

**TOWN OF MANLIUS  
ZONING BOARD OF APPEALS  
August 21, 2014**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on August 21, 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      |
| Member                   | Jim Campbell   |
| Secretary                | Lisa Baleno    |
| Code Enforcement Officer | Michael Jones  |
| ZBA Attorney             | Lauren Seiter  |

Also Present: Roberta Mou, GW Thiel, Metta & Dan Bartlett, Nanette Hayner, Alicia Klim, Nicole Sidorowicz, John Stecyk, Eileen & Roy Simmons, Patrick Murphy, Jack Amodio, Paul Thompson, Peter McShane, Amy & Mark Bentz, Ruth & Fred Gronoff, Michelle Tibbits, Kelly Habegger, Michael O'Byrne, Keith Poole, Brian St. Laurent, Claudia Gabaul, Susan Li.

The Pledge of Allegiance was recited.

**MINUTES AND LEGAL NOTICES**

Member Kelly made a motion, seconded by Member Ruthig to approve the minutes of June 19, 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 Schepp to waive the reading of the publication for the items on the agenda and it was carried unanimously.

**JACK AMODIO, 7310 SNOWBALL RUN, EAST SYRACUSE, NY 13057**  
**PUBLIC HEARING - AREA VARIANCE – CONSTRUCT A SHED- REQUESTING A SIDE**  
**YARD SETBACK OF 3' INSTEAD OF THE REQUIRED 15' AND A REAR YARD**  
**SETBACK OF 20' INSTEAD OF THE REQUIRED 25'.**

Mr. Amodio said that he was in the process of building a 10'x12' shed. He already began construction on the shed without requesting the requisite variances and apologized for doing so. The applicant wants to complete installation of the shed so that he has a place to put his 4 –wheelers.

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

- Mr. Amodio answered – No.

There are many other sheds located in the neighborhood. The applicant intends for the shed to have cedar tiles on the outside of the shed so that it will match the existing house.

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

- Mr. Amodio answered – No.

The applicant picked the location for the shed because it is the lowest, level place in his yard. The applicant has a playground on the other side of his yard, as well as a deck, so he would not be able to install the shed in another location without tearing out the playground or deck.

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

- Mr. Amodio answered – Yes

The applicant is seeking a 3' side yard setback instead of the required 15', for a 12' variance. The applicant is also seeking a 20' rear yard setback instead of the required 25', for a 5' variance.

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

- Mr. Amodio answered – No.

The applicant intends on installing gutters on the shed to prevent drainage to his neighbors' properties. The gutters will direct rainwater to 350' drainage tile located on the applicant's property.

5) Whether the alleged difficulty was self-created?

- Mr. Amodio answered – Yes.

The applicant began constructing the shed without seeking a prior variance.

### **PUBLIC COMMENT**

Daniel Bartlett, 7308 Snowball Run. Mr. Bartlett stated that he made a complaint about the structure being too big and was concerned about the setbacks relating to the shed. He and his wife have decided to drop their complaint because they would rather be good neighbors and maintain their relationship with Mr. Amodio.

Chairman McIntosh Closed the Public Hearing.

### **BOARD DISCUSSION**

Member Schepp asked why the applicant chose that particular side of the yard of the shed. Mr. Amodio said because it is the lowest side of the yard and there is a playground for the kids on the other side.

Member Kelly asked about the finishing of the shed. Mr. Amodio said that it will have cedar siding just like the existing house.

Attorney Seiter asked the applicant why he started building without a variance/permit. The applicant said he talked to the Codes office, who told him that that if he built a shed no larger than 10'x10' with neighbor approval, no variance would be needed. He did not realize that making the shed 2' larger would require him to seek a prior variance.

Member Ruthig asked why the shed could not be moved to the back of the lot. The applicant said that he has a deck on the back of the house (the deck 16'x20' does not appear on the survey). If he built the shed within the required setbacks, he would only be 2 feet off the deck.

