

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
May 20, 2021
6:30 PM**

The Town of Manlius, Zoning Board of Appeals assembled for a hybrid in-person and ZOOM meeting with Chairperson Judy Salamone presiding and the following Board members present:

Member	Jim Campbell
Member	K. P. Kelly
Member	Clare Miller
Member	Timothy Kelly
Secretary	Debi Witzel
Attorney	Jamie Sutphen
Codes Director	Randy Capriotti

Attendees: Lawrence Wilcox,

The Pledge of Allegiance was recited. The meeting was called to order at 6:30 PM.

Minutes

Member T. Kelly made a motion, seconded by Member Campbell, to approve the minutes of April 15, 2021 as submitted by Secretary Witzel and it was carried unanimously.

Legal Notice

Member Campbell made a motion, seconded by Member KP Kelly to waive the reading of the public notice and it was carried unanimously.

Chairperson Salamone stated the applicant is requesting two variances to build a 24' X 40' shed. Chairperson Salamone stated they are requesting a 34' rear yard variance and a side yard variance of 10'.

Member T. Kelly made a motion, seconded by Member KP Kelly to open the public hearing at 6:32 PM and it was carried unanimously.

Lawrence & Dawn Wilcox III, 224 Schepps Lane, Kirkville (tax map # 051.-06-16) for a 24' X 40' shed. With an existing rear yard setback of 6' they will need a variance of 34' to meet the required 40' rear yard setback. With an existing side yard setback 10' they will need a variance of 10' to meet the required 20' side yard setback.

Mr. Wilcox stated the new shed will be replacing the old shed and will provide more storage space and he will be able to lock items up.

Member Campbell made a motion, seconded by Member KP Kelly to waive the reading of the public notice and it was carried unanimously.

Member T Kelly asked if the shed would match the color of the house. Mr. Wilcox answered yes.

Member KP Kelly stated the requested 6' rear setback is because the septic system is in the center of the rear yard so it limits where the shed can be placed.

Member Campbell asked how high the building will be. Member KP Kelly stated it would be 9' to the truss's and 4' to the peak, which is under the 17' maximum allowed.

Chairperson Salamone asked if the project can be achieved by any other method? Mr. Wilcox answered no. Chairperson Salamone asked if the shed would create an undesirable change to the neighborhood? Mr. Wilcox answered no. Chairperson Salamone asked if the request is substantial Mr. Wilcox answered no.

Member Miller asked if there will be a driveway to the shed. Mr. Wilcox answered no.

Member T. Kelly made a motion, seconded by Member KP Kelly to close the public hearing at 6:37 PM and it was carried unanimously.

Board Questions

Chairperson Salamone proceeded with the board through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no because of the location of the septic system.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no because the shed would be in at the back of the property.
- 3) Whether the requested Variance is substantial? The board answered no, the shed is large but not too tall.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no.
- 5) Whether the alleged difficulty was self-created? The board answered yes.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance for a 34' rear yard variance and a side yard variance of 10' is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions:

SEQRA Review

Chairperson Salamone determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action

Based on the answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member Miller made a motion, seconded by Member KP Kelly, to grant Lawrence & Dawn Wilcox III, 224 Schepps Lane, Kirkville for the construction of a 24' X 40' shed. There by modifying the 40' rear yard setback to that of 6' leaving a variance of 34' and modifying the 20' side yard setback to that of 10' leaving a variance of 10'.

The Board voted as follows:

Chairperson Salomone	Aye
Member T. Kelly	Aye
Member Campbell	Aye
Member Miller	Aye
Member KP Kelly	Aye

The motion was carried.

Spana Bazaz & Kaul Prashant, 9109 Cirrus Court, Manlius NY (tax map # 099.1-07-16.0) for an area variance for a 16' X 34' inground pool. This applicant needs two variances on the same side of the yard for each corner of the pool. With an existing side yard setback of 11' they will need a variance of 9' to meet the required 20' side yard setback. With an existing side yard setback of 13' they will need a variance of 7' to meet the required 20' side yard setback.

Chairperson Salamone stated the applicant is requesting two variances to build a 16' X 34' inground pool. Chairperson Salamone stated they are requesting a 9' side yard variance and a second side yard variance of 7'.

Member Campbell made a motion, seconded by Member KP Kelly to waive the reading of the public notice and it was carried unanimously.

Mr. Prashant stated they would like the pool for the kids and so they do not have to travel too much.

Member KP Kelly stated the request is reasonable but did ask why the two variances are needed on the same side. Code Officer Capriotti stated they are two different distances but if the board grants the larger distance, that will cover the whole pool in case the pool has to be shifted a bit.

Chairperson Salamone stated that because of the size of the property this is the only place for the pool to fit. Councilor Salamone asked when will the pool be built? Mr. Prashant stated hopefully in June.

Member T. Kelly made a motion, seconded by Member KP Kelly to close the public hearing at 6:37 PM and it was carried unanimously.

Board Questions

Chairperson Salamone proceeded with the board through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no because the lot is not deep enough and there is a drainage easement.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no because there are other pools in the area.
- 3) Whether the requested Variance is substantial? The board answered no.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no.
- 5) Whether the alleged difficulty was self-created? The board answered yes because they want a pool.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance for a side yard setback of 9' is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions:

SEQRA Review

Chairperson Salamone determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action

Based on the answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member T. Kelly made a motion, seconded by Member KP Kelly, to grant a 9' side yard variance to Spana Bazaz and Kaul Prashant, 9109 Cirrus Court, Manlius NY an area variance for the construction of a 16' X 34' inground pool.

The Board voted as follows:

Chairperson Salomone	Aye
Member T. Kelly	Aye
Member Campbell	Aye
Member Miller	Aye
Member KP Kelly	Aye

The motion was carried.

Andrew & Gloria Cummings, 7 Edgewood Parkway, Fayetteville NY (tax map # 096.-03-18.0) Public Hearing for an area variance for a 24' X 30' garage. With an existing side yard setback of 0' they will need a variance of 20' to meet the required 20' side yard setback.

Chairperson Salamone stated the applicant is requesting a variance to build a 24' X 30' garage. Chairperson Salamone stated they are requesting a side yard variance of 20'.

Member Campbell made a motion, seconded by Member KP Kelly to waive the reading of the public notice and it was carried unanimously.

Mr. Cummings stated that currently they do not have a garage just a shed so they would like to add an attached garage.

Chairperson Salamone asked if there was a garage previously? Mr. Cummings stated the prior owner turned the garage into living space. Mrs. Cummings stated if they were to convert it back to a garage it would not be large enough for two cars. Mrs. Cummings stated the distance to the property line would be 1 ½ feet not the zero stated before.

Member KP Kelly stated he had asked the applicant if the garage could be moved 5' off the property line which would put it 5' toward the front yard. Mr. Cummings stated the septic system is in the front yard and he would be concerned it may too close to the leach field and windows in the house would have to be removed.

Mr. Cummings stated his neighbor did provide a letter in support of the 1 ½' distance off the property line. Mr. Cummings did state they he will be taking down three trees on the property line.

Chairperson Salamone asked if there is any other location you could put the garage? Mr. Cummings stated it could go in the back yard as a detached garage but then they would not have a useable back yard. Mr. Cummings stated they could stack the garages one in front of the other but feel that would be inconvenient.

Chairperson Salamone asked how the other neighbors feel about the proposed location of the garage. Mr. Cummings stated he did not have any neighbor object to the proposed location.

Code Officer Capriotti stated he is concerned about the distance between the neighbor's garage and the proposed garage as they are both attached to the houses. Code Officer Capriotti stated fire code is 10'. Mrs. Cummings stated there will be about 20' between the two garages and there will be a fire rated wall on the left side of the garage.

Member Campbell asked if the neighbors garage has a fire rated wall. Mrs. Cummings stated that the neighbors house was built in the 60's so most likely not.

Member T. Kelly made a motion, seconded by Member Campbell to close the public hearing at 7:04 PM and it was carried unanimously.

Board Questions

Chairperson Salamone proceeded with the board through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no, because of the septic in the front and in the back, it would use up the yard.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no because the lots in the neighborhood are large.
- 3) Whether the requested Variance is substantial? The board answered yes it will be aesthetically a change to the house and property.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Attorney Sutphen referenced a letter from the next-door neighbor that they would like the water runoff from the garage to go to the rear of the house. Mr. Cummings stated they will add gutters on the garage and pitch the driveway so the water does not go over the driveway. Mr. Cummings stated they will do what is needed to so the runoff does not go into the neighbor's yard. Attorney Sutphen asked what the architecture would look like. Mrs. Cummings stated the roof line will match the house just not as steep and the siding will match the house.
- 5) Whether the alleged difficulty was self-created? The board answered yes because they want the garage.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

_____ The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance for a side yard setback of 9' is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions:

- 1) That the architecture matches and complements the existing house.
- 2) That all four walls and the ceiling be built with fire rated sheetrock.
- 3) Make sure the runoff is directed away from both houses so it does not flow between the houses.

SEQRA Review

Chairperson Salamone determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action

Based on the answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member Miller made a motion, seconded by Member KP Kelly, to grant Andrew & Gloria Cummings, 7 Edgewood Parkway, Fayetteville NY for an area variance to construct a 24' X 30' garage. Therefore, modifying the 20' side yard setback to that of 1' leaving a variance of 19' and including the three conditions of,

- 1) That the architecture matches and will complement the existing house.
- 2) That all four walls and the ceiling be built with fire rated sheetrock.
- 3) Make sure the runoff is directed away from both houses so it does not flow between the houses.

The Board voted as follows:

Chairperson Salomone	Aye
Member T. Kelly	Aye
Member Campbell	Aye
Member Miller	Aye
Member KP Kelly	Aye

The motion was carried.

Other Business

Member Campbell and Board Members thanked KP Kelly for his leadership as Chairman of the Zoning Board and congratulated Judy Salamone as the new Chairperson.

Chairperson Salamone and Board Members thanked Code Officer Capriotti for his work with the Zoning Board as he moves on to a new job.

Member T. Kelly asked if there is anything ZBA needs to be aware of concerning the Comprehensive Plan. Councilor Deer stated the committee will most likely send surveys and questions as they work through the process.

Adjournment

With there being no other business, Member KP Kelly made a motion, seconded by Member Miller, and carried unanimously, to end the meeting at 7:25 PM

Respectfully submitted,
Debi Witzel, Secretary
Zoning Board of Appeals