

**TOWN OF MACEDON  
ZONING BOARD OF APPEALS  
February 22, 2023**

The Town of Macedon Zoning Board of Appeals meeting was held on Wednesday, February 22, 2023, at the Town Hall. Present were Interim Chairman Mike Mosher, members Deborah McEwen, Brian Frey, John Jenkins, Ron Santovito, Town Engineer Scott Allen and Board Clerk Stacy Nisbet.

Interim Chairman Mosher called the meeting to order at 7:30pm.

**Board Discussion:**

**Z-04-22 – Druta – 17 Erie Street South** – Area Variance – Section 301 -Attachment 4 – side yard setback less than 10’

The questions sent to the Town Attorney were:

1. Can an area variance be for a limited period of time? I.E. can a side setback variance for an accessory structure have a sunset provision, such as this variance is valid for 3 years from the original date of approval.
2. Can an area variance have a seasonal limitation? I.E. your side yard setback variance for an accessory building is good from November until April seasonally, and the building would have to be removed other times.

The response back was that Courts have indeed approved both conditions. But the Zoning Board cannot just automatically make a decision based on that. They still must consider the five factors:

- 1) Would there be an undesirable change in the character of the neighborhood
- 2) Whether the benefit sought could be achieved by another method
- 3) Whether the requested variance is substantial
- 4) Whether the proposed variance would have an adverse impact on the physical or environmental conditions in the neighborhood
- 5) Whether the difficulty is self-created

The Board again discussed why the applicant was requesting the variance and the objections to it.

A motion was made to reopen the motion on the table from the January 18, 2023 meeting by Brian Frey and seconded by Ron Santovito.

A motion was made by Mike Mosher to modify the motion to approve the variance to allow the structure to be up from November 1<sup>st</sup> to May 1<sup>st</sup> for the term of 3 years beginning May 1, 2023 and expiring May 1, 2026. If the Druta’s sell, move or if the structure remains down for a consecutive year, the approval of the Zoning Variance becomes void. This motion was seconded by Deb McEwen.

The five factors were reviewed: There would be an undesirable change in the character of the neighborhood; benefit sought could not be achieved by another method; variance was substantial; there would be no adverse impact on the physical or environmental conditions in the neighborhood; difficulty is self-created.

Role Vote: McEwen – Yes; Frey – Yes; Jenkins – Yes; Santovito – Yes; Mosher – Yes.

Therefore, this variance was granted with seasonal conditions. The structure can be up November 1<sup>st</sup> to May 1<sup>st</sup> for the term of 3 years beginning May 1, 2023 and expiring May 1, 2026.

It was asked who would enforce the conditions and the Town Engineer, Scott Allen stated his department will. He will also review the conditions with the homeowner.

MINUTES:

The minutes from the previous meeting were not presented.

ADJOURNMENT:

A motion to adjourn the meeting was made by Mike Mosher, seconded by Brian Frey. All in favor; meeting adjourned at 8:07 p.m.

Respectfully submitted,

Stacy Nisbet  
Clerk to the Board