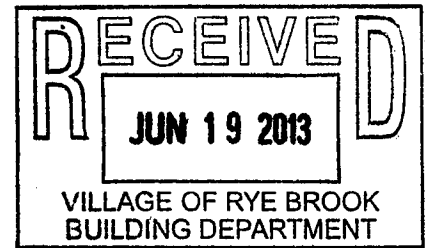


ZONING BOARD OF APPEALS
938 King Street
Tuesday, June 4, 2013
Meeting at 8:00 p.m.

DRAFT



AGENDA

- 1) **#12-023 Mr. & Mrs. Christopher Korpi**
22 Beechwood Boulevard
Legalize the location of the generator installed under permit #5175 issued 9/1/2010.

- 3) **Approval of the April 2, 2013 and May 7, 2013 Zoning Board Summaries**

BOARD: Andrew Kaminsky
Jeffrey Richman
Joel Simon
Steve Berger, Acting Chairman

Excused: Don Moscato, Chairman

STAFF: Michael Izzo, Building Inspector
Jennifer Gray, Esq., Village Counsel
Fred Seifert, Access Coordinator
Paula Patafio, Meeting Secretary

LIASON BOARD OF TRUSTEES: Trustee David Heiser

Mr. Steven Berger, Acting Chairman, welcomed everyone to the June 4, 2013 meeting of the Zoning Board of Appeals. He called the meeting to order, and introduced the Board, Village Staff, and Counsel. He noted that Don Moscato, Chairman, was excused from the meeting and, as a result, although there was a quorum the applicant would need three yes votes in order for the resolutions to be approved. The applicant was offered the opportunity to adjourn to next month's meeting, when there should be a full complement of the Board. The applicant did not wish to exercise this option at this time.

Mr. Berger introduced council and staff, and asked that individuals speak at the podium, state their names, application, position, and nature of the variance. He called for the first item on the agenda:

- 1) **#12-023 Mr. & Mrs. Christopher Korpi**
22 Beechwood Boulevard
Legalize the location of the generator installed under permit #5175 issued 9/1/2010.

Mark Mostacato, architect, addressed the Board. He noted that the property is heavily screened. He previously submitted the original plans for the generator and the as-built survey. The installation manual upon which the approved plans were based contained different information regarding the proper location of the generator than the installation manual used by the electrician at the time of installation. The electrician set the generator closer to the property line to meet what he thought were the correct setbacks based on the manual used at the time of installation. The as-built survey shows that variances are now required. The first variance is for single side yard setback where 15 feet is required and 14 feet now exists. The second is a variance for the total of two side yard setbacks where 40 feet is required and 37.73 feet now exists. Mr. Mostacato noted that there it would be financially infeasible for the applicant to move the generator, the error was not intentional, and the variances being requested are not substantial. The permit for the installation of this generator is from 2010.

Mr. Andrew Kaminsky asked if a condition could be placed on the granting of the variances whereby the variance would be applicable only to the generator and not to any future build-out of the house. Attorney Jennifer Gray responded that similar conditions have been placed on variances in the past and it would be a reasonable condition in this instance.

Mr. Berger called for members of the public wishing to address the Board in support or opposition to the application. Attorney for the owner of property located at 20 Beechwood Boulevard, Pamela Pagnani, Esq., addressed the Board. She noted that the need for the variance is self-created and the opposition stems from the noise emanating from the generator.

Mr. Michael Izzo, Building Inspector, noted that Mr. Klugman, the owner of 20 Beechwood does not reside at that address. The home is being sold. Attorney Pagnani stated that someone will live there. The generator is near the garage, which has a bedroom above it. The noise will affect the new homeowner.

Mr. Klugman presented photographs of his property to the Board. He noted that he believes this generator generates close to 70 to 80 decibels of noise.

Mr. Izzo stated that the application as permitted complied with the Code. He noted that the setbacks for the generator are shown on the plans, as are the property lines. The generator was installed 4 feet closer than was permitted. The variance required is a 1 foot side yard setback variance. The top of the generator is below the window, and when running meets requirements regarding decibels allowed at 23 feet. The requirement is 75 dba at 23 feet; and a five foot separation between the generator and any openings into the dwelling. The original plans showed the generator to be 18 inches from the wall.

