

**ZONING BOARD OF APPEALS  
Town of North Greenbush  
2 Douglas Street  
Wynantskill, NY 12198  
Meeting Minutes  
March 13, 2019**

**Attendance: John Dalmata, Richard French (Chairman), Leanne Hanlon (Secretary), Michael Miner (Building Department), Robert Ewing, Tony Crusetti, Louise Germinerio-absent, Al Kolakowski (Legal Counsel).**

Chairman French opened the meeting with the Pledge of Allegiance and roll call. Chairman French also explained the special permit rules.

**Old Business:**

**Application 19-02, for the use variance request/special permit request of Thomas Dingley, 190 Pershing Avenue, Wynantskill, NY 12198, for the purpose of allowing a care giver/care receiver dwelling unit, at the property located 190 Pershing Avenue, Wynantskill, NY 12198, in an R1 district, having parcel ID#: 135.10-2-16.**

Mr. Dingley was before the board last month. Mr. Miner stated the legal notice was changed to use variance/special permit request. Mr. Dingley spoke to the attorney with the town of Brunswick and he asked him to review the zoning laws and per the attorney it should not be a use variance or special permit and just an area variance. He said this lawyer stated this. Chairman French stated he strongly disagrees with that. The law states free standing buildings cannot be used as an in-law apartment per Chairman French.

This is a separate unit from the home per Mr. Dingley. Mr. Dingley asked if he did not have the equal right for this in his neighborhood? Chairman French stated there could be something pre-existing pre-conforming in that area before the law changed. He stated he is bordered by apartments. Chairman French stated if he feels he is unjustly not being able to do this because there are apartments surrounding him he can pursue this. He is not asking for permission to rent this out at all. He stated the apartment over the garage will always be in the family and not rented out. He is asking what other legal steps he has other than going before town board to argue zoning. Chairman French asked Mr. Miner if there is something he can do for Mr. Dingley. Mr. Miner stated that in order for it to be considered it has to meet conditions. One is it has to be located within the primary residence and this is not. Mr. Miner said the option is still a use variance. He would be asking for two dwelling units on one lot. He would then have to meet all the criteria for a use variance which is difficult per Chairman French and explained all the requirements to Mr. Dingley for a use variance. Because it is a separate building it is more difficult per Chairman French. Mr. Dingley asked how difficult it would be to get his property rezoned? Chairman French explained it is R1.

**Zoning Board  
Meeting Minutes  
March 13, 2019  
Page 2**

Mr. Miner stated a special permit would work better but not easy. It has to be direct access between living spaces. Mr. Miner stated if his attorney has questions he can call Mr. Kolakowski. Mr. Miner gave him the list of requirements for a use variance. Public Hearing is still opened.

Motion made to table to allow the applicant to try to get more information and more help or to reconfigure by Mr. Dalmata and seconded by Mr. Crusetti. All in favor.

**New Business:**

**Application 19-03, for the area variance of Elizabeth A. Kempter, 28 Buckbee Road, Troy, NY 12180, for relief from relief from setback requirements of 20 ft. for the purpose of installing an in-ground swimming pool 18 ft. from the left side property line at the property located at 28 Buckbee Road, Troy, NY 12180, in an R1 district, having parcel ID#: 123.18-4-3.**

Mrs. Kempter spoke about her application. She noted it is an above ground pool NOT in-ground. She is two feet short of the variance. It is not near the leech field. It is a 20 foot pool they would like to install. Chairman French asked where the pump flush would go and she stated it will go on the other side and not the 18 foot variance side.

Public Hearing opened:

No one wishing to speak.

Motion made to close public hearing by Mr. Ewing and seconded by Mr. Crusetti.

No written comments per Mr. Miner.

County per Mr. Miner: No comment, local consideration shall prevail.

Undesirable change character of neighborhood: No

Benefits sought by applicants are pursued other than area variance: No

Substantial: No

Adverse effect on physical and environmental conditions: No

Self created: Yes but does not preclude

Single family home – Type II SEQRA

Conditions: Flush water go to the rear of the property and not the side.

Motion made to approve with above condition by Mr. Ewing and seconded by Mr. Crusetti.

Roll call vote: Dalmata, Crusetti, French, Ewing. All in favor.

**Zoning Board  
Meeting Minutes  
March 13, 2019  
Page 3**

**Application 19-04, for the special permit request of Kevin Cutler, 185 Lape Road, Rensselaer, NY 12144, for a home occupation, at the property located at 185 Lape Road, Rensselaer, NY 12144, in an AR district, having parcel ID#: 134.2-34.26.**

Mr. Miner stated he spoke to the applicant and looked at the code and is consistent with the law. Mr. Cutler spoke about his application. He is a chiropractor and sold his practice in Troy for health reasons and would like to see a small number of patients in his own office. Applicant presented a letter. Hours 2pm-6pm, Monday/Wed/Friday per Mr. Cutler. Chairman French asked if the home requires modification and Mr. Cutler stated no. Off street parking: He has a long wide driveway and will only have 1 person at a time anyway. His driveway will hold six cars and per Mr. Miner there is adequate room for people to turn around to get out.

Public Hearing Opened:

No one wishing to speak

Andrew Mair's written comments were read into the record.

Motion made to close public hearing by Mr. Crusetti and seconded by Mr. Dalmata.

Mr. Miner: County, local consideration shall prevail.

Mr. Miner read the home occupation details and feels it falls into the professional type service and feels it falls into the home occupation and complies with all rules per Mr. Miner. There is a 1x2 sign.

Conditions: Limited to Mon/Wed/Fri only hours 2:00pm-6:00pm. No on street parking. If applicant modifies hours of operation he would have to come back in. 2 square foot sign.

All SEQRA questions were asked and answered by the board. Mr. Miner stated he reviewed and feels it is a neg dec.

Motion made for a neg dec by Mr. Crusetti and seconded by Mr. Ewing.

Roll call vote: Dalmata, Ewing, French, Crusetti

Motion made to approve with above conditions by Mr. Crusetti and seconded by Mr. Dalmata.

Roll call vote: Dalmata, Ewing, French, Crusetti. All in favor.

Motion made to approve February minutes by Mr. Dalmata and seconded by Mr. Crusetti.

Motion made to adjourn at 7:12pm by Mr. Ewing and seconded by Mr. Crusetti