### **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 not have any significant impact on the environment. Therefore, the Board need not take any further action to determine the potential environmental significance of the project.

### **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 proposed shed will have little if any effect on the neighboring properties in that there are other sheds in the neighborhood and the proposed shed will be made of cedar siding to match the existing house; it is substantial because the applicant is seeking a 12' side yard variance and a 5' rear yard variance; it will not have an adverse effect on environmental conditions in the neighborhood because the applicant intends to install gutters that will direct rainwater away from neighboring properties; and the variance is self-created, but the benefit to the applicant outweighs the detriment to the community.

Member Schepp made a motion to grant the requested area variance for the real property located at 7310 Snowball Run, East Syracuse, New York to permit a shed with the conditions imposed below.

The Board voted as follows:

|                   |     |
|-------------------|-----|
| Chairman McIntosh | aye |
| Member Kelly      | aye |
| Member Campbell   | aye |
| Member Ruthig     | aye |
| Member Schepp     | aye |

The motion was carried.

### **PAUL THOMPSON, 201 CHURCHILL LANE, FAYETTEVILLE, NY 13066** **PUBLIC HEARING – AREA VARIANCE– CONSTRUCT A 7'X22' PORCH -** **REQUESTING A 28.1' FRONT YARD SETBACK INSTEAD OF THE REQUIRED 40'.**

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

- Mr. Thompson answered – No.

The applicant intends on encasing the columns of the front deck and making the deck match the siding of the existing house. He will not be enclosing it and he will not put a railing on it.

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

method?

- Mr. Thompson answered – No.

The applicant's property is located on a corner lot, necessitating the request for the variance.

3) Whether the requested Variance is substantial?

- Mr. Thompson answered – No

The applicant is seeking a front yard setback of 28.1' instead of the required 40', for an 11.9' variance.

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

- Mr. Thompson answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Thompson answered – Yes.

Mr. Thompson built the front deck before realizing he needed a variance.

### **PUBLIC COMMENT**

1. Eileen Simmons, 112 Churchill Lane; this deck will be an enhancement to the property.
2. Michael Byrne, 111 Churchill Lane; the deck is a strong improvement to the property and to the neighborhood.
3. Michelle Timmons, 200 Churchill Lane; enhances the neighborhood.
4. Peter McShane, 202 Churchill Lane; very happy with what the applicant has done, enhanced the value of the house and property, improves all of the neighborhood properties.
5. Keith Poole, 314 Churchill Lane; the deck is a nice enhancement to the neighborhood.
6. Jennifer Smith, 203 Churchill Lane; (wrote a letter, which is on file); no issues with the deck, wonderful addition to the area.

Chairman McIntosh closed the Public Hearing

### **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 not have any significant impact on the environment. Therefore, the Board need not take any further action to determine the potential environmental significance of the project.

### **BOARD DISCUSSION**

Member Schepp said that the comments from the audience tonight are a strong testament to the project and he thinks that it fits in the neighborhood.

Member Kelly also thinks that's it a great project.

Chairman McIntosh and Member Ruthig are both in agreeance that the project is good and

looks like the deck has been there for a while.

### **CONDITIONAL APPROVAL OF THE 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 front deck/porch will have little effect, if any, on the neighboring properties in that the porch matches the existing house; it is not substantial because the applicant is seeking a front yard variance of 11.9'; it will not have an adverse effect on environmental conditions in the neighborhood; and the variance is self-created in that the applicant nearly completed construction without a variance, but the benefit to the applicant outweighs the detriment to the community.

Member Kelly made a motion to grant an area variance of Town Code Section 155-9-B for the real property located at 201 Churchill Lane, Fayetteville, New York for an Area Variance to permit the construction of a porch within 11.9' of the front yard property line. The motion was seconded by Member Ruthig.

Based on the foregoing the Board voted to approve the variance for a porch in accordance with the exhibits submitted with the no conditions.

