Cornell – absent.

The motion to grant the Use Variance is denied for Case#2-2026.

Comments

The Applicant stated that from his understanding that the Vermont Hill Club is seasonal, you can't live there all year round. Board Member Clothier stated that it has evolved through the years and people do. The Applicant asked if it was legally evolved or just evolved. I believe before there were zoning codes and building inspections. The Applicant stressed that he just wants to camp there. Board Member Clothier stated we have to look at it as if you may want to sell it next and those buildings are there now and then the next person decides to live there. The Applicant stated they couldn't legally, it's not permanent, it's a class 260 you can't live there. Even if you lived in a tent there, I don't think it's legal, last time I checked. You can't live in a hunting shed, that's homelessness. We couldn't sell the land in the next five years, we put way more in. We bought it at a higher price then what it's probably worth number one, number two, we put about Eighty grand into it. If we

sell that land right now we aren't even going to get close to two hundred, some thousand we put into it. Board Member Clothier stated yes, but that is self-created. The Applicant stated for sure, but I'm just trying to prove we have no interest of selling it. This is more of a generational thing. It would be cool to see people passing from generation to generation around here, that's how a lot of our friends have gotten land to build houses. I wish I had parents to do that so this is closes we could get to camping. Board Member Clothier did state that the AirBnB did pop up at the last meeting. The Applicant said what do you mean? Board Member Clothier stated you did mention an AirBnB aspect of it at the last meeting. The Applicant said the question was asked if you are AirBnBing it, he stated that he said they have no intentions of doing that right now, where we will be ten years down the road, I don't know. I don't want to lie to you and say down the road we won't do it. I just want to camp now with my family. I can't run a business out there right now. Daniel Schaub stated he doesn't even want anyone on his property, they will probably destroy it. The Chairman stated that the final question and Russ alluded to it, that the alleged hardship has been self-created, he stated not all but most variances are. Yes, the Applicants was made aware well in advance of purchasing the property and it was the Applicants who chose to put amenities, sheds on it. Board Member Geitler stated this all could have been avoided if the codes were fully understood.

Case #1 Area Variance – 200-13 and 200-52

Test: No area variance will be granted without a consideration by the board of the following factors:

The Chairman reads the following:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties:
 ZBA Chairman Edward Wilkowlaski – No
 ZBA Board Member Mark Geitler – No
 ZBA Board Member Russell Clothier, Jr. – No
 ZBA Board Member Kevin Ingraham – No
 ZBA Board Member James Cornell – absent
 Reasoning: 200-13, no and 200-52, no. There are other properties with similar sized structures. No complaint or objection from neighbors.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:
 ZBA Chairman Edward Wilkowlaski – Yes
 ZBA Board Member Mark Geitler – No
 ZBA Board Member Russell Clothier, Jr. – Yes
 ZBA Board Member Kevin Ingraham – Yes
 ZBA Board Member James Cornell – absent
 Reasoning: Modification to existing sheds is feasible. These structures could be brought up to code with modifications. Make repairs to existing structures.
3. Whether the requested variance is substantial:
 ZBA Chairman Edward Wilkowlaski – No
 ZBA Board Member Mark Geitler – Yes
 ZBA Board Member Russell Clothier, Jr. – Yes
 ZBA Board Member Kevin Ingraham – Yes
 ZBA Board Member James Cornell – absent
 Reasoning: 200-13, no and 200-52, no. In the context of an inhabitable shed, small concerns. Not as a storage shed but as a dwelling it would. All variances are substantial.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
 ZBA Chairman Edward Wilkowlaski – No
 ZBA Board Member Mark Geitler – No
 ZBA Board Member Russell Clothier, Jr. – No
 ZBA Board Member Kevin Ingraham – No
 ZBA Board Member James Cornell – absent
 Reasoning: Little to no impact on neighbors. Not as storage shed, but as a dwelling it could. Use does not vary from rest of area.

5. Whether the alleged difficulty was self-created:

ZBA Chairman Edward Wilkowlaski – Yes

ZBA Board Member Mark Geitler – Yes

ZBA Board Member Russell Clothier, Jr. – Yes

ZBA Board Member Kevin Ingraham – Yes

ZBA Board Member James Cornell – absent

Reasoning: Always the case. This could have been avoided by getting a permit. All variances are substantial and self created.

Determination of ZBA based on the above factors:

The ZBA, after taking into consideration the above five factors, finds that the Benefit to the Applicant does not outweigh the Detriment to the neighborhood or community and therefore the variance request is denied.

Reasons: This could have been avoided by getting a permit.

Chairman Wilkolaski – voted Aye, the benefit to the applicant does outweigh the detriment to the neighborhood or Community. Reason: I do not see any specific issues or concerns with these area variances.

The Vote on the Motion:

Chairman Edward Wilkolaski – Aye

ZBA Board Member Russel Clothier, Jr. - Nay

ZBA Board Member Mark Geitler - Nay

ZBA Board Member Kevin Ingraham – Nay

ZBA Board Member James Cornell – absent.

The motion to grant the Area variance is denied for Case #1-2026.

