

Town of Hamilton | 38 Milford Street | Hamilton, NY 13346
Zoning Board of Appeals Meeting – March 25, 2025
Town Office, Community Room

Board Members in Attendance: Harmon Hoff, Harvey Kliman, John Pumilio, Lydia Slater, ZBA Secretary and Deputy Clerk Elisa Robertson, Codes Officer Chuck Ladd

Absent: Jeff Schindler

Others Present: Jocelyn Gavitt, Barry Campbell

Chairman Hoff begins the meeting at 7:00 PM

Resolution 2025- 6: Motion to approve the Minutes from January 6, 2025.

Motion: John Pumilio

Second: Lydia Slater

Vote: Aye- 4 Nay - 0

Adopted: YES

Barry Campbell, Area variance, Front, side setbacks, and lot size, 1351 Poolville Road, Tax Map # 199.12-1-2

This application needs 3 variances. An area variance because the lot is undersized, a front yard setback variance, and a side yard setback variance. Chairman Hoff comments that this is a small town and everyone knows everyone, however, this does not mean that there will be any conflict of interest.

Mr. Campbell explains the project for the Board. This house is part of a state grant program that has 6 houses in the Hamlet of Poolville that will either be refurbished or torn down and rebuilt. Because this property is a substandard lot there is a requirement in the Town of Hamilton Zoning law Section 3.3A (page 8) that states:

“If more than 50% is affected or the restoration or reconstruction includes an expansion of the prior building in terms of total square footage or footprint, then the replacement or reconstruction shall not be permitted except by issuance of a special permit.”

This property has been before the Planning Board for the SUP but the property needs these variances before the new house can be built. They will be putting a modular house in place of the old house much like the one that was replaced by the Hamilton Forward initiative. Mr. Campbell has been working closely with Ms. Jocelyn Gavitt on the site plan and the technical plans. She has been immensely helpful during this project.

He discusses the layout of the property as well as the neighbor’s property. This is a tight fit. He is hoping to scale down the house a bit so he can have a porch. The house, the septic, the

driveway, and the possible well; as well as the location of these things on the neighbor's property. This application has been before the Planning Board for its preliminary meeting.

The Chairmans first concern about this application is the definition of a setback in the law.

SETBACK: The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

He has felt in the past that this is ambiguous, after talking with an advisor, he realized that they would not have included right-of-way if they only meant lot line. If they did not want the right-of-way considered, they would have left it out of the definition. Because there are no right-of-ways on side or rear yard setbacks. He thinks the Board needs to look at the right-of-way from which they need to measure the setback.

Ms. Gavitt states that that puts everything in violation. These lots are very small. The house that Hamilton Forward was able to move their house out of the setback area; so they no longer needed the variance. There is always some ambiguity with the public about where the lot line is vs. what they are taxed on. The Deputy Clerk called the Madison County Highway Department earlier in the day about the right-of-way on county roads. It is not standard that county roads have X number of feet from the centerline. It is very road dependent. This particular road; the right-of-way is 24.75 feet. This is a 2-rod road.

Chairman Hoff believes that they should be measuring the setback from the right-of-way. They can still grant a variance. Board member Kliman asks the Board to remember the location and what the rest of the surrounding houses look like, and their placements relative to their lots.

The right-of-way was established long after the houses in this area were built. Most of these houses and lots are nonconforming. When Poolville was made a Hamlet the lot size for these properties was adjusted, but not the setback requirement.

This house's location would not change the character of the community; only for the better. There is a septic plan, it can be mirror imaged south; but there is a limitation on how far back it can be pushed. The property backs up to a steep incline. It limits the space available to meet all the site requirements. The engineer made a mistake on the drawing of the septic plan and made the lot wider than it is. Ms. Gavitt placed the septic system on the site plan in the most accurate place she could. The only change would be if the applicant needed to put in a new well. The property is spring fed for its water source now. There is discussion about moving the septic and the well to meet the health guideline with relation to the neighbor's septic and well. The applicant would like the property to remain spring fed, if possible, but realizes that there may be a need for a well in the future; having a place to locate it now would be helpful. Different options are discussed. The Health Department would determine that, and the Codes Officer would be aware.

The houses in the Hamlet are very varied regarding the setbacks and the house placements. There is much discussion about measurements and the septic system and the well. There is no regulation about how far the well would need to be from the road. It would need to be outside of the right-of-way. The Highway Superintendent may need to be consulted. Ms. Gavitt states that it will not be in the right-of-way.

Ms. Gavitt states that the conversation about the setback being from the right-of-way, that changes the idea that Mr. Campbell wishes to add a porch to the front of the house. Which would be 6-8 feet, they assumed that since a porch is allowed to infringe on the setback 6 feet that they would be ok adding that in. If that setback is redefined, then the porch needs to be discussed now. They do not want to have to come back before this Board, if they do not need to. The Planning Board would need to know that information now, before they approve plans. Chairman Hoff would like to know that the house is set back as far as possible from the engineer. There may be more room on the lot than is shown in the drawing for the septic, it may be able to be pushed back even further. If the house can be pushed back that allows more room for the porch.

A variance should be limited to the smallest amount possible. Right now, the house is 52 feet from the centerline, however, that should be 74.7 feet. They are looking for a 24-foot variance, Chairman Hoff states that if they can move the house back 4 feet that would save some on the amount of variance needed.

There is discussion as to who can determine the location of the house and the septic if the structure is not there, and the ground is an unknown because they may hit rock or shale. There may not be a lot of wiggle room. There is some discussion of improvements of septic systems in recent years and the construction process.

The Board was given more than one plan to consider, however, Ms. Gavitt states that they should stay with the one plan as to not muddy the waters. She asks the Board to consider the location that they have shown, with a porch. If, in good faith, they can shift the house back a few feet unless they come up against something unexpected. They want to keep this application moving forward. They are asking to put the house at exactly the same setback as it is right now, which is in the spirit of the 50-foot setback, even though it is interpreted differently. They are asking to include the porch. She believes that what they are asking for is consistent with the neighborhood and the surrounding Hamlet.

Board Member Slater states that it would be interesting to know where the houses in the entire Hamlet are in relation to the road. She feels that the vast majority of houses, if measured, would not meet the 50-foot from the right-of-way interpretation of the law. Including her own house.

CEO Ladd states that the variance, if granted, should include the 50-foot but an additional 8 feet for the porch. He suggests accepting the current drawing of where the house is placed and then add an 8-foot porch extending towards the road.

This would be a total of a 23-foot variance for the front yard. The house is proposed to be 27 feet from the edge of the right-of-way. This Board is measuring from the edge of the right-of-way not the center line. If they include the porch the variance would be 6 feet more. There seems to be some question as to whether or not the house can be moved on the site plan to allow for a lesser variance.

The Board would like Ms. Gavitt to talk to the engineer to see what can be done to move things to create less of a variance. Chairman Hoff would like the engineer to do whatever they can, within reason, to minimize the variances needed. The major concern in the Zoning Law is the health, safety, and welfare of the community. He feels that there is a chance of more room and asks the engineer to do his due diligence and try to make this lot as conforming as possible. The Board recognizes that there are some unknowns, and that this may be the best option, but they would like confirmation.

Board Member Pumilio asks questions about this house in relation to the neighbor's house. The house is to be placed roughly where it is now. It is back further than the neighbor's house. The porch would make it stick out a bit closer. The porch is important to the applicant, he is not interested in moving it to another location on the house. The front door is central on the front of the house.

If anything changes about the size of the structure it will be smaller, NOT larger. He has been considering a 30.4-ft by 48.9 ft. However, he would like it to be 28 by 48. The site plan needs a 10-foot side yard variance. The plan that the Board received is not the most current up to date plan. Ms. Gavit gives the plan to the Deputy Clerk to copy for the Board. Copies are made, everyone has the proper drawing.

Mr. Kliman asks the Chairman if he would consider approval contingent on the reevaluation of the engineer? He replies that he would. There is discussion about construction and the elevation of the lot. The map in the packet was the same site plan that was given to the Planning Board. It has been modified since then, and the Board all have copies of the most current map.

The South side yard variance needed would be less than 2 feet. So, 28 feet 6 inches would be the measurement with out the porch. There is some discussion of a 6-foot porch versus an 8-foot porch. The variance for the front would be 36'6" with the 8-foot porch. The side yard would need a 2-foot variance. The front variance can be granted contingent on the engineer so the applicant would not need to come back before this Board. There is a question of whether to use percentages or not. Percentages are not addressed in the Zoning Law. In the past this Board used percentages for perspective. It is not needed in this instance. This is a unique situation due to the inconsistency of the setbacks for the entire Hamlet. Percentages are useful when comparing the same thing but not when there are multiple variables.

Resolution 2025- 7: Motion to OPEN public comment on the Application for an area variance made by Mr. Barry Campbell.

Motion: Lydia Slater

Second: Harvey Kliman

Vote: Aye- 4 Nay - 0

Adopted: YES

There is no one here to speak about this application other than the applicant and Ms. Gavitt.

Resolution 2025- 8: Motion to CLOSE public comment on the Application for an area variance made by Mr. Barry Campbell.

Motion: Lydia Slater

Second: Harvey Kliman

Vote: Aye- 4 Nay - 0

Adopted: YES

It is discovered that this property also needs a road frontage variance. The requirement is 100 feet and this property measures around 85-86 feet. The small shed out back may be taken down. This can be “grandfathered” in unless he wishes to move it in the future.

Resolution 2025- 9: Motion to APPROVE the Application made by Mr. Barry Campbell for four area variances on a property located at 1351 Poolville Road identified by tax map #199.12-1-2 with the following conditions:

1. A side yard variance of approximately 2 feet given the site plan and the location of the house.
2. Lot size area variance of .33 acres from the .75 acre requirement for lot size.
3. A 36 foot 6 inch variance from the 50 foot setback requirement from the right-of-way with a contingency that the applicant have the location of the house reevaluated by the engineer to maximize the difference from the road right-of-way; the Board will accept that conclusion in determining the setback to minimize the amount of variance required. They may build out an 8 foot porch, but not build on any extra living space..
4. A variance of 16 feet (from the 100-foot road frontage requirement.

Motion: Harvey Kliman

Second: Lydia Slater

Vote: Aye- 4 Nay - 0

Adopted: YES

Roll Call Vote (8:16 PM)

Chairman Hoff – aye

Jeff Schindler – absent

Lydia Slater – aye

Harvey Kliman – aye

John Pumilio – aye

The Board signs their vouchers.

Resolution 2025-10: Motion to Adjourn at 8:20 PM

Motion: Harvey Kliman

Second: Lydia Slater

Vote: Aye- 4 Nay - 0

Adopted: YES

Respectfully submitted by
Elisa E. Robertson
Deputy Clerk