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|-------------------|-----|
| Chairman McIntosh | aye |
| Member Kelly      | aye |
| Member Campbell   | aye |
| Member Ruthig     | aye |
| Member Schepp     | aye |

The motion was carried unanimously.

### **AMY & MARK BENTZ, 7823 ROLLING RIDGE DRIVE, MANLIUS, NY 13104** **PUBLIC HEARING – AREA VARIANCE– INSTALL A 15'X30' IN-GROUND POOL -** **REQUESTING A 10' SIDE YARD SETBACK INSTEAD OF THE REQUIRED 20' AND A** **24' REAR YARD SETBACK INSTEAD OF THE REQUIRED 40'.**

Mrs. Bentz said that they would like to install a 15'x30' in-ground swimming pool. The pool is 15' by 30', which is smaller than standard size, so that it will fit on to the flat area in the back yard of the property.

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

- Mrs. Bentz answered – No.

According to the applicants, there are numerous pools in the neighborhood.

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

- Mrs. Bentz answered – No.

The applicants' back yard is located on a hill. If they moved the location of the pool, the in-ground pool would be half in-ground and half above-ground such that they would have to

build a large retaining wall around the half of the pool that would be above-ground at an extremely substantial cost. If they moved the pool location closer to their house, they would have to remove their existing deck and the pool would still jut partially into their driveway. The County also has a water easement behind their property, so they cannot move the location of the pool any farther to the rear of their property. If they turned the pool 90 degrees from where it is proposed, the pool would be in their driveway.

3) Whether the requested Variance is substantial?

- Mrs. Bentz answered – No

The applicants are seeking a 10' side yard setback instead of the required 20' for a 10' variance. The applicants are also seeking a 24' rear yard setback instead of the required 40', for a 16' rear yard variance.

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

- Mrs. Bentz answered – No.

5) Whether the alleged difficulty was self-created?

- Mrs. Bentz answered – No.

The applicants want to install a pool on their lot, which is on a hill.

### **PUBLIC COMMENT**

1. Susan Li, 7827 Rolling Ridge Drive, is concerned about the easement in the back of the property. Ms. Li also did not know which side of the house the pool would be placed, so she was concerned the pool would be encroaching on her property. Since the variance is for the left side of the property and Ms. Li lives to the right of the applicants, the variance should not interfere with her property.

2. Alicia Klim, 7819 Rolling Ridge Drive, stated that she consulted Realtor and the realtor said that she could lose potential buyers if this variance is granted. Ms. Klim presented a letter to the Board from a realtor to that affect. Ms. Klim is also concerned about the restrictive covenants in the neighborhood that allegedly prohibit the construction of pools. Ms. Klim is also concerned about the manner in which the pool will be enclosed by a fence, as well as how the rest of the backyard will look.

3. Ms. Klim's daughter, who resides at 7819 Rolling Ridge Drive, stated that while there are numerous pools in the neighborhood, the lots on which those pools are located are much larger than the applicants' lot.

Attorney Seiter explained that the Board does not enforce restrictive covenants. Rather, restrictive covenants are a private issue to be taken up between home owners. Thus, the fact that there may be a restrictive covenant prohibiting pool construction was not an issue for the Board to consider on this application. Rather, the only concern for the Board was whether the applicant was entitled to a variance based on the five criteria for granting an area variance, and whether the benefit to the applicant outweighed the detriment to the community.

Member Ruthig said that he would like to hear what the applicants' plans are to enclose the pool. The Applicant said that there would be a wrought iron fence put up around the

pool, which is what other neighbors in the neighborhood have around other pools in the neighborhood.

Attorney Seiter asked the applicants if they were willing to put up a privacy fence instead of a wrought iron fence so Ms. Klim's view would be protected. The applicants said it would be more of an eyesore for the neighbors to put up a privacy fence, but they did agree that they would landscape the area to create a buffer between the applicant's property and Ms. Klim's property.