Case #2 Area Variance – 200-13 and 200-52

Test: No area variance will be granted without a consideration by the board of the following factors:

The Chairman reads the following:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties:

ZBA Chairman Edward Wilkowlaski – No

ZBA Board Member Mark Geitler – No

ZBA Board Member Russell Clothier, Jr. – No

ZBA Board Member Kevin Ingraham – No

ZBA Board Member James Cornell – absent

Reasoning: 200-13, no and 200-52, no. There are other properties with similar sized structures. No complaint or objection from neighbors.

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

ZBA Chairman Edward Wilkowlaski – Yes

ZBA Board Member Mark Geitler – Yes

ZBA Board Member Russell Clothier, Jr. – Yes

ZBA Board Member Kevin Ingraham – Yes

ZBA Board Member James Cornell – absent

Reasoning: Modification to existing sheds is feasible. These structures could be brought up to code with modifications. Make repairs to existing structures.

3. Whether the requested variance is substantial:

ZBA Chairman Edward Wilkowlaski – No

ZBA Board Member Mark Geitler – Yes

ZBA Board Member Russell Clothier, Jr. – Yes

ZBA Board Member Kevin Ingraham – Yes

ZBA Board Member James Cornell – absent

Reasoning: 200-13, no and 200-52, no. In the context of an inhabitable shed, small concerns. Not as a storage shed but as a dwelling it would. All variances are substantial.

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
ZBA Chairman Edward Wilkowlaski – No
ZBA Board Member Mark Geitler – No
ZBA Board Member Russell Clothier, Jr. – No
ZBA Board Member Kevin Ingraham – No
ZBA Board Member James Cornell – absent
Reasoning: Little to no impact on neighbors. Not as storage shed, but as a dwelling it could. Use does not vary from rest of area.
5. Whether the alleged difficulty was self-created:
ZBA Chairman Edward Wilkowlaski – Yes
ZBA Board Member Mark Geitler – Yes
ZBA Board Member James Cornell – Yes
ZBA Board Member Russell Clothier, Jr. – Yes
ZBA Board Member Kevin Ingraham – Yes
ZBA Board Member James Cornell – absent
Reasoning: Always the case. This could have been avoided by getting a permit. All variances are substantial and self created.

Determination of ZBA based on the above factors:

The ZBA, after taking into consideration the above five factors, finds that the Benefit to the Applicant does not outweigh the Detriment to the neighborhood or community and therefore the variance request is denied.

Reasons: This could have been avoided by getting a permit.

Chairman Wilkolaski – voted Aye, the benefit to the applicant does outweigh the detriment to the neighborhood or Community. Reason: I do not see any specific issues or concerns with these area variances.

The Vote on the Motion:

Chairman Edward Wilkolaski – Aye

ZBA Board Member Russel Clothier, Jr. - Nay

ZBA Board Member Mark Geitler - Nay

ZBA Board Member Kevin Ingraham – Nay

ZBA Board Member James Cornell – absent.

The motion to grant the Area variance is denied for Case #2-2026.

Comments

The Chairman stated I had a struggle because I have no problem with the sheds being on the property but it's the habitable portion I struggled with. Board Member Clothier stated I struggle with, what's to stop anyone from doing something and then saying it's here what are you going to do about it now. It's also for people going forward and they just build anything and do anything and having the Town to call their bluff. Board Member Geitler stated that he agreed with Russ that this is the cart before the horse. He heard in the past people putting an accessory building up, started sleeping in it at night and they died of carbon monoxide poisoning and that's the basis for the codes and to prevent stuff like that. Board Member Geitler stated the Town has no obligation to approve a noncompliant project, those are business decisions and not a matter that overrides zoning or procedural requirements. Board Member Clothier stated that the Board can't set that type of president going against the codes, zoning and the building permit process. The Applicant asked what exactly is against code so it's clear in my head? Board Member Clothier stated first you build the buildings without permits, you need a permit to put in a shed. Board Member Ingraham stated if you would have applied for a permit the first thing would have been stated is you couldn't build these because you don't have frontage, that is probably where they would have started or even the physical address would have been an issue. Then the next thing would have been we want to build this and we want to sleep in it, then they would have walked you through the process, so you don't end up in this situation where now you have the code violations, accessory building before the main structure, not enough frontage. That's the stuff the Building Inspector would go through with you.

Board Suggestions

Talk to the Building Inspector/Code Enforcement Officer. The Applicant stated that would be a problem because he doesn't work with us. He keeps telling us to go to the website. We have talked to everyone, including the guy who wrote the code. My next question is are we officially denied for all of this? The Chairman stated correct. Applicant asked what's the next step now? Board Member Clothier stated that's why we are having

this conversation to try to help you. Applicant asked what are the legalities now? The Board came to a consensus that the next step is to talk to Dan Whitehead, the Building Inspector/Code Enforcement Officer. **ADJOURNMENT MOTION#__** by Board Member Mark Geitler and seconded by Board Member Russel Clothier, Jr. to adjourn the meeting at 8:36 pm. Carried ayes-4 nays-0

Respectfully submitted, Michelle Homac, Zoning Board of Appeals Clerk

DRAFT