

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
June 20, 2013**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on June 20, 2013 in the Town Hall, 301 Brooklea Drive, Fayetteville, New York. Those present were:

Chairman	Henry McIntosh	
Member	Marilyn Urciuoli	(Absent)
Member	KP Kelly	(Absent)
Member	T.R. Schepp	
Member	Al Ruthig	
Secretary	Lisa Baleno	
Code Enforcement Officer	Michael Jones	
Town Attorney	Lauren Seiter	

Also Present: Richard & Kathy Okun, Lisa Gilels, Jean Gallipeau, Jeff Shell and George Raus

The Pledge of Allegiance was recited.

MINUTES AND LEGAL NOTICES

Member Schepp made a motion, seconded by Member Ruthig to approve the minutes of May 16, 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 Ruthig 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.

**JEAN KIRKPATRICK GALLIPEAU, 105 PLEASANT DRIVE EAST SYRACUSE, NY
13057 PUBLIC HEARING – TO BUILD A 12’X14’ SHED- REQUESTING A SIDE YARD
SETBACK OF 5’ INSTEAD OF THE REQUIRED 15’ AND A REAR YARD SETBACK OF
5’ INSTEAD OF THE REQUIRED 25’.**

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

Ms. Gallipeau gave the Board (and for the record) the Neighbor Notices.

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?

- Ms. Gallipeau answered – No.

The applicant believes the shed will add to the property because it will match the siding of the house.

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

- Ms. Gallipeau answered – No.

3) Whether the requested Variance is substantial?

- Ms. Gallipeau answered - No

The applicant is seeking a 5' side yard variance instead of the required 15' and a rear yard setback of 25'.

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

- Ms. Gallipeau answered – No.

5) Whether the alleged difficulty was self-created?

- Ms. Gallipeau answered – No.

PUBLIC COMMENT

There were no comments from the Public.

BOARD DISCUSSION

Member Schepp said that the variance is self-created, but he has no issues and is ok with the project.

Member Ruthig said that the shed will fit in the neighborhood and has no problem with it.

Chairman McIntosh said that he also likes the project and it will fit into the character of the neighborhood.

The Board also discussed that due to the bushes along the property line, the shed would be unobtrusive to the neighborhood because it would not be directly visible.

SEQR

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

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 have little if any effect on the neighboring properties; it is substantial because the side yard will be set back 5 feet instead of the required 15, for a 10 foot variance, and the rear yard will be set back 5 feet instead of the required 25, for a 20 foot 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 Ruthig made a motion to allow an area variance for the real property located at 105 Pleasant Drive, E. Syracuse New York for an Area Variance for the purpose of constructing a 12' x. 14' shed, requiring a side yard setback variance of 10 feet and a rear yard setback variance of 20 feet. The motion was seconded by Member Schepp.

Based on the foregoing the Board voted to approve the area variance for a 12'x14' shed in accordance with the exhibits submitted with the condition that the Project must be completed within 30 days of commencement

Chairman McIntosh	aye
Member Schepp	aye
Member Ruthig	aye

The motion was carried unanimously.

LISA GILELS, 218 CHURCHILL LANE FAYETTEVILLE, NY 13066
CONTINUED PUBLIC HEARING – AREA VARIANCE TO ADD A 2ND BAY TO THE
ALREADY EXISTING GARAGE- REQUESTING A 9' SIDE YARD SETBACK INSTEAD
OF THE REQUIRED 20' AND A 29.5' FRONT YARD SETBACK INSTEAD OF THE
REQUIRED 40'.

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

Chairman McIntosh stated that the Neighbor Notifications have been sent and copies are on file.

Attorney George Raus was there on behalf of the applicant Lisa Gilels.

Mr. Raus said that Lisa bought the house over 15 years ago. When she bought the house, she had neither the money nor the need for a 2 car garage. She now owns 2 cars and needs more space to store her vehicles, as well as for storage. Most of the homes in the neighborhood have 2 car garages. In fact, Ms. Gilels submitted photographs of other houses in the neighborhood with 2 car garages. Mr. Raus thinks that the requested front yard variance will have a greater impact on the home than the side yard variance. Mr. Raus further stated that the neighbors currently look at the applicant's cars parked in her driveway, but aesthetically, the house would look better with a 2 car garage.

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. Raus answered – No.

As stated above, there are multiple homes in the neighborhood that have 2 car garages, so the character of the neighborhood will not be affected.

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

- Mr. Raus answered – No.

As stated above, the house was built with a one car garage. Therefore, there are no other feasible means to park more than one vehicle in the garage short of expanding it.