Mr. Kaminsky pointed out that the generator runs when the electricity goes off. It tests once a week.

There being no one else wishing to address the Board in support or opposition, Mr. Berger called for a motion to close the public hearing.

On a motion made by Mr. Simon, and seconded by Mr. Kaminsky, the public hearing was closed with a vote of four ayes. The Board deliberated and discussed a condition whereby the variance would apply only to the existing generator to prevent sheds or expansions of the dwelling to extend to the setback being considered for the generator. Mr. Berger read the following resolution:

RESOLUTION

WHEREAS, application has been made to the Zoning Board of Appeals by Mr. & Mrs. Christopher Korpi for a one foot side yard from Village Code §250-41.B.(3) and 250-19.1G.(2)(a) and 2.27 foot total of two side yards setback variance from Village Code §25019.1.G.(2)(a), in connection with the proposed legalization of the location of a generator, installed under permit #5175 issued 9/1/2010, on at 22 Beechwood Boulevard, in an R-25 zoning district on the south side of Beechwood Boulevard, approximately 600 feet from the intersection of Beechwood Boulevard and Woodland Drive. Said premises being known and designated on the tax map of the Village of Rye Brook as Parcel ID# 136.29-1-10; and

WHEREAS, a duly advertised public hearing was held on June 4, 2013, at which time all those wishing to be heard were given such opportunity; and

WHEREAS, the proposed action is a Type II action pursuant to the New York State Environmental Quality Review Act and, accordingly, no further environmental review is required; and

WHEREAS, the Board from the application, after viewing the premises and neighborhood concerned, ad upon considering each of the factors set forth at Section 250-13(G)(2)(b)[2][a]-[e] of the Rye Brook Code, finds with respect to the side yards setback variance:

- 1) The variance will not create an adverse impact to the character of the neighborhood;
- 2) The benefit the applicant seeks can be achieved through another method, feasible for the applicant to pursue, that does not require a variance;
- 3) The variance is not substantial;
- 4) The variance will not create any adverse impacts to the physical or environmental conditions of the neighborhood; and
- 5) The need for the variance is self-created; and

WHEREAS, the Board from the application, after viewing the premises and neighborhood concerned, ad upon considering each of the factors set forth at Section 250-13(G)(2)(b)[2][a]-[e] of the Rye Brook Code, finds with respect to the total of two side yards setback variance:

- 1) The variance will not create an adverse impact to the character of the neighborhood;
- 2) The benefit the applicant seeks can be achieved through another method, feasible for the applicant to pursue that does not require a variance;
- 3) The variance is not substantial;
- 4) The variance will not create any adverse impacts to the physical or environmental conditions of the neighborhood; and
- 5) The need for the variance is self-created; and

NOW, THEREFORE, BE IT RESOLVED, that the said application for the side yard setback variance is hereby granted, and said application for the total of two side yards setback variance is hereby granted, on the following conditions:

- 1) Variances shall apply only to the existing generator and any in-kind replacement.

Dated: June 4, 2013

Steven Berger, Acting Chairman

Mr. Berger called the roll:

Joel Simon	Voting Aye
Andrew Kaminsky	Voting Aye
Jeffrey Richman	Voting Nay
Steven Berger, Acting Chairman	Voting Aye

The resolution passed on a vote of three ayes to one nay.

VILLAGE OF RYE BROOK
ZONING BOARD OF APPEALS

RESOLUTION



WHEREAS, application has been made to the Zoning Board by **Mr. & Mrs. Christopher Korpi** for (1) 1 ft. side yard setback variance from Village Code §§250-4.1.B.(3) and 250-19.1.G.(2)(a); and (2) 2.27 ft. total of two side yards setback variance from Village Code §§250-4.1.B.(3) and 250-19.1.G.(2)(a), in connection with the proposed legalization of the location of the generator installed under permit #5175 issued 9/1/2010, on property located at 22 Beechwood Boulevard, in an R-25 zoning district on the south side of Beechwood Boulevard, approximately 600 feet from the intersection of Beechwood Boulevard and Woodland Drive. Said premises being known and designated on the tax map of the Village of Rye Brook as **Parcel ID# 136.29-1-10**; and

