

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
April 18, 2013**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on April 18, 2013 in the Town Hall, 301 Brooklea Drive, Fayetteville, New York. Those present were:

Chairman	Henry McIntosh
Member	Marilyn Urciuoli
Member	KP Kelly
Member	T.R. Schepp
Member	Al Ruthig
Secretary	Lisa Baleno
Code Enforcement Officer	Michael Jones
Town Attorney	Timothy Frateschi

Also Present: David & Laurie Wyman, Ed Chase, David E. Angell, Edwina Schleider, William Adams

The Pledge of Allegiance was recited.

MINUTES AND LEGAL NOTICES

Member Urciuoli made a motion, seconded by Member Schepp to approve the minutes of March 21, 2013 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 Kelly 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.

DAVE & LAURIE WYMAN, 7670 HUNT LANE, FAYETTEVILLE, NY 13066 PUBLIC HEARING – HEIGHT VARIANCE FOR A FREE-STANDING GARAGE- REQUESTING A HEIGHT VARIANCE OF 26’ INSTEAD OF THE REQUIRED 17’.

Chairman McIntosh told the audience that only issues pertaining to the Variance will be heard.

Ed Chase was there representing the Wyman's.

Mr. Chase stated that the applicants want a height variance to build a detached carriage house. The garage will hold a couple of cars and the second story will be used for storage.

Chairman McIntosh asked the applicant to respond to the 5 criteria to be considered for an area variance.

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

- Mr. Chase answered – No.

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

- Mr. Chase answered – No.

3) Whether the requested Variance is substantial?

- Mr. Chase answered - No

The applicant is seeking a 26' Height variance instead of the required 17'

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

- Mr. Chase answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Chase answered – No.

PUBLIC COMMENT

There were no comments from the Public.

BOARD DISCUSSION

Chairman McIntosh asked if the second story was going to be used as living quarters. The applicant said no.

Member Uricuoli asked the applicant about building materials. Mr. Chase said the materials will probably be complimentary to the house, not the exact same; probably a metal roof. Color has yet to be determined.

SEQR

Chairman McIntosh indicated that this is a Type II action and no further SEQR action is necessary.

A motion was made by Member Schepp, seconded by Member Kelly to declare the ZBA the Lead Agency for SEQR purposes; and it was carried unanimously.

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 height variance will have little if any effect on the neighboring properties; it is not substantial because it is a height variance, but it will not have an adverse effect on environmental conditions in the neighborhood; and the variance is self-created, but the benefit to the applicant outweighs the detriment to the community.

Member Schepp made a motion to allow an area variance for the real property located at 7670 Hunt Lane, Fayetteville New York for a Height Variance for the purpose of building a detached garage requesting a height variance of 26' instead of the required 17' with the conditions as set forth above. The motion was seconded by Member Ruthig.

Based on the foregoing the Board voted to approve the Height Variance for a free standing garage in accordance with the exhibits submitted with no conditions:

Chairman McIntosh	aye
Member Kelly	aye
Member Uricuoli	aye
Member Schepp	aye
Member Ruthig	aye

The motion was carried unanimously.

WILLIAM T. ADAMS, 7145 FERSTLER ROAD, KIRKVILLE NY 13082 PUBLIC HEARING – AREA VARIANCE FOR LOT AREA AND ROAD FRONTAGE FOR 7163 FERSTLER ROAD, KIRKVILLE, NY FOR THE PURPOSE OF BUILDING A HOUSE- REQUESTING 100’ OF ROAD FRONTAGE INSTEAD OF THE REQUIRED 200’ AND REQUESTING 35,719 SQ. FEET OF LOT AREA INSTEAD OF THE REQUIRED 100,000 SQ. FEET.

Chairman McIntosh told the audience that only issues pertaining to the Variance will be heard.

The applicant, William Adams, stated that he wanted to put a manufactured home on a lot that he owns on Ferstler Road. He has an approved septic plan from Onondaga County Department of Health; (on file in the Planning and Development Office).

Chairman McIntosh asked the applicant to respond to the 5 criteria to be considered for an area variance.

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

- Mr. Adams answered – No.

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

- Mr. Adams answered – No.

3) Whether the requested Variance is substantial?

- Mr. Adams answered - Yes

The applicant is seeking a 100’ road frontage variance from the required 200’ and 35,719 sq. foot variance instead of the required 100,000 sq. ft.

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

- Mr. Adams answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Adams answered – No.

Attorney Frateschi asked the applicant when he purchased the lot. Mr. Adams said January of 2008 and it was subdivided back in the early 50’s.

Attorney Frateschi also asked, if when purchased, the applicant knew that it was a non-conforming lot? Mr. Adams said he did not.

PUBLIC COMMENT

Edwina Schleider, Attorney, representing Linda Matteson of 7159 Ferstler Rd. Ms. Schleider stated that her client doesn't think that the variance requested is what the Town would intend for this location. The zoning has changed and has become more restrictive. Ms. Matteson doesn't know what is going to happen to the property to the rear of the proposed house. They feel that it would be an undesirable change to the neighborhood because there are no other manufactured homes in the neighborhood. They believe that the variance is substantial from the current code. There is a major concern with Mr. Adams developing the 6.7 acres behind the home proposed to be built. They are worried about a "horseshoe" driveway around Ms. Matteson's home. They would like to know what the plans are for the property in the rear of the proposed home.

Attorney Frateschi asked if their concern was that the applicant was going to knock down the house he currently owns and not put up the Manufactured home and build a horseshoe driveway. Ms. Schleider said she doesn't know and wants to find out the overall plan for the area.