Chairman McIntosh closed the Public Hearing.

### **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 not have any significant impact on the environment. Therefore, the Board need not take any further action to determine the potential environmental significance of the project.

### **BOARD DISCUSSION**

Member Schepp asked the applicants if they had investigated the cost of centering the pool in their backyard. The applicants said it would cost close to \$40,000 to center the pool because they would have to install a retaining wall, would have to take down their deck and remove part of their driveway.

Chairman McIntosh asked about landscaping. Mrs. Bentz said they are going to put in shrubs and landscape the side yard, which will hopefully help with blocking the view of the pool.

### **CONDITIONAL VARIANCE OF THE 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 there are numerous pools in the neighborhood; it is the only means by which the applicant can have a pool, since the applicant's property is located on a hill and there is no other place to put the pool other than in the proposed location; it is substantial because the applicant is seeking a side yard variance of 10', to which the neighbor closest to the variance objects, and a rear yard variance of 16', to which there is no objection; it will not have an adverse effect on environmental conditions in the neighborhood; and the variance is self-created in that the applicants want to install a pool in a sloped backyard, but the benefit to the applicant outweighs the detriment to the community, given that pools are extremely common in the neighborhood and the community.

Member Kelly made a motion to grant an area variance of Town Code Section 155-12-B for the real property located at 7823 Rolling Ridge Drive, Manlius, New York for an Area Variance to permit the construction of a 15' x 30' in-ground pool within 10' of the side yard property line and 16' of the rear yard property line. The motion was seconded by Member Campbell.

Based on the foregoing the Board voted to approve the variance for 15'x30' in-ground pool accordance with the exhibits submitted and the testimony given at the public hearing.

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| Chairman McIntosh | aye |
| Member Kelly      | aye |
| Member Campbell   | aye |
| Member Ruthig     | aye |
| Member Schepp     | aye |

The motion was carried unanimously.

**PATRICK MURPHY, 5813 MARLOW DRIVE, EAST SYRACUSE, NY 13057**  
**PUBLIC HEARING – AREA VARIANCE– INSTALL A 10’X8’ DECK - REQUESTING A**  
**20’ REAR YARD SETBACK INSTEAD OF THE REQUIRED 40’.**

Mr. Murphy told the board that he wants to build the deck adjacent to the pool so that his kids can use it to jump into the pool.

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

- Mr. Murphy answered – No.

The deck will be aesthetically pleasing and will not be visible from the road, so neighbors will not be able to see it.

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

- Mr. Murphy answered – Yes.

The deck could be moved to the other side of the pool from where it is currently proposed.

3) Whether the requested Variance is substantial?

- Mr. Murphy answered – No

The applicant is requesting a rear yard variance of 20’ instead of 40’, for a 20’ variance.

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

- Mr. Murphy answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Murphy answered – Yes.

The applicant would like to install a deck that is even with the height of the pool.

**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 not have any significant impact on the environment. Therefore, the Board need not take any further action to determine the potential environmental significance of the project.

### **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 deck will be aesthetically pleasing and will not be visible from the road; it is not the only means by which the deck can be installed, as the applicant could move it to the other side of the pool, but the request is not substantial in that the deck is not large; it will not have an adverse effect on environmental conditions in the neighborhood; and the variance is self-created in that the applicants want to install a deck around his pool, but 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 5813 Marlow Drive, East Syracuse, New York for an Area Variance to permit the construction of a 10' x 8' Deck within 20' of the rear yard property line. The motion was seconded by Member Campbell.

Based on the foregoing the Board voted to approve the variance for 10'x8' deck accordance with the exhibits submitted with the no conditions except to be completed in 90 days.

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| Chairman McIntosh | aye |
| Member Kelly      | aye |
| Member Campbell   | aye |
| Member Ruthig     | aye |
| Member Schepp     | aye |

The motion was carried unanimously.

