

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
May 15, 2014**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on May 15, 2014 in the Town Hall, 301 Brooklea Drive, Fayetteville, New York. Those present were:

Chairman	Henry McIntosh	
Member	KP Kelly	
Member	T.R. Schepp	
Member	Al Ruthig	(Absent)
Member	Jim Campbell	
Secretary	Lisa Baleno	
Code Enforcement Officer	Michael Jones	
ZBA Attorney	Courtney Hills	

Also Present: Cristina Caceres, Rick Wolff and Andy Rutz

The Pledge of Allegiance was recited.

MINUTES AND LEGAL NOTICES

Member Kelly made a motion, seconded by Member Campbell to approve the minutes of April 17, 2014, and it was carried unanimously.

Chairman McIntosh stated that he has confirmed that the legal notice had been published for the applications on the agenda. Member Schepp made a motion, seconded by Member Campbell to waive the reading of the publication for the items on the agenda and it was carried unanimously.

**ROMANO REALTY, LLC, 5433 N. BURDICK STREET, FAYETTEVILLE, NY 13066
CONTINUED PUBLIC HEARING - SIGN VARIANCE- 5'X12' LED MESSAGE DISPLAY
SIGN.**

Cristina Caceres from Kassis Superior Signs was at the meeting representing Romano Realty.

Attorney Hills reminded the Board that the Public Hearing was continued so that they could send a referral to the Onondaga County Planning Board as required by GML §239. By Resolution (OCPB Case No. Z-14-154), the Onondaga County Planning Board has indicated that they (the OCPB) has determined that said referral will have no significant adverse inter-community or county-wide implications and may consequently be acted on solely by the Town of Manlius Zoning Board of Appeals.

Attorney Hills further stated that at the last Board meeting this Board indicated that they were leaning towards approving it based on the position of the Onondaga County Planning Boards decision. However, in review of the minutes for the March 20, 2014 public hearing minutes, she advised that although the Applicant addressed the five (5) criteria questions pursuant to Town Law §267-b(3)(b) the Board has yet to conduct the required balancing test pursuant to Town Law §267-b(3)(b). She reminded the Board that in making its determination, the Board shall take into consideration the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of

the neighborhood or community by such grant. In doing so, the Board itself must consider the five (5) criteria questions enumerated in Town Law §267-b(3)(b). She then asked the Board to close the public hearing and discuss the five (5) criteria questions.

With there being no comments from the Public, Chairman McIntosh closed the Public Hearing.

BOARD DISCUSSION AND 5 CRITERIA QUESTIONS

1) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties?

- It was the consensus of the Board that if granted, the variance would not result in an undesirable change in the character of the neighborhood or nearby properties. The Board noted that the subject neighborhood has many car dealerships offering similar services and the proposed sign would be located in the back, quite a distance from the public right of way.

2) Whether the benefit sought by the Applicant can be achieved by some other feasible method?

- It was the consensus of the Board the benefit sought by the Applicant (daily change in the identification of prices, services, etc.) could not be achieved by some other feasible method, and that it would be burdensome for the Applicant to obtain a permit for every content change.

3) Whether the requested Variance is substantial?

- Based on the size and location of the proposed sign, it was the consensus of the Board that the requested variance was not substantial.

4) Whether the Variance will have an adverse effect on physical or environmental conditions?

- It was the consensus of the Board that the variance would not have an adverse effect on physical or environmental conditions due the site's distance from away from the public right of way and relative seclusion due to existing structures in the area.

5) Whether the alleged difficulty was self-created?

- Although it was the consensus of the Board the alleged difficulty was self-created, the Board noted same was not an absolute bar to the granting of an area variance.

Considering same, the Board determines the benefit to the applicant outweighs the detriment to the community.

Attorney Hills confirmed with the Board that review pursuant to the State Environmental Quality Review Act was previously done, and advised the Board to go ahead and make their decision if they were ready.

MOTION

Member Kelly made a motion to allow an area variance of Section 155-25(l) relative to the requirement of a building permit for every sign face change, for the real property located at 5433 N. Burdick Street Fayetteville, New York to permit LED Message Display Sign with the conditions imposed below and to be completed within 30 days. The motion was seconded by Member Campbell.

1. The Board has determined that the proposed LED sign does not meet the definition of “flashing” within the code. They have determined that a sign flashes under the code if it changes more than once every 15 minutes. So, as long as the sign does not change more than once every 15 minutes, no variance will be required from Town Code §155-25(G)(2).
2. The distance of the sign is 450’ from the roadway, so this Board does not have a concern that the sign changing every 15 minutes will affect things like traffic.
3. The sign can only be on during business hours and cannot run 24 hours a day.
4. The Board does believe that there is a variance required to change the face of the sign pursuant to Town Code § 155-25(I). The Board is willing to grant a variance for the face of the sign so that the applicant will not need the Department of Planning and Development to issue a building permit every time the language on the sign changes.
5. Messages on the LED sign must only be related to Romano’s business only. (i.e.: no outside or third party message on the display).

The Board voted as follows:

Chairman McIntosh	aye
Member Kelly	aye
Member Campbell	aye
Member Schepp	aye

The motion was carried.

