

PLANNING AND ZONING COMMISSION
MINUTES OF **TUESDAY, AUGUST 05, 2025**

Pursuant to notice duly given, the regular meeting of the Planning and Zoning Commission, also sitting as the Board of Zoning Appeals, was called and held on **Tuesday, August 05, 2025.**

Members present: Craig Steinbrink; Chair, Chip AuWerter Scott Broome, Jim Deacon, Emily Hamilton, Christine Riley, and Jeannine Voinovich.

Members absent: None.

Also present: Chris Courtney, Village Engineer
Todd Hunt, Village Law Director

1. Roll call.
2. The minutes of **Tuesday, July 01, 2025** regular meeting of the Planning and Zoning Commission were submitted for approval.

A motion to approve as submitted was made.

Motion by: S. Broome 2nd: J. Voinovich

Roll Call: Ayes: All others.
 Nays: None.
 Abstain: AuWerter, Hamilton.

Motion Approved

3. A variance request to locate a detached accessory structure in the side yard and a rear setback variance request for the **BOWEN/TOPALSKY** residence at **451 Overlook Road** was heard. Notice has been provided to adjoining property owners.
Al Klauss, Davies Architects was present.

Mr. Klauss reviewed the proposed new detached pool house. He indicated the new building is a replacement of a previous barn that had been crushed by a large tree that came down in last year's high wind storm. He stated the new building is being located in approximately the same location just rotated slight to the right. The current request is for the building only; a separate request for the pool will come at a later date.

He also stated the request is for two variances, one is for permission to locate a detached accessory structure in the side yard and the other is a 9'-6" rear yard setback variance.

Mr. AuWerter asked how the old barn was being used and how will the new pool house building be used.

Mr. Klauss stated the pictures of the previous building shows overhead garage doors so he assumed it was being used as a garage. He reviewed the current plans for the new building stating it will contain a small kitchen, small bath, living area, and set of steps leading up to a second floor loft area to be used as an office for the homeowner. There will also be a covered porch area on the east side for entertaining and leading out to the pool.

Mrs. Riley stated years ago her family lived on the street and at that time the building had stalls inside and was used to house lamas and peacocks.

Mr. Broome asked if the previous building had a kitchen or a bathroom.

Mr. Klauss stated the building did not have either. The purpose for the bathroom is because of the future swimming pool.

Mr. Steinbrink asked Mr. Hunt is the proposed new structure considered a non-conforming structure.

Mr. Hunt stated no, it is an accessory use because it is going to serve the pool area. The kitchen, bathroom and loft office can be part of that use; however it cannot be used as a full living area by a full time resident such as the main house.

Mr. Klauss stated the building is not going to be used as a living space but for entertaining purposes and to access the pool.

Mr. Steinbrink stated the challenge with this request is the previous building that was destroyed or demolished was a barn or garage used for storage of vehicles and/or animals, the new structure is changing its use with the bathroom and kitchen it becomes a non-conforming livable structure. The current owners may not use the new structure as a living quarters but the next owner or owners may wish to live in it or rent out. He continued by stating the code is clearly written to restrict or prohibit this type of non-conforming use. The Village would have no issue with rebuilding the structure and using as it originally was, now the use is completely changing.

Mr. AuWerter suggested the pool is another issue to deal with. The current request does not deal with the pool which will also need a variance or variances; the problem is you want to build a pool house with a covered patio in

anticipation of the future pool. At a later date the owners will come back for the variances for the pool which may not get approved which will lead the owners to be upset because they spent time and money for a pool house that has no pool. This puts the Board and the Village in an awkward position.

Mr. Biggert stated the owners need to understand, an approval on the pool house variances does not mean or guarantee they will receive any approvals from the Board on the pool, they are proceeding at their own risk.

Mr. AuWerter suggested it might be a better idea to resubmit the variance requests together for the pool house and the pool.

Mr. Courtney agreed with the comments made by Mr. AuWerter. He agreed it would be smarter to resubmit for the pool house and the pool or remove the pool from the drawing so it is completely clear no pool is include in the current proposal or approval.