### **ROBERTA MOU, 205 BURLINGTON DRIVE, MANLIUS, NY 13104** **PUBLIC HEARING – AREA VARIANCE– CONSTRUCT A 12'X24' SHED -** **REQUESTING A 6' SIDE YARD SETBACK INSTEAD OF THE REQUIRED 15' AND A 6'** **REAR YARD SETBACK INSTEAD OF THE REQUIRED 25'.**

The Applicant would like to construct a 12'x24' shed. The applicant began construction on the shed, but it is not complete. The shed is currently 12'x12' with a partially open lean to a covered area and on a raised dirt floor.

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

- The Applicant answered – No.

Although the shed is large, it is tucked away at the rear of the applicant's property. The shed will be dark green so that it will blend with the cedar trees in the applicant's back yard.

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

- The Applicant answered – No.

The applicant does not want to cover up a “friendship gate” that he shares with the neighbor located to the rear of his property. He also cannot move the shed closer to the house because there are multiple cedar trees in the center of his back yard.

3) Whether the requested Variance is substantial?

- The Applicant answered – No

The applicant is seeking a side yard setback of 6’ instead of the required 15’, for a variance of 9’, and a rear yard setback of 6’ instead of the required 25’, for a 19’ variance.

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

- The Applicant answered – No.

5) Whether the alleged difficulty was self-created?

- The Applicant answered – Yes.

### **PUBLIC COMMENT**

1. Nanette Hayner, 103 Eton Lane, stated that her backyard is conjoined with the applicants, that she shares the friendship gate with the applicant, and she has no issue with the shed and really likes the color.

2. Ruth Gonroff, 202 Sherbrooke Road; likes the project and has no issues.

3. Claudia Gabriel, 204 Sherbrook Road stated that she does not know the applicant, was not consulted, is not going to object but does not know why they weren’t consulted.

Chairman McIntosh closed the Public Hearing.

### **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 not have any significant impact on the environment. Therefore, the Board need not take any further action to determine the potential environmental significance of the project.

### **BOARD DISCUSSION**

Member Schepp asked why the shed was placed so far back on the property. The Applicant said because of trees on the property.

### **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 shed will not be visible from the road and will be painted green to match the cedar trees in the center of the applicant’s property; it is the only means by which the shed can be installed, as the cedar trees in the center of the property prohibit the applicant from moving the shed closer to the house; the request is substantial in that the applicant is seeking a side yard variance of 9’ and a rear yard variance of 19’; it will not have an adverse effect on environmental

conditions in the neighborhood; and the variance is self-created in that the applicants want to construct a shed, but 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 155-12-B for the real property located at 205 Burlington Drive, Manlius, New York for an Area Variance to permit the construction of a 12' x 24' shed within 9' of the side yard property line and 19' 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 12'x 24' shed accordance with the exhibits submitted with the no conditions except to be completed in 90 days.

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|-------------------|-----|
| Chairman McIntosh | aye |
| Member Kelly      | aye |
| Member Campbell   | aye |
| Member Ruthig     | aye |
| Member Schepp     | aye |

The motion was carried unanimously.

#### **OTHER BUSINESS**

1. Chairman McIntosh reminded the Board of the Special meeting to be held next Thursday, August 28, 2014 at 7:00pm regarding a joint meeting between the Manlius Town Board and the Manlius Zoning Board of Appeals.
2. Chairman McIntosh said that he received a resignation letter from the Clerk, Lisa Baleno, effective September 1, 2014. The Board thanked her for her service and she will be missed.
3. The Town Board made a motion at the Board meeting of August 13 to hire Deborah Demmon to be the new Clerk to the Zoning Board of Appeals.

#### **ADJOURNMENT**

With there being no other business, Member Schepp made a motion, seconded by Member Ruthig, and carried unanimously, to end the meeting at 8:28pm.

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