

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
February 16, 2023
6:30 PM**

The Town of Manlius Zoning Board held a hybrid meeting with in-person attendees and virtual attendees. The meeting was live streamed on the Town Facebook page and the Town YouTube Channel. The recording of the meeting can be viewed here: <https://youtu.be/Ih9BYpKhLFE>

Chairperson Timothy Kelly presided, and the following Board members were present:

Member	K P Kelly
Member	Clare Miller
Member	Karrie Catalino
Member	Warren Linhart
Secretary	Debi Witzel
Attorney	Jamie Sutphen
Code Officer	Tom Poitras

In Person Attendees: Andy Melka, Horizon Power.

Virtual Attendees: None

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

Approval of Minutes – January 19, 2023

Member Catalino made a motion, seconded by Member KP Kelly, to approve the minutes of January 19, 2023, as submitted by Secretary Witzel.

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

Nays: 0 All in Favor. Motion Carries.

Member Linhart made a motion, seconded by Member KP Kelly, to waive the reading of the public notices.

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

Nays: 0 All in Favor. Motion Carries.

Don & Marijane Warner, 7865 Peck Rd., Kirkville NY (tax map # 042.-01-32.4) and 7869 Peck Rd. tax map # 042.-01-32.1) Public Hearing for seven variances for a subdivision and re-subdivision of two lots.

Chairman T. Kelly stated that the application for 7865 and 7869 Peck Rd., Kirkville is requesting seven variances to subdivide and combine parcels to improve frontage and to make residential lots conforming and to separate a potential solar project.

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

Member Catalino made a motion, seconded by Member Miller to open the public hearing at 6:34 PM and it was carried unanimously.

Andy Melka, Horizon Power on behalf of Don & Marijane Warner stated that Mr. & Mrs. Warner want to address the land issues by redrawing the property lines. Some of the issues are one barn is straddling the property line, separating out the rental unit, addressing the shared driveway, will place the Warner's residents and barns on the same lot and bring the properties closer to compliance with the law.

Mr. Melka read aloud a letter from Mr. & Mrs. Warner asking the Board to approve the seven variances that would allow for the redrawing of the property lines. The complete letter is on file in the Town Clerk's Office.

Seven variances requested

Proposed Lot 2A - Tax Map ID 42-01-32.1

1. Road Frontage – Required 200' requesting 55.09' needs a variance of 144.91'
 - a. Applicant seeking a variance from chapter 155-12 (A)(1). Applicant is requesting 55.09 feet of frontage and will need a variance of 144.91 feet to provide relief from the required 200 feet of frontage.

Proposed Lot 2B - Required owner information on survey.

1. Road Frontage – Required 200' requesting 40' needs a variance of 160'
 - a. Applicant seeking a variance from chapter 155-12 (A)(1). Applicant is requesting 160 feet of frontage and will need a variance of 40 feet to provide relief from the required 200 feet of frontage.
2. Required 100,000 square feet of area requesting 94,525.2 square feet of area needs a variance of 5,474.8 square feet of area
 - a. Applicant seeking a variance from chapter 155-12 (A)(1). Applicant is requesting 94,525.2 square feet of area and will need a variance of 5,474.8 square feet of area to provide relief from the required 100,000 square feet of area.

Label as Lot 2C Tax Map ID 42-01-32.4

1. Road Frontage – Required 200' requesting 90.87' needs a variance of 109.13'
 - a. Applicant seeking a variance from chapter 155-12 (A)(1). Applicant is requesting 90.87 feet of frontage and will need a variance of 109.13 feet to provide relief from the required 200 feet of frontage.
2. Barn A - Side yard setback – Required 20' requesting 13' needs a variance of 7'
 - a. Applicant seeking a variance from chapter 155-12 (B). Applicant is requesting 13-foot side yard setback and will need a variance of 7 feet to provide relief from the required 20-foot side yard setback.
3. Barn B- Side yard setback – Required 20' requesting 12' needs a variance of 8'

a. Applicant seeking a variance from chapter 155-12 (B). Applicant is requesting 12-foot side yard setback and will need a variance of 8 feet to provide relief from the required 20-foot side yard setback.

4. Barn C - Front yard setback - Required 40' requesting 16.4' needs a variance of 23.6'

a. Applicant seeking a variance from chapter 155-12 (B). Applicant is requesting 16.4-foot front yard setback and will need a variance of 23.6 feet to provide relief from the required 40-foot front yard setback.

Member Linhart made a motion, seconded by Member KP Kelly to close the public hearing at 7:27 PM and it was carried unanimously.

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, as the benefit by granting the variances is to clean up the lot lines, create a lot, providing an access to the back parcel and Warner's house and barns will be on the same lot.
- 2) Whether the Variances will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no it will make the lots better.
- 3) Whether the requested Variances is substantial? The board answered yes.
- 4) As to whether the Variances 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 **see the attached detailed sheet** 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. A shared driveway agreement between the two residential properties currently owned by the Warner's and provided to Counsel for the Zoning Board.
2. None of the variances will be considered granted or final unless and until the Planning Board gives approval of the subdivision.

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 Catalino made a motion, seconded by Member Linhart to accept each and grant each of the seven variances as were just read by Chairman T. Kelly

Highlighted sections are the approved variances by the Zoning Board on February 16, 2023.

Proposed Lot 2A - Tax Map ID 42-01-32.1

1. **Road Frontage** – Required 200' requesting 55.09' needs a variance of 144.91'
 - a. Applicant seeking a variance from chapter 155-12 (A)(1). Applicant is requesting 55.09 feet of frontage and will need a **variance of 144.91 feet** to provide relief from the required 200 feet of frontage.

Proposed Lot 2B - Required owner information on survey.

1. **Road Frontage** – Required 200' requesting 40' needs a variance of 160'
 - a. Applicant seeking a variance from chapter 155-12 (A)(1). Applicant is requesting 160 feet of frontage and will need a **variance of 40 feet** to provide relief from the required 200 feet of frontage.
2. Required 100,000 square feet of **area** requesting 94,525.2 square feet of area needs a variance of 5,474.8 square feet of area
 - a. Applicant seeking a variance from chapter 155-12 (A)(1). Applicant is requesting 94,525.2 square feet of area and will need a **variance of 5,474.8 square feet of area** to provide relief from the required 100,000 square feet of area.

Label as Lot 2C Tax Map ID 42-01-32.4

1. **Road Frontage** – Required 200' requesting 90.87' needs a variance of 109.13'
 - a. Applicant seeking a variance from chapter 155-12 (A)(1). Applicant is requesting 90.87 feet of frontage and will need a **variance of 109.13 feet** to provide relief from the required 200 feet of frontage.
2. **Barn A - Side yard setback** – Required 20' requesting 13' needs a variance of 7'
 - a. Applicant seeking a variance from chapter 155-12 (B). Applicant is requesting 13-foot side yard setback and will need a **variance of 7 feet** to provide relief from the required 20-foot side yard setback.
3. **Barn B- Side yard setback** – Required 20' requesting 12' needs a variance of 8'
 - a. Applicant seeking a variance from chapter 155-12 (B). Applicant is requesting 12-foot side yard setback and will need a **variance of 8 feet** to provide relief from the required 20-foot side yard setback.
4. **Barn C - Front yard setback** - Required 40' requesting 16.4' needs a variance of 23.6'
 - a. Applicant seeking a variance from chapter 155-12 (B). Applicant is requesting 16.4-foot front yard setback and will need a **variance of 23.6 feet** to provide relief from the required 40-foot front yard setback.

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

Nayes: 0

All in Favor.

Motion Carries.

Adjournment

With there being no other business, Member Catalino made a motion, seconded by Member Linhart, and carried unanimously, to end the meeting at 6:55 PM

Respectfully submitted,
Debi Witzel, Secretary
Zoning Board of Appeals