

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
June 19, 2014**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on June 19, 2014 in the Town Hall, 301 Brooklea Drive, Fayetteville, New York. Those present were:

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

Also Present: Kristen & Brian Caruana; Barbara Rivette; Dean Colella

The Pledge of Allegiance was recited.

MINUTES AND LEGAL NOTICES

Member Ruthig made a motion, seconded by Member Campbell to approve the minutes of May 15, 2014, and it was carried unanimously.

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

**ED DeBOER, 6113 POOLS BROOK ROAD, KIRKVILLE, NY 13082
PUBLIC HEARING - SIGN SQAURE FOOTAGE VARIANCE AT 6279 POOLS BROOK
ROAD AND 6108 POOLS BROOK ROAD- REQUESTING 6 SQUARE FEET INSTEAD
OF THE REQUIRED 4 SQUARE FEET.**

The applicant, Mr. DeBoer, was present and requested two (2) area variances to permit the installation of two (2) 36" wide by 24" high, high density urethane signs with raised copy and border, mounted with two posts with decorative tops, denoting "The Hamlet of Pool's Brook. He gave a brief background on the Pools Brook neighborhood, and testified the neighbors had previously gotten together about 10 years ago and signed a petition to have signs erected in the area. They could have used a smaller sign, but felt that it was too small for what they were trying to accomplish. The first sign would go near the intersection of Kinderhook and Pools Brook and the second would go midway between the Canal and Hoag Road. Both signs would be erected on private property at 6108 Pool's Brook Road and 6279 Pool's Brook Road.

Chairman McIntosh stated that the Town received letters (on file in the Planning and Development Office) from the two homeowners where the signs are going to be placed stating that they have no objections to the erection of the signs on their property.

Mr. DeBoer stated that the signs will be simulated wood composite; earth toned and shouldn't require much maintenance for at least 10 years.

Attorney Primo said that he would advise the Board to put a condition on the variance, if they decided to grant it. The condition being that the Town retains a license to remove and/or maintain the sign if a future Town Board decides they want to accept it as a dedication or in the event that it is not maintained properly.

Chairman McIntosh then asked Mr. DeBoer to discuss the five (5) criteria questions enumerated in Town Law §267-b(3)(b). His responses were as follows:

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

- Mr. DeBoer answered – No.

The sign on Kinderhook is in a wooded area so they will probably clean a little bit around the area. The sign inbetween the canal and Hoag Road is on personal property so it will be away from their house.

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

- Mr. DeBoer answered – Yes.

The applicant could have gone with a regular Highway sign, but it wouldn't look as good.

3) Whether the requested Variance(s) is substantial?

- Mr. DeBoer answered – Yes

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

- Mr. DeBoer answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. DeBoer answered – Yes.

Member Kelly asked if the sign on Hoag road will block the view of the neighbor leaving the driveway. Mr. DeBoer stated he believed it would not because it would be located about 12-15 feet away from the driveway.

PUBLIC COMMENT

Barbara Rivette, Town of Manlius Historian, gave a brief background of the Poolsbrook area. She also gave a letter to the Board regarding the background which is on file in the Planning and Development Office.

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

BOARD DISCUSSION AND 5 CRITERIA QUESTIONS

The Board considered the required “balancing test” under Town Law §267-b(3) and accordingly weighed the effect of same (if granted) on the health, safety and welfare of the neighborhood and community; and in conjunction with such consideration, considered the following criteria

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

The Board replied – No

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

The Board replied - No

3) Whether the requested Variance(s) is substantial?

- Based on the size and location of the proposed signs, it was the consensus of the Board that the requested variances were not substantial.

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

- It was the consensus of the Board that the variances would not have an adverse effect on physical or environmental conditions due the sites distance from away from the public right of way.

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.

After further discussion, the Board expressed the sentiment that upon analysis of the above criteria, the benefit to the applicant outweighed the detriment to the community upon the condition the Town shall retain a license to remove and/or maintain the sign if a future Town Board decides they want to accept it as a dedication or in the event that it is not maintained properly.

SEQOR

that Board determined these were Unlisted Actions pursuant to SEQRA, and as an Unlisted Action the Board reviewed the EAF and elected to act as Lead Agency, conducted an Uncoordinated Review, and based upon its review of Parts I and proposed Part II of the EAF, determined that same would not have a significant environmental impact, and thus the Board issued a Negative Declaration pursuant to the New York State Environmental Quality Review Act.

MOTION

Member Ruthig made a motion to grant the requested area variances for the real properties located at 6279 Poolsbrook Road and 6108 Poolsbrook Road, Kirkville, New York to permit two signs with the conditions imposed below. The motion was seconded by Member Campbell.

1. The Town shall retain a license to remove and or maintain the sign if a future Town Board decides they want to accept it as a dedication or in the event that it is not maintained properly.

The Board voted as follows:

Chairman McIntosh	aye
Member Kelly	aye
Member Campbell	aye
Member Ruthig	aye

The motion was carried.

KRISTEN & BRIAN CARUANA, 1106 CORNFLOWER WAY, E. SYRACUSE, NY 13057
PUBLIC HEARING – AREA VARIANCE– INSTALL AN IN-GROUND SWIMMING POOL
- REQUESTING A 10’ REAR YARD SETBACK INSTEAD OF THE REQUIRED 25’.

The applicant, Brian Caruana, testified he would like to install an in-ground swimming pool. He explained to the Board that the proposed location of the pool would not meet the required rear yard setback per the Town Code, and he therefore needs an areaVariance. He further testified that per Homeowner’s Association rules and regulations, only in-ground pools are permitted.

Chairman McIntosh then asked Mr. Caruana 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. Caruana answered – No.
- 2) Whether the benefit sought by the Applicant can be achieved by some other feasible method?
 - Mr. Caruana answered – No.
- 3) Whether the requested Variance is substantial?
 - Mr. Caruana answered – No
- 4) Whether the Variance will have an adverse effect on physical or environmental conditions?
 - Mr. Caruana answered – No.
- 5) Whether the alleged difficulty was self-created?
 - Mr. Caruana answered – Yes.

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

Member Kelly asked how big the pool is going to be. Mr. Caruana said 20’x38’; it is going to be an odd shaped pool.

- 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.

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?

The Board replied – No

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

- In light of the relatively minor nature of the pool, 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 in-ground pool will have little if any effect on the neighboring properties; it is not substantial because the setback will be 10 ' instead of the required 25' (variance of 15'), 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 Campbell made a motion to grant an area variance of Town Code Section 155-9-B for the real property located at 1106 Cornflower Way, East Syracuse, New York for an Area Variance to permit the construction of an in-ground pool within 10' of the rear yard property line. The motion was seconded by Member Kelly.

Based on the foregoing the Board voted to approve the variance for an in-ground swimming pool in accordance with the exhibits submitted with the no conditions except to be completed within 2-3 weeks.

Chairman McIntosh	aye
Member Kelly	aye
Member Campbell	aye
Member Ruthig	aye

The motion was carried unanimously.

DEAN COLELLA, 7493 JAMES STREET, FAYETTEVILLE, NY 13066
PUBLIC HEARING – AREA VARIANCE– CONSTRUCT A 11'6" X 21'6" 2 STORY
ADDITION - REQUESTING A 12' FRONT YARD SETBACK INSTEAD OF THE

REQUIRED 40'.

The applicant, Mr. Colella, testified he would like to add a bathroom and a bedroom upstairs to his existing home in order to increase the living space. He further testified that the existing porch was in poor condition and will be demolished and rebuilt.

Chairman McIntosh then asked Mr. Colella 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. Colella answered – No.

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

- Mr. Colella answered – No.

The stairway faces south and it would too expensive to go north.

3) Whether the requested Variance is substantial?

- Mr. Colella answered – No

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

- Mr. Colella answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Colella answered – Yes.

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

Member Kelly asked why the addition couldn't be put on the side of the house. Mr. Colella said it is not really an option because the septic tank is right there and the porch really doesn't have a proper foundation that's why he wants to take it down and start over.

Member Kelly also asked how long it will take to complete the project. Mr. Colella said probably 2-3 weeks.

Member Ruthig asked about the siding? The Applicant said it will match the existing house.

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; 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.

- Member Kelly stated that he thinks the Applicant can build in another location instead of out towards the road.

3) Whether the requested Variance is substantial?

- 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 granting of the variance because the 2 story addition will have little if any effect on the neighboring properties; it is not substantial because the setback will be 12' instead of the required 40' (variance of 28'), 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 Ruthig made a motion to grant an area variance of Town Code Section 155-12-B for the real property located at 7493 James Street, Fayetteville, New York for an Area Variance to permit the construction of a 11'6" x 21'6" 2 story addition within 12' of the front yard property line – a 28' variance of the 40' front yard setback requirement. The motion was seconded by Member Campbell.

Based on the foregoing the Board voted to approve the variance for 11'6" x 21'6" 2 story addition in accordance with the exhibits submitted with the no conditions except to be completed in 90 days.

Chairman McIntosh
Member Kelly

aye
aye

Member Campbell
Member Ruthig

aye
aye

The motion was carried unanimously.

OTHER BUSINESS

SEQR for Romano Realty, LLC

The Board determined this was an Unlisted Actions pursuant to SEQRA, and as an Unlisted Action the Board reviewed the EAF and upon motion of Member Kelly elected to act as Lead Agency, conducted an Uncoordinated Review, and based upon its review of Parts I and proposed Part II of the EAF, determined that same would not have a significant environmental impact, and thus the Board issued a Negative Declaration pursuant to the New York State Environmental Quality Review Act and the Board further authorized the Chairman to sign the short form SEQR instrument. The motion was seconded by Member Campbell and carried unanimously.

ADJOURNMENT

With there being no other business, Member Campbell made a motion, seconded by Member Kelly, and carried unanimously, to end the meeting at 7:51pm.

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