WHEREAS, a duly advertised public hearing was held on June 4, 2013, at which time all those wishing to be heard were given such opportunity; and

WHEREAS, the proposed action is a Type II action pursuant to the New York State Environmental Quality Review Act and accordingly, no further environmental review is required; and

WHEREAS, the Board, from the application, after viewing the premises and neighborhood concerned, and upon considering each of the factors set forth at Section 250-13(G)(2)(b)[2][a]-[e] of the Rye Brook Code, finds with respect to the side yard setback variance:

- 1) The variance [~~WILL~~/WILL NOT] create an adverse impact to the character of the neighborhood;
- 2) The benefit the applicant seeks [~~CAN~~/CANNOT] be achieved through another method, feasible for the applicant to pursue, that does not require a variance;
- 3) The variance [~~IS~~/IS NOT] substantial;
- 4) The variance [~~WILL~~/WILL NOT] create any adverse impacts to the physical or environmental conditions of the neighborhood; and

5) The need for the variance [IS/IS NOT] self-created; and


WHEREAS, the Board, from the application, after viewing the premises and neighborhood concerned, and upon considering each of the factors set forth at Section 250-13(G)(2)(b)[2][a]-[e] of the Rye Brook Code, finds with respect to the total of two side yards setback variance:

- 1) The variance [WILL/WILL NOT] create an adverse impact to the character of the neighborhood;
- 2) The benefit the applicant seeks [CAN/CANNOT] be achieved through another method, feasible for the applicant to pursue, that does not require a variance;
- 3) The variance [IS/IS NOT] substantial;
- 4) The variance [WILL/WILL NOT] create any adverse impacts to the physical or environmental conditions of the neighborhood; and
- 5) The need for the variance [IS/IS NOT] self-created.

NOW, THEREFORE, BE IT RESOLVED, that the said application for the side yard setback variance is hereby [GRANTED/DENIED]; and said application for the total of two side yards variance is hereby [GRANTED/DENIED], on the following conditions:

- 1. variances shall apply only to the existing and
* generator ad on in kind replacement.

Dated: June 4, 2013


Mr. Steven Berger, Acting Chairman

Acting Chairman Berger called the roll for ~~the side yard setback variance.~~ SB

Andrew Kaminsky	Voting: <input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Don Moscato	Voting: <input type="checkbox"/> Aye	<input type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input checked="" type="checkbox"/> Absent
Jeffrey Richman	Voting: <input type="checkbox"/> Aye	<input checked="" type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Joel Simon	Voting: <input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Steven Berger	Voting: <input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent

3 Ayes
1 Nays
0 Abstain
1 Absent

Acting Chairman Berger called the roll for the total of two side yards setback variance:

Andrew Kaminsky	Voting:	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Don Moscato	Voting:	<input type="checkbox"/> Aye	<input type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input checked="" type="checkbox"/> Absent
Jeffrey Richman	Voting:	<input type="checkbox"/> Aye	<input checked="" type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Joel Simon	Voting:	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent
Steven Berger	Voting:	<input checked="" type="checkbox"/> Aye	<input type="checkbox"/> Nay	<input type="checkbox"/> Abstain	<input type="checkbox"/> Absent

SUB

3 Ayes
1 Nays
0 Abstain
1 Absent

2) **Approval of the April 2, 2013 and May 7, 2013 Zoning Board Summaries**

Mr. Berger called for review of the two summaries on the agenda

On a motion made by Mr. Simon, and seconded by Mr. Kaminsky, the April 2, 2013 summary was approved as amended.

Mr. Berger called the roll:

Joel Simon	Voting Aye
Andrew Kaminsky	Voting Aye
Jeffrey Richman	Voting Aye
Steven Berger, Acting Chairman	Voting Aye

The motion passed on a vote of four ayes to zero nays.

On a motion made by Mr. Simon, and seconded by Mr. Kaminsky, the May 7, 2013 summary was approved.

Mr. Berger called the roll:

Joel Simon	Voting Aye
Andrew Kaminsky	Voting Aye
Jeffrey Richman	Voting Aye
Steven Berger, Acting Chairman	Voting Aye

The motion passed on a vote of four ayes to zero nays.

There being no further business before the Board, Mr. Berger adjourned the meeting at 8:36 p.m.