Mr. Broome stated he feels the current request even with the proposed pool is a modest request; the bigger issue that needs to be dealt with is the change in use. The code limits one single family home per lot. An apartment like structure such as this, typically leads to other things that is not desirable to the Village.

Mr. Klauss asked if a deed restriction that limits how the building is used could be used in this case.

Mr. Hunt stated it could be done and in fact the Village has required deed restrictions in similar situations.

Mr. Steinbrink expressed his concern of the pool being shown on the drawing and being applied for variances at a later date. Recommended the drawing and requested should also include the pool or the proposed pool location should be removed from the drawing.

Mr. Klauss stated if the future pool is a concern for the Board, he feels the owners would be willing to place a deed restriction limiting the buildings use.

Mr. Hunt stated the proposed building is not non-conforming; it is the Boards decision that determines if it is an accessory building, accessory to the main house. The Board will decide if the kitchen, bath, and office loft is an accessory use, he believes it is. The Village allows for this type of use, we do not allow a separate living unit on a property with a main house..

Mr. Hunt suggested the owners should be made aware there is no guarantee the necessary variances for the pool will be granted at a later date even if the pool house variances have been granted now.

Mr. Biggert stated he could send the Architect and owner a detailed email making them aware of this fact.

Mr. Broome read the definition of an "accessory use" from the ordinance for the Board.

Mr. AuWerter asked what if at a later date the building is changed to a living space.

Mr. Hunt stated the owners would be in violation of the code and the approval if granted.

Mr. Broome stated the building looks like an apartment.

Mr. Steinbrink asked if the Board be more comfortable if the proposal and drawing includes the pool.

Mrs. Riley indicated her concern with the letter that was included in the proposal, indicates the intent to replace a barn with a barn; the proposed building is really a pool house.

Mr. Deacon agreed, the loft could easily be converted into a bedroom. The Village does not want an apartment with a pool. He stated the board is trying to avoid rental properties.

Mr. Klauss indicated the deed restriction would prohibit an apartment.

Mr. Deacon stated it would, hard to enforce.

Mr. Steinbrink stated the past deed restrictions from the Board have been for buildings that already exist, the owner is only renovating the building into a more useable space. This proposal is a totally new building. The previous deed restrictions also limit the use to the homeowner and it cannot be rented.

Mr. Steinbrink continued by stating, the proposal was submitted for the replacement of a barn that already existed and the use of the new barn is now changing, it's no longer a barn or garage used for storage. The new building is going to be used as an accessory use home office/pool house. He gets the sense that if the pool is included on the drawings and in the request, it makes a much stronger case the building is an accessory use and building to the main house structure.

Mr. AuWerter stated he felt it would be better and the Board might be more incline to approve the new building along with the pool, avoids a potential problem at a later date when and if the owners submit for a pool variance.

Mr. Hunt stated he misspoke, it is the Building Officials duty to determine if the pool house proposal is an accessory use. If the owners do not agree with his decision, they have the right to appeal the decision to the BZA.

Mr. Broome stated the decision needs to be whether the request is an "additional primary use" or an "accessory use" subordinate to the main house use.

Mr. Biggert recommended the applicant submit a revised plan and request that includes the pool and the necessary variances for the pool house and the pool.

Mr. AuWerter agreed with the recommendation and stated it would be a good idea if the property owners attend the next meeting.

After further discussion, a motion was made to continue the discussion at the September meeting.

Motion by: S. Broome 2nd: C. AuWerter

Roll Call: Ayes: All.
 Nays: None.

Motion Approved

4. Permission to expand an existing non-conforming detached accessory structure with a greenhouse in the front yard and a side setback variance request for the **CALLUM** residence at **36399 Dorchester Road** was heard. Notice has been provided to adjoining property owners.
Jim Callum, Homeowner was present.

No representative was in attendance to provide testimony.

After further discussion, a motion was made to continue the discussion at the September meeting.

Motion by: S. Broome 2nd: J. Voinovich

Roll Call: Ayes: All.
 Nays: None.

Motion Approved

Refer to audio recording for additional detail.

There being no further business the meeting was adjourned at **5:41 P.M.**

Craig Steinbrink, Chair

David Biggert, Secretary