

Tom Poitras, Code Enforcement Officer read aloud his prepared Affidavit (inserted below) to confirm that the Code Officer acted appropriately in the issuance of the permit in accordance with Town Law.

Thomas Poitras, Codes Officer of the Town of Manlius affirms under penalty of perjury as follows:

I reviewed an application for a building permit from Abundant Solar Power, Inc. for a ground mounted ballasted solar photovoltaic array. The application was received by the Town of Manlius April 1, 2022.

The project documents and information submitted were reviewed by me between 4/9-4/13/2022 in accordance with procedures for issuance of a building permit including: compliance with the current New York State Building Code, Energy Conservation Construction Code for Construction, the applicable Town of Manlius Code, and design standard requirements. This review included the Site Plan last dated October 2021, which I was advised by the Town Attorney was accepted by the Town Board.

Upon review of the documents and information submitted for a permit for the proposed project, to the best of my knowledge that based on the information that was submitted for review the applicant did meet the minimum requirement that are set forth in the current edition of the New York State Building Code, Energy Conservation Construction Code for Construction, the Town of Manlius Code and design standard requirements.

A building permit was issued on 4/14/2022 and a condition of the approval was: "Certificate of Compliance subject to New York State Department of Environmental Conservation approval" as attached hereto. The Town Supervisor signed the site plan.

 Date: 7/18/2022
Thomas Poitras

Chairman T. Kelly asked if Attorney Sutphen was representing Mr. Poitras as a person or as an employee for the town? Attorney Sutphen stated that she is the attorney for the Zoning Board of Appeals.

The Board then discussed how and when they will be reviewing the documents. Chairman T. Kelly stated he will arrange to meet with each board member one on one to answer any questions they might have when reviewing the documents.

Barbara Henry asked if any work has begun on the Solar Array at this time. Attorney Sutphen stated no work has begun because of the pending lawsuit.

Member Catalino made a motion, seconded by Member KP Kelly to table the item for the next meeting on August 18, 2022.

Legal Notices

Member K P Kelly made a motion, seconded by Member Miller to waive the reading of the public notices and it was carried unanimously.

Mary & Matthew Snyder, 6998 N. Manlius Rd., Kirkville NY (tax map # 043.-01-10.3) requesting one height variance of 5' bringing the height to 22' which is 5' above the 17' code for the construction of a 30' X 50' Pole Barn.

Member KP Kelly made a motion, seconded by Member Linhart to open the public hearing at 6:56 PM and it was carried unanimously.

Ms. Snyder stated that he is requesting a height of 22' for the barn so he will have enough room to house their snowmobile trailer and pick-up truck.

Board Questions

Chairperson T. Kelly 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 he needs the height for taller vehicles to be stored.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no.
- 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 because they have a very large lot, and it will not affect the neighbors.
- 5) Whether the alleged difficulty was self-created? The board answered yes because they wants a barn for storage.

Member Linhart made a motion, seconded by Member KP Kelly to close the public hearing at 7:01 PM and it was carried unanimously.

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 of 5' for height 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: None

SEQRA Review

Chairperson T. Kelly 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

Member Linhart made a motion, seconded by Member KP Kelly to grant an area variance to Mary & Matthew Snyder, for the property located at 6998 N. Manlius Rd., Kirkville NY. This variance is granted for the specific purpose of constructing a 30' X 50' pole barn, and are requesting a height variance of 5' bring it to a height of 22'.

Ayes: Chairperson T. Kelly, Member Miller, Member KP Kelly, Member Linhart, Member Catalino.

Nays: 0

All in Favor:

Motion Carries.

Bruce Deppoliti, 7227 Autumn Run Trail, E. Syracuse NY ((tax map # 076.-04-10.0) requesting one variance to build a 12' X 12' addition. With an existing side yard setback of 13' 8" they will need a variance of 1' 4" to meet the required 15' setback.

Member KP Kelly made a motion, seconded by Member Catalino to open the public hearing at 7:04 PM and it was carried unanimously.

Mr. Deppoliti stated that they would like to add a 12' X 12' addition off the kitchen for a dining room. Mr. Deppoliti state the 1' 4" request is for the front corner of the addition as the lot widens as it goes back. Mr. Deppoliti stated because of the shape of the lot this is the only location for the addition. Mr. Deppoliti stated that the exterior will match the house.

Member Linhart asked if the roof line on the south side of the house will match the roof line on the addition? Mr. Deppoliti answered yes it will match the house. Member Linhard asked if the foundation will be a poured concrete base. Mr. Deppoliti answered yes it will be. Member Linhart asked if his neighbor to the east had any objections to the addition. Mr. Deppoliti stated he had not spoken to his neighbor about the addition. Chairman T. Kelly stated that the neighbors are sent letters informing them about the project and no neighbors responded.

Member KP Kelly asked if the footing will be 4' below grade and deeper in the back as the grade changes. Mr. Deppoliti answered yes that this issue will be addressed in follow up documents for the Code Officer.