The applicant investigated expanding the garage backward toward the rear of her lot, but the property slopes downward in that area. Therefore, laying a foundation toward the rear of the lot would be cost prohibitive, not to mention that the cars would be parked tandem style, requiring the vehicle closest to the door to move every time the rear parked vehicle wanted to exit the garage.

3) Whether the requested Variance is substantial?

- Mr. Raus answered - Yes

The applicant is seeking a 9' side yard setback instead of the required 20' and a 29.5' front yard setback instead of the required 40'.

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

- Mr. Raus answered – No.

There are no anticipated environmental concerns that arise from the proposed garage expansion.

5) Whether the alleged difficulty was self-created?

- Mr. Raus answered – No.

Mr. Raus said the variance was not self-created because when Ms. Gilels moved there 15 years ago, she owned only one vehicle and a one-car garage met her needs. Now, Ms. Gilels is in the position to have 2 cars and wants to keep them in the garage. Mr. Raus said that Ms. Gilels is willing to put in bushes or shrubbery to block the view of the new addition to the garage from the side yard.

The Applicant, Lisa Gilels, provided a binder to the Board for its review. The binder includes photographs, a memo from Alan-Patrick Builders describing the photos, a survey of her property and drawings of the proposed garage. She said the garage addition is only coming out to the front steps; it's not going to be big at all. Furthermore, the addition to the side yard will be no closer to the Okun's property than a car is currently parked in her driveway. She explained that the addition will go only approximately 1 foot closer to the Okun's house than the farthest edge of her driveway pavement.

PUBLIC COMMENT

Kathy Okun, 216 Churchill Lane,

1. She would like the garage built in the back, not the front;
2. The existing trees already provide a great of privacy and she assumes that they will have to come down;
3. Most homes in the neighborhood and on the street do not have 2 car garages;
4. She doesn't want this garage addition to infringe on her property.

Mr. Raus asked Mrs. Okun if she was on the deed to the home at 216 Churchill Lane. Mrs. Okun said no I do not. He then said that because she is not on the deed to the house, that he objects to everything she has just said and that she cannot practice the law without a license. Ms. Seiter asked Mr. Raus to refrain from making such accusations and told the Board to proceed with Ms. Okun's testimony.

Ms. Okun stated that she did not want Ms. Gilels' house to look like a "McMansion," with a large house on a small lot. She had lived in an area with the houses built on top of one another and did not want that to happen here.

Richard Okun, 216 Churchill Lane,

1. is the owner of the house at 216 Churchill Lane and he agrees with everything that Kathy Okun spoke of previously;
2. He said that there better be a good reason to break the Zoning Laws and that he highly objects to this garage addition.

The neighbors gave the Board a letter outlining their position.

Jeff Shell of Alan-Patrick Builders stated that he took the pictures and also stated that the project encroaches forward and less to the side yard.

Member Schepp said that there were 2 sets of drawings included one with a double door and one with 2 single doors, what will the project ultimately look like?

Mr. Shell said that they decided on the look of the 2 door drawing and that it is more functional and will add a side window to the back of the existing garage.

Mr. Okun said that he doesn't object to anything that will be built in the back of the house or in the front of the house. He does, however, object to the side yard variance.

BOARD DISCUSSION

Chairman McIntosh stated that he spent a lot of time on Churchill Lane looking at the property and the properties in a 2 block area and he could not determine which ones were built within the side yard setback requirements and which ones were not. Between Jackson Road and Hoag Road, there were approximately 10 houses with 2 bay garages and 17 houses with 1 car garages; the ones that are 2 bays appear to fit right into the character of the neighborhood.

Member Schepp stated that the garage addition is consistent with the neighborhood; the project is self-created; he does not think the project is undesirable and the addition goes with the characteristic of the neighborhood; it will make the house more valuable because of the 2 car garage.

Member Ruthig asked if the project can be completed without destroying the trees.

Member Schepp said that saving the trees is a non-issue because Ms. Gilels has the legal right to remove the branches that hang on her property.

Ms. Gilels said that she will plant whatever vegetation is desired.

Member Schepp asked about the cost of the landscaping. Mr. Schell estimated that it would be \$100 per tree.

SEQR

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

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 variances because there are multiple other homes in the neighborhood that have 2-car garages, thereby making the proposed garage consistent with the other homes in the neighborhood, and the applicant is already parking within one foot of the location of the proposed addition; the side yard variance of 11 feet and the front yard variance of 10.5 feet are substantial, but they will not have an adverse effect on environmental conditions in the neighborhood because some trees may need to be removed to install the addition, but the applicant will replace them with new trees and/or vegetation; 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 218 Churchill Lane, Fayetteville, New York for an Area Variance for the purpose of adