

May 19, 2025

Village of Phelps Zoning Board of Appeals Meeting held at the Phelps Community Center; 8 Banta St., Village Meeting Room; Phelps, New York.

Present: Chair Person: Pat Hemminger  
 Board member: Phil Frere Board Member: Paige Cheney-Bianchi  
 Board Member: Cynthia Ingerick-Holt Board Member: Matt Eldridge

Also present: Deputy Clerk/Treasurer: Melissa Lahr, Applicant: Edward Hough, Applicant: Greg White, Code Enforcement Officer: Ben Wheat and Mayor: James Cheney.

Public: Joe Scibona, Denise Schlossnagle, William McNicholas, Robert Tomfohr, Chad Sheckler, Diane Sheckler, Michael Dorr, Michele Dorr, Matt Stevens and Sam Stevens.

Chair Hemminger opened the meeting at 5:04 p.m.

Chair Hemminger makes the public aware that there will be some ground rules for the meeting. You may speak when recognized and state your name clearly, facts and concerns only, will allow only a reasonable amount of time per person to make sure everyone is heard.

### **ZBA 02-25 Area Variance – Edward Hough – 52 Park St.**

Chair Hemminger opened the Public Hearing at 5:06 pm

Edward Hough presents his application. He is looking for an area variance for a 10' x 14' shed to be placed 12" to the side property line. He states that the neighbors beside him and behind him are ok with it and is seeking board approval.

Chair Hemminger asks Edward how he will mow and maintain it without going on to the neighbor's property? Edward Hough responds that he has an agreement with his neighbors. There will be stone surrounding the concrete pad so nothing will need to be maintained. Matt Eldridge asks if the shed will be setting on stone or concrete? Edward Hough explains that there is already stone there and he will put a pad down on what is there from the previous shed. Chair Hemminger asks if anyone has any questions? None.

Chair Hemminger closes the Public Hearing at 5:09pm

Chair Hemminger thinks that 12" is too close. Cynthia Ingerick-Holt does not want to set a precedence and is thinking of the future owners because the variance goes with the property not the owner. Paige Cheney-Bianchi reiterates that the variance goes with the property and they will always have it. Chair Hemminger expresses that she would like to see the width of a lawn mower incase the stone is ever removed. Edward Hough states that there would be 18" on the neighbor's side. Chair Hemminger reply's but not on yours. Chair Hemminger asks the board if they have any further questions? Cythina Ingerick-Holt is thinking 18" to 24". Chair Hemminger also thinks the reasonable width of a lawn mower. Matt Eldridge explains that 21" is standard; also, the concrete pad is there so no grass will be growing. Edward Hough explains that the shed will be brought in on a skid plate for it to be easily moved. Chair Hemminger explains that they as the board have to abide by the laws for it to be maintained. Edward Hough states that he doesn't have to use a mower he could use a weed eater and fit in 18". Chair Hemminger explains that not every body can fit into 18" and says again how the variance goes with the property. Matt Eldridge asks what the board thinks of 18"? 18" off the property line is required for a fence. Paige Cheney-Bianchi, Cynthia Ingerick-Holt and Phil Frere all agree. Chair Hemminger explains to Edward Hough if he puts it 18" off the property line that would be the same as fence regulations. She asks Ed if he could work with that? Edward Hough replies to Chair Hemminger that yes, he can move the shed over to the side on the pad.

With no further discussion, Chair Hemminger asked the Board if they had a motion?

Motion by Matt Eldridge, for Edward Hough at 52 Park St to grant an area variance of 18" off the side lot line to place his 10' x 14' shed so it can be maintained from his property; 2<sup>nd</sup> by Paige Cheney-Bianchi and unanimously carried.

### **ZBA 03-25 – Area Variance – Greg White – 7 Pearl Street**

Chair Hemminger opens the Public Hearing at 5:18pm.

Greg White presents his application. In summary he is looking for an area variance for proposed construction of a 125' x 40' warehouse/prefab to be placed 5ft off the side property line. This would allow enough turning radius for employees to turn into the new building safely. This parcel is zoned C-1 & R-2. The lean-tos have been removed. An option he considered was building on the original foundation but thought that was too close. The variance he is seeking would be 5ft from the eave to the property line and 7ft from the building to the lot line. He explains that he went around the neighborhood and introduced himself and explained the plan he had for the property. This side of the parcel is zone C-1 and the purpose would be for storage/warehouse of prefab parts. There would be 2 employees working out of it. It would be a 6-bay building for vehicles; hours would be Monday-Friday 7am – 6pm and occasionally a Saturday crew maybe there to grab parts. Spoke with the Village to allow the public to park for functions/events in the spots closest to the road.

Chair Hemminger asks Greg if he is requesting 10ft? Is the plan for the building to be 10ft from the side lot line?

Greg White's answer is yes. Code Enforcement Officer Ben Wheat verifies that is correct.

Chair Hemminger goes over the plan of having a 40'x125' building with a 30'x40' concrete pad. She asks Greg how close to the back lot line will the pad be?

Greg White explains it will be right up to the rear lot line.

Chair Hemminger comments on the parking spaces in the front and the trees. She asks if the access (ingress/egress) has 3 openings?

Greg White explains that only on the south side there will be a single driveway.

Chair Hemminger wonders what size trucks he is expecting to fit back there?

Greg White explains box trucks, vans and a semi-truck once a month for deliveries.

Chair Hemminger questions if that will fit?

Greg White assures it will.

Cythia Ingerick-Holt wonders if the public parking was removed, would that change the design to make it more compliant?

Greg White explains how he is unable to go toward the railway side due to natural topography and right of way. He explains that it could be moved closer to the road but won't help with set backs and trucks turning radius.

Cythina Ingerick-Holt asks Greg if there is any other option?

Greg White explains no. It's the natural way of the problem.

Chair Hemminger asks if there are any questions?

Joe Scibona raises his hand and informs the Chair he has some questions.

Chair Hemminger asks if they are pertinent?

Joe Scibona reply's yes. Questions what is meant in Greg Whites letter to the ZBA by retaining wall? There is no retaining wall there. There is an old foundation from the previous building structure.

Greg White responds to Joe that that is what he was referring to.

Joe Scibona approaches the ZBA Board with additional information to be attached in the meeting minutes. He is asking the board to reject the request for an area variance due to lack of hardship, incomplete site plan, incompliance with 40ft rear setback, hazardous waste etc. (Please see the full attached reasons on the information he provided.) He also believes that the topography would not hinder potential plans except railroads right of way. He expresses that there is a lot of empty space on the lot and there is no reason this can't be shifted west towards the road. Expresses that Village Law states they shall only grant the minimum variance deemed necessary. He believes the site plan is incomplete. He also believes there is ample blank space where there is parking provided closest to the road and he believes the blank pad will be used for his dumpster which will hold HVAC hazardous waste within 5ft of his property. Joe also questions page 2 of Gregs application that states he can comply with the rear setback and he is not because that is where his dumpster will be but are not shown anywhere on the site plan. Joe explains that Greg needs enhanced turning radius likely for large trucks coming into the consignment warehouse. He is concerned these would be 3<sup>rd</sup> party businesses and customers not associated with the Village. He also does not believe his application

complies with NYS Fire Code; its states there should be a width of 20ft around the building and sprinklers are also not part of the plan. Finally, he does not believe it should be there because in a C-1 warehouse is not a permitted use. Matt Eldridge reads the permitted uses in a C-1 district aloud.

Joe Scibona reads M-1 district warehouse facilities definition aloud.

Greg White explains that it will be for warehouse, retail, prefab boiler boards etc. He explains that this is tricky with a mixed zoned parcel.

Chair Hemminger asks Greg White if he will be taking in any hazardous waste next to the dumpster area?

Greg White explains that they have the refrigerant reclaimed so there will only be dry units there and no units will be stored, if they were not reclaimed, there would be guidelines to follow from NYS DOT on their vehicles.

Robert Tomfohr asks the board what C-1 zoning district is. Chair Hemminger explains and some discussion is had on meanings and uses.

Joe Scibona asks what Greg Whites hardship is that is that is making it so his building has to be so close to the property line?

Greg White explains the turning radius of his vehicles in and out of the building and he understands Joe's concerns. There is some discussion between the board and Greg as to weather or not the drawings are done scale; inconclusion they are.

Matt Stevens from 13 Quarry St. wonders if the variance is for being with in the setbacks?

Chair Hemminger responds with yes.

Matt Stevens states that a 5,000sq ft building will have water runoff. His concern is that his property is below it and he will be getting that access water.

Chair Hemminger states that the railroad is between them and doesn't believe he will get much of any extra water runoff.

Ben Wheat approaches the board to look at the plans. There are 2 different conflicting plans. One says he is requesting 5ft and one says 10ft after clarification from Greg White it is 7ft from the building to the line. Chair Hemminger asks if he can live with 10ft off the lot line?

Greg White confirms he can.

Phil Frere wanted to clarify that the concrete pad doesn't fall with in the setback requirement because it is not a building so he is in fact meeting the 40ft setback.

Cynthia Ingerick-Holt agrees.

Chair Hemminger asks Greg if he will be selling any retail out of the warehouse?

Greg White explains that will be across the street at the office building.

Joe Scibona wonders if there is any setback requirements for a dumpster?

Ben Wheat states he doesn't know off the top of his head but can look into it.

Chair Hemminger knows of no such thing either.

Joe Scibona believes there is.

Chair Hemminger asks if he believes its in Village Code or NYS Fire Code?

Joese Scibona explains NYS Fire code for having 20ft around all structures.

Phil Frere clarifies the driveway access has to at least 20ft wide to allow apparatus to get back there.

Greg White explains that he will be putting a privacy fence around the whole pad. He doesn't want it to be an unpleasant look.

Chair Hemminger asks him if it will be covered?

Greg White responds that it will be a 20-yard dumpster not covered.

Chair Hemminger states that the Planning Board would be the entity that sets the rules and stipulations with the site plan approval.

Joe Scibona wonders if the ZBA could add a condition of an 8ft privacy fence.

Chair Hemminger reiterates that would be something they will leave up to the Planning Board during their site plan approval.

Joe Scibona states to the board is able to make these approvals.

Chair Hemminger is aware of what they are able to do and if it was minor they would do it. But they are going to leave it up to the Planning Board.

Michele Dorr has questions on the lighting and the parking lot.

Chair Hemminger makes her aware that these are also Planning Board concerns.

Chair Hemminger asks the public if there are any further questions? None.

Chair Hemminger closes the public hearing at 6:03pm.

Chair Hemminger asks the board for their questions?

Matt Eldridge explains that on OnCor the property shows the railroad line and how the easement jogs in on Gregs property and the trees along the line and part of Pleasant St are in the right of way as well just interesting to see. He then goes up and shows Chair Hemminger.

Phil Frere confirms concerns will be resolved with the Planning Board as far as line of sight and lighting.

Cynthia Ingerick-Holt wonders if Ben will research the dumpster setbacks to property lines or buildings?

Chair Hemminger responds yes and it will be up to the Planning Board as well.

Phil Frere wonders if they are reclaiming all the refrigerant before the units get back to the warehouse?

Greg White responds with yes.

Matt Eldridge asks for clarification for the variance of 10ft correct?

Chair Hemminger confirms that is correct.

Motion by Matt Eldridge for ZBA application number 03-25 be granted allowing a variance for 10ft from the wall of the building to the north side setback of the property line per his request for turning radius of the vehicles; 2<sup>nd</sup> by Cynthia Ingerick-Holt; and unanimously carried.

Joe Scibona asks the board about a variance on the east side for the dumpster?

Phil Frere clarifies that the setback requirement is for an accessory structure; which a concrete pad is not. Therefore, a variance is not needed and it meets rear setback requirements.

Ben Wheat also adds about the dumpster. What he has found so far, nothing states it can't be placed there.

#### **ZBA 04-25 – Use Variance – Greg White – 7 Pearl Street**

Chair Hemminger opens the public hearing at 6:10pm.

Greg White explains his request. This area of the property is currently zoned R-2 and he would like to put up a building for retail service which is not an allowed use in this district. Clients would come to this building to do designs for HVAC in their homes.

Phil Frere wonders if this is a retail store front?

Paige Cheney-Bianchi believes it sounds more like consulting.

Greg White agrees and confirms its more consulting. There would be nothing physical that they would be purchasing and carrying out.

Chair Hemminger states that this is unique because 1/3 of this property is zoned R-2. This seems like it would be more used as office space. She also explains that a use variance requires monetary hardship and to show it will not change the character of the neighborhood and not self-created.

Greg White explains how he originally was going to renovate the old building but there was mold and structural issues that would double the cost of fixing the building. He decided he would build a new building. It would be a single story that would meet energy codes and be more appealing.

Chair Hemminger verifies the size of the building being 5800sq ft.

Greg White responds with yes mam.

Chair Hemminger explains that with this being a corner lot he has 2 side setbacks and 2 fronts; no rear setbacks and the lot currently sits vacant.

Chair Hemminger asks if the board as any questions?

Paige Cheney-Bianchi asks if it is used as office space in an R-2 does he need a use variance?

Chair Hemminger responds that yes, it is not an allowed use.

Greg White explains to the board that he has met with Ontario County and they are very excited that they will be working with NYSEERDA, doing training, apprenticeship, and giving opportunities to employees etc. Passing the torch to future generations, now being more technical than ever and give back to the community. His family was also from this area.

Chair Hemminger explains that the criteria for a use variance is very specific. Chair Hemminger reads aloud the 4 use variance test questions. Did you address these issues?

Greg White's response is yes.

Chair Hemminger states she has nothing providing that information for the small parcel on the corner.

Paige Cheney-Bianchi explains that normally the board is given bullet points addressing each use variance test.

Chair Hemminger explains that in her opinion your application is incomplete. We don't have all the information to move forward. She then asks Greg if he would like to move forward with is application as it is?

Paige Cheney-Bianchi asks if he would like to table his application to gather the information or to withdraw?

Greg White agrees to table/withdraw the application until he has more information.

Chair Hemminger reiterates that Greg would like to withdraw his application and come back with those requirements.

Chair Hemminger closes the public hearing at 6:24pm.

Motion by Paige Cheney-Bianchi to approve the March 17, 2025 meeting minutes as presented; 2<sup>nd</sup> by Phil Frere and unanimously carried.

Matt Eldridge would like to state on the record that he did not appreciate Joe Scibona hounding his brother and a Village Board member for his number. Then proceed to show up at his house. And being a bully to his brother and sister-in-law and to Billy McNicholas.

Phil Frere also adds some how Joe got his number and kept him on the phone for 20 minutes, also not appreciated.

Next meeting: Regular Monthly Meeting pending business before the board will be June 16, 2025 at 5p.m.

**Adjournment:** Motion by Phil Frere for adjournment of the meeting at 6:46 p.m.; 2<sup>nd</sup> by Cynthia Ingerick-Holt and unanimously carried.

Respectfully submitted,

Melissa J. Lahr  
Deputy Clerk/Treasurer