Mr. Adams said that his oldest daughter is moving into the home with her 4 children if the variance is approved. He has no intentions of combining the two lots to make one. There is no road frontage to the rear property and therefore it can't be developed.

David Angell, 7191 Ferstler Road, stated the lot behind the proposed building location is unbuildable due to wetlands. He also indicated that there are already 3 manufactured homes in the neighborhood.

Ms. Schleider finished up by saying that the zoning here was changed for a reason and now there is a potential for further development on the rear parcel, a road could be deeded off of the 100', they just don't know. If the Board was inclined to grant this area variance they would like the following conditions imposed: 1. A row of trees planted to separate this house from the house that is proposed to be built and the back lot be merged with the side parcel; 2. no roadways into the back lot.

Mr. Adams again stated that he has no intentions of building on the back lot or combining it with any other lot. He is keeping the lot for hunting purposes.

Attorney Frateschi said the issues relevant to Ms. Schleider's client are as follows: 1. the self-created hardship- the applicant purchased the lot and didn't know or should have known what the zoning was at the time of purchase and therefore it is a self-created hardship; 2. The adverse effect in the neighborhood, is this type of lot is going to have an adverse effect on the neighborhood and does the benefit to the applicant outweigh this negative affect; 3. Is this the least variance the ZBA can provide or is there another way that this Board can determine that a variance can be granted but not necessarily to the level the applicant is requesting.

BOARD DISCUSSION

Member Schepp said that with the area and the testimony provided, the proposed project is well in line with the neighborhood and he sees no adverse effect. This Board has granted variances for similar projects, he doesn't see an issue.

Member Ruthig said that he drove out to the site and he thinks that it is consistent with what is in the neighborhood.

Attorney Frateschi asked the Board if they were ready to make a decision. The board said that they felt like they were ready. Attorney Frateschi went through the 5 criteria questions with the Board one more time to establish a record of understanding and rational behind the Boards decision. Does the benefit to the applicant outweigh the detriment to the community?

Question 1: Can the Benefit be achieved by other means feasible to the applicant? The applicant is requesting a variance to construct a house on the lot. The lot, as previously divided, does not conform to existing zoning. However, the lot size is the same, if not bigger, than surrounding lots that have homes on them. There is no feasible means to achieve the construction of the house than to grant the variance. The Board determined that if the rear lot was merged with the proposed lot, the size variance would not be necessary; however, from the road the lot will still be the same width and therefore would not have any practical effect on the concerns raised by neighbors.

Question 2: Will there be an undesirable change in the neighborhood character or to nearby properties?

The Board said no because there are already 3 manufactured homes within the area and all of the adjacent parcels, with homes already on them, have 100' of road frontage and are all similar. A home on the proposed lot would be within the character of the neighborhood.

Question 3: Is the area variance substantial?

While numerically it may be substantial, it is consistent with what is already in the neighborhood and therefore from an aesthetic perspective it is not substantial.

Question 4: Will the request have adverse physical or environmental effects?

No, the environment in the area is pretty much similar to the environment created by this house.

Question 5: Was the alleged difficulty self-created? Yes, however, the benefit the benefit to the applicant outweighs the detriment to the neighborhood because the vacant lot will become a productive lot and the character of the neighborhood would remain the same.

The last issue is whether the requested variance is the minimum variance necessary to provide relief and at the same time preserve and protect the character of the neighborhood. As stated above, Mr. Ruthig reiterated that while merging the back property may eliminate the need for a lot size variance, it would do nothing to eliminate the problem brought up by the neighbor regarding the width of the lot. From the road, it would look the same whether the back parcel is merged or not and the spacing between the homes would

change. Therefore, the Board agreed that merging the properties would not have any real advantage to community character issues. Also, the back lot cannot be built upon because it lacks road frontage and, according to the testimony of witnesses, is in a wetland.

SEQR

Chairman McIntosh indicated that this is a Type II action and no further SEQR action is necessary.

A motion was made by Member Schepp, seconded by Member Urciuoli to declare the ZBA the Lead Agency for SEQR purposes; and it was carried unanimously.

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 building lot will have little if any effect on the neighboring properties because it is of similar size and shape; it is not substantial because it fits within the existing lots of the neighborhood; but it will not have an adverse effect on environmental conditions in the neighborhood for the reasons stated above; and the variance is self-created, but the benefit to the applicant outweighs the detriment to the community.

Member Urciuoli made a motion to allow an area variance for the real property located at 7163 Ferstler Road, Kirkville New York for Road Frontage for the purpose of constructing a manufactured home requesting 100' instead of the required 200' based on the fact that all the homes in the neighborhood have 100' of frontage and it is consistent with the area and per the previous discussion. The motion was seconded by Member Schepp.

Chairman McIntosh	aye	
Member Kelly		aye
Member Urciuoli		aye
Member Schepp		aye
Member Ruthig		aye

Member Schepp made a motion to allow an area variance for the real property located at 7163 Ferstler Road, Kirkville New York for Lot Area for the purpose of constructing a manufactured home requesting 35,719 square feet instead of the required 100,000 square and conditioned upon the letter from Onondaga County Department of Health about the septic system and the previous discussion. The motion was seconded by Member Ruthig.

Based on the foregoing, Prior to a building permit being issued by the town, proof of public sewer connection be provided and construction to be completed in 9 months.

Chairman McIntosh	aye
Member Kelly	aye
Member Urciuoli	aye
Member Schepp	aye
Member Ruthig	aye

The motion was carried unanimously.

OTHER BUSINESS

With there being no other business, Member Uricuoli 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