Chairman T. Kelly asked if the distance requested included the roof overhang? Mr. Deppoliti answered yes, the plan include the overhang.

Member Linhart made a motion, seconded by Member KP Kelly to close the public hearing at 7:12 PM and it was carried unanimously.

Board Questions

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no, based on the location of the property line and shape of the lot.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no, as it will match the house.
- 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? No.
- 5) Whether the alleged difficulty was self-created? Yes, because they want an addition.

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 of 1' 4" 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: None

SEQRA Review

Chairperson T. Kelly 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

Member Miller made a motion, seconded by Member Catalino to grant an area variance to Bruce Deppoliti for the real property located at 7227 Autumn Run Trail, E. Syracuse NY. This variance is being granted for the specific purpose of adding a 12' X 12' addition thereby modifying the 15' side yard setback to that of 13' 8", giving a variance of 1' 4"

Ayes: Chairperson T. Kelly, Member Miller, Member KP Kelly, Member Linhart, Member Catalino.

Nays: 0

All in Favor:

Motion Carries.

Alex Hebert, 7119 N. Manlius Rd., Kirkville NY (tax map # 040.02-02.3) requesting one height variance of 5' bringing the height to 22' which is 5' above the 17' code for the construction of a 40' X 60' barn/garage.

Member KP Kelly made a motion, seconded by Member Miller to open the public hearing at 7:33 PM and it was carried unanimously.

Mr. Herbert stated because his father-in-law would not be allowed to build a barn on a vacant lot, they have decided to place the barn on Mr. Hebert's property that does have a residential structure on it and his property backs up to his father-in-laws property.

Member KP Kelly asked Mr. Hebert to describe the barn. Mr. Hebert stated the barn will be 22' tall with storage upstairs, no windows with large doors on the north and south side with a man door on the east side.

Member KP Kelly asked if it will be a pole barn. Mr. Hebert stated that it will be a conventional barn.

Member Linhart made a motion, seconded by Member KP Kelly to close the public hearing at 7:54 PM and it was carried unanimously.

Board Questions

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no, as they came up with a good solution to being denied last month.
- 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 similar barns in the area.
- 3) Whether the requested Variance is substantial? No
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? no
- 5) Whether the alleged difficulty was self-created? The board answered yes as they wanted a barn.

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 height of 5 feet 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: None

SEQRA Review

Member Linhart made a motion, seconded by Member KP Kelly 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

Member Miller made a motion, seconded by Member Miller to grant an area variance to Alex Hebert, 7119 N. Manlius Rd., Kirkville NY. This variance is being granted for the specific purpose of building an accessory structure of 40' X 60' and are requesting a height variance of 5' bring it to a height of 22'.

Ayes: Chairperson T. Kelly, Member Miller, Member KP Kelly, Member Linhart, Member Catalino.

Nayes: 0

All in Favor:

Motion Carries.

Steven Kelly, 5886 Strawmount Trail, Chittenango NY (tax map # 082.2-03-09.0) requesting one variance for a 12' X 16' shed. With an existing rear yard setback of 17' they will need a variance of 23' to meet the required 40' rear yard setback.

Chairman T. Kelly recused himself from Mr. Kelly's application because Mr. Kelly is his brother. Chairman T. Kelly stated that Member KP Kelly will oversee this agenda item.

Member KP Kelly stated he is not related to Steven Kelly.

Member Catalino made a motion, seconded by Member Miller to open the public hearing at 7:29 PM and it was carried unanimously.

Member Linhart stated the location for the shed is very good leaving room for the trees to grow and its on level land away from any water.

Member Catalino asked if the shed will match the house. Mr. Steven Kelly stated it will match the house and have a wood floor.

Mr. Steven Kelly stated he wants to install a 12' X 16 shed for the purpose of storage. The shed will be about 17' back from the rear line so he is looking for a 23' variance.

Member Linhart made a motion, seconded by Member Miller to close the public hearing at 7:34 PM and it was carried unanimously.

Board Questions

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered yes, they could but this is a reasonable location.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no, as there are two sides of forever wild land.
- 3) Whether the requested Variance is substantial? Yes, as it is 23'.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No.
- 5) Whether the alleged difficulty was self-created? The board answered yes, they wanted the shed.

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 23' off the rear line 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: None

SEQRA Review

Member Linhart made a motion, seconded by Member KP Kelly 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

Member Linhart made a motion, seconded by Member Catalino to grant an area variance to Steven Kelly, 5886 Strawmount Trail, Chittenango NY. This variance is being granted for the specific purpose of the construction of a 12' X 16' shed and are requesting a rear yard variance of 23' to meet the required 40'.

Ayes: Chairperson T. Kelly, Member Miller, Member KP Kelly, Member Linhart, Member Catalino.

Nays: 0

All in Favor:

Motion Carries.

Adjournment

With there being no other business, Member Linhart made a motion, seconded by Member KP Kelly, and carried unanimously, to end the meeting at 7:39 PM

Respectfully submitted,
Debi Witzel, Secretary
Zoning Board of Appeals