RICHARD WOLFF & JAMES CODY, 4644 RINGNECK PATH, MANLIUS, NY 13104
PUBLIC HEARING – AREA VARIANCE– CONSTRUCT A 15’X15’ 3 SEASON ROOM -
REQUESTING AN 18’ REAR YARD SETBACK INSTEAD OF THE REQUIRED 40’.

Andy Rutz, builder for the project was present to represent the applicants. Mr. Rutz explained that the applicants were proposing to build a 3 season room (addition) and were requesting an area variance from the requirements of Town Code §155-7-B, which requires a rear yard setback of 40 feet. Applicants proposed a rear yard setback of 18 feet, thus requested a variance of 22 feet. Mr. Rutz testified the area behind the property line was owned by the Mallards Landing Home Owner’s Association, No. Two, Inc. and by letter dated April 18, 2014 they had approved the proposed project with conditions, one being that the Applicant received any required Town approvals. Mr. Rutz further testified that although the proposed addition would encroach into the rear yard setback area, the closest house was over 300’ away.

Member Schepp asked if the area behind the house is common area. Mr. Rutz said yes and as such no other houses shall be constructed therein.

Chairman McIntosh noted that the neighbors were notified of the area variance request.

Chairman McIntosh then asked Mr. Rutz to discuss the five (5) criteria questions

enumerated in Town Law §267-b(3)(b). His responses were as follows:

1) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties?

- Mr. Rutz answered – No.

2) Whether the benefit sought by the Applicant can be achieved by some other feasible method?

- Mr. Rutz answered – No.

3) Whether the requested Variance is substantial?

- Mr. Rutz answered – No

4) Whether the Variance will have an adverse effect on physical or environmental conditions?

- Mr. Rutz answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Rutz answered – Yes.

Member Campbell asked if the addition was going to be heated. Mr. Rutz said yes and it has not been determined yet as to the source of the heat, i.e. furnace.

Member Schepp asked about the foundation. The applicant said it will be a slab on grade.

Member Schepp also verified that the land behind the property is owned by the HOA and in a letter dated April 18, 2014 (*on file in the Planning and Development office*), they (HOA) approved of the project.

PUBLIC COMMENT

There were no comments from the Public.

SEQR

Chairman McIntosh indicated this project is a request for an area variance for a residential use within a residential zoning district and therefore the action is listed in 6 NYCRR, 617.5 as a Type II Action, which will therefore not have any significant impact on the environment and the Board need not take any further action to determine the potential environmental significance of the project.

BOARD DISCUSSION AND 5 CRITERIA QUESTIONS

1) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties?

- It was the consensus of the Board that the requested variance would not result in an undesirable change in the character of the neighborhood or to nearby properties in that the proposal is consistent with the character of the neighborhood; the area directly behind the property line is common area owned by the HOA and thus same cannot be constructed on. No other houses would be going up and therefore there would still be a visually significant setback area – at least 300 feet. In addition the proposed addition would be consistent with the main structure design and color scheme and thus aesthetically pleasing.

2) Whether the benefit sought by the Applicant can be achieved by some other feasible method?

- It was the consensus of the Board that the benefit sought by the Applicant could not be achieved by some other feasible method due to lot configuration and location of the main dwelling.

3) Whether the requested Variance is substantial?

- In light of the 300 feet of common area located directly behind the rear yard property line, it was the consensus of the Board that the request was not substantial.

4) Whether the Variance will have an adverse effect on physical or environmental conditions?

- In light of the relatively minor nature of the addition, the plans submitted with the Application and the testimony of the Applicant, it was the consensus of the Board that variance would not have an adverse effect on physical or environmental conditions.

5) Whether the alleged difficulty was self-created?

- Although it was the consensus of the Board the alleged difficulty was self-created, the Board noted same was not an absolute bar to the granting of an area variance.

CONDITIONAL APPROVAL OF VARIANCE

A summary of the Board's findings based on the discussion above is as follows: that no undesirable change in the character of the adjoining residential neighborhood or detriment to neighboring properties will be created by the variance because the 3 season room will have little if any effect on the neighboring properties and will not be visible by the applicants' neighbors; it is not substantial because the setback will be 18' instead of the required 40' (variance of 22'), will not have an adverse effect on environmental conditions in the neighborhood; and the request for the variance is self-created. Considering same, the Board determines the benefit to the applicant outweighs the detriment to the community.

Member Schepp made a motion to grant an area variance of Town Code Section 155-7-B for the real property located at 4644 Ringneck Path, Manlius, New York for an Area Variance to permit the construction of a 15' x 15' 3 Season Room (addition) within 18' of the rear yard property line – a 22' variance of the 40' rear yard setback requirement. The motion was seconded by Member Campbell.

Based on the foregoing the Board voted to approve the variance for 15'x15' 3 Season Room in accordance with the exhibits submitted with the no conditions except to be completed in 90 days.

Chairman McIntosh	aye
Member Kelly	aye
Member Schepp	aye
Member Campbell	aye

The motion was carried unanimously.

OTHER BUSINESS

ADJOURNMENT

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

Respectfully submitted,
Lisa Baleno, Secretary
Town of Manlius Zoning Board of Appeals