TOWN OF REMSEN
VARIANCE BOARD
P.O. Box 308
10540 Academy Lane
Remsen, NY 13438

Variance Board of Appeals Mallozzi 2023-1

Meeting of April 11, 2023

The Remsen Variance Board of Appeals met after a Public Hearing for a Variance request of Mr. Nicholas Mallozzi. Accessory building.

Findings of fact and Conclusions: After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found if requesting an area variance, that is, permission to build in an otherwise restricted portion of the property (such as in the required front, side or rear yards, or above the required building height, or in excess of the lot coverage regulations), then State law requires the applicant to show that the benefit the applicant stands to receive from the variance will outweigh any burden to health, safety and welfare that may be suffered by the community. State law requires the ZBA to take the following factors into consideration in making its determination:

(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; The proposed project need not *in and of itself* alter the character of the neighborhood if it is shown that the project would set a pattern for future development that would, in time, alter the neighborhood. **The Board believes it could.**

(2) Whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance; **The Board believes it could not.**

(3) Whether the requested area variance is substantial; **The Board believes it is not.**

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; **The Board believes it will not.**

(5) Whether an alleged difficulty is self-created. **The Board believes it was**; owned purchased lot knowing lot limitations (workable size), which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting the area Variance.

DECISION: In view of the forgoing and the testimony and documents presented, the Board: RESOLVED that the application for the requested side yard variance (8') eight feet from the required 25 foot on the right (Roberts Property ID 86.000-1-44) property line. The accessory building will be placed seventeen feet (17) from the property line); Mr. Fox, Aye, Mr. Richter, Aye, Mr. Suprenant, Aye.

AND FURTHER RESOLVED: On a motion by Mr. Suprenant seconded by Mr. Richter the Variance Board Grants APPROVAL if the following conditions are agreed to and complied with. Mr. Fox, Aye, Mr. Richter, Aye, Mr. Suprenant, Aye.

Minimum Relief Requirement and Conditions For both use and area variances, State Law (in Sections 267-b.2. (c) and 3. (c)) requires that the Board of Appeals grant the minimum variance necessary and adequate and "at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community".
Section 267-b.4. Allows the imposition of conditions on the granting of use and area variances, so long as:

1. Such reasonable conditions and restrictions are directly related to and incidental to the proposed use of the property.

2. Such conditions shall be consistent with the spirit of the zoning ordinance or local law.

3. Such conditions shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

General Conditions:

1. The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any Variances being requested.

2. A building permit must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking and construction contemplated in this decision. Occupancy will not be made until and unless a Certificate of Occupancy is issued by the Code Enforcement Officer.

3. Any foregoing Variance will lapse if any contemplated construction of the project or any use for which the Variance is granted is not substantially implemented within one year of the date of filing of this decision. Merely obtaining a Building Permit with respect to construction does not constitute "Substantial implementation" for the purposes hereof.

Specific Conditions:

1. A variance of eight (8') foot from the required 25 foot is given on the right, Roberts property line. (Tax ID 86.000-1-44)

2. No Power or other utilities will be installed.

The Secretary of the Board, John Fox, is hereby authorized, directed and empowered to sign this decision and file a copy thereof in the office of the Town Clerk of the Town of Remsen
Dated October 4, 2022

REMSEN BOARD OF APPEALS
TOWN OF REMSEN, NY

BY: John E Fox
John E Fox

DISTRIBUTION: Applicant, Supervisor, Town Clerk, Codes Officer