

**ZONING BOARD OF APPEALS MEETING
NOVEMBER 27, 2023
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The Town of Royalton Zoning Board of Appeals meeting was held on Monday, November 27, 2023, at the Royalton Town Hall, 5316 Royalton Center Road, Middleport, New York. The meeting was called to order by Chairman Phil Gow. At 7:13 PM.

The following were present:

Chairman: Phil Gow

Board Members: Greg Lindke, Michael Stefanie, Greg Zakrzewski, Rick Cavallaro

Absent: Lisa Budde

Other Officials: Mike Hartman, Code Enforcement, Tom Brandt, Town Attorney

Other Attendees: Mike Williams

There is one (1) Public Hearing on the agenda this evening.

AREA VARIANCE-MIKE WILLIAMS-5088 GRAHAM RD., MIDDLEPORT, NY 14105

Chairman Phil Gow opened the Public Hearing to consider the application for an Area Variance to permit the construction of a pole barn at the rear, left of the premises located at 5088 Graham Rd., Middleport, NY 14105, with the rear setback being 5 feet instead of the Code required 35 feet.

Mike Williams was present. He explained that he would like to build a 20-foot by 16-foot pole barn at the rear left of the property as you are looking at the house from the road. It would be used for storage. It would be near the trees. There is a cornfield around the whole property. He couldn't find the stakes in the back, so he measured it. The pole barn is 5.2 feet from the back property line as it sits right now.

Phil Gow asked if it was already under construction. Mike Williams stated that the posts are already in place. Greg Zakrzewski asked why he did not adhere to the setbacks. Mike Williams stated that he wanted to keep the pole barn in line with the trees. He honestly didn't think about the setbacks.

A letter requesting to deny the variance application was sent in by Joseph Smith from JJ Smith Farms LLC. Phil reads the letter to everyone present. JJ Smith Farms LLC property line surrounds the property around Michael Williams. He started building the pole barn without getting a building permit from the Town of Royalton. Joseph Smith requests that Mike Williams goes by the Code required 35 feet from the back property line. He feels that Mike Williams should not have started constructing the pole barn without speaking with the Zone Enforcement Officer and getting the proper permit to construct the pole barn.

Mike Williams stated that he has talked to Joseph Smith. Joseph Smith thinks the trees are growing into his property. Technically Joseph is plowing about four or five feet of Mike's property in the back. Mike Williams feels that Joseph thinks that his property is closer than it really is.

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Tom Brandt asks how much space is between the house and the back of the property. Mike Williams does not know but thinks the house is about 80 feet from the center of the road.

Mike Hartman states that the whole property is 150 feet by 300 feet deep. There is more than ample room to put the building within the required setbacks.

Mike Williams explains that he was just trying to put it in the back out of the way. He did not think the fields were an issue.

Rick Cavallaro asked if the construction was already started and if the footers were in place. The answer is yes.

Greg Lindke asked if Mike Williams could put the building up and comply with the code if he had to move six or eight posts to another area. Mike Williams stated that yes, he could do that.

Mike Williams explained that he is having issues with his property lines being shifted. According to the county, the line cuts between the house and the existing garage. He has a prefab metal garage sitting there waiting to be put together. He was trying to get a variance for that, but he could not because it looks like the garage is on the neighbor's property.

Tom Brandt explains that the Zoning Board must go according to what the survey shows.

Phil Gow asked that if the back posts were moved to the front would this be in compliance with the Town Code. Mike Hartman explained that every post that is removed would come back six feet. If he removes two posts, it would be twelve feet. The building is 20 feet wide by 16 feet deep. This would make it 21 feet from the rear line, which is still short of the required 35 feet. The Code requires 10 feet from the side lot line and 35 feet from the rear lot line.

Phil Gow explains that they must consider if the hardship is self-created or not when they are looking to approve or deny the application.

Chairman Phil Gow closes the Public Comment section.

The Zoning Board members review the SEQRA form. Phil Gow entertains a motion for a negative declaration. Greg Zakrzewski makes a motion for a negative declaration, seconded by Mike Stefanie. There are no significant environmental impacts. All are in favor. Motion carries.

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AREA VARIANCE-MIKE WILLIAMS

On a motion made by Greg Zakrzewski, seconded by Mike Stefanie, the following was

DENIED	AYES-5	P. Gow, G. Lindke, G. Zakrzewski, M. Stefanie, R. Cavallaro
	NAYS-0	MOTION DENIED

Resolved to deny the construction of the pole barn as presented at this time.

Greg Lindke recommends that Mike Williams talk to his neighbor. Phil Gow explains that he can come back with a different request. Mike Williams explains that he is working with his lawyer on resolving the property line issue.

The Board discusses the property line issue amongst themselves.

Chairman Phil Gow opens the regular monthly Zoning Board of Appeals meeting.

Phil Gow makes a motion to approve the minutes from the August 28, 2023 meeting. Greg Zakrzewski makes a motion to approve the minutes from August 28, 2023, seconded by Greg Lindke. All are in favor. Motion carries.

OLD BUSINESS: NONE

NEW BUSINESS: The Zoning Board members agree to have the December meeting on December 18th, if needed, because the fourth Monday is Christmas Day.

Mike Hartman stated that the owner of the Jamesport Tap is going to the Planning Board. They would like to make it a restaurant/bar. They would also like to move the bathrooms back and make them larger. This could potentially come to the Zoning Board in the future. The Zoning Board members asked why this would go to the Planning Board. Mike Hartman explained that any renovations done in a commercial district must go in for site plan review.

Greg Zakrzewski was talking about the Comprehensive Plan update with the Zoning Board members. Phil Gow would like to see it when it becomes available.

Mike Stefanie makes a motion to adjourn the meeting, seconded by Greg Lindke. Chairman Phil Gow closes the meeting at 7:45 PM.

Respectfully submitted,
Jennifer Donner, Zoning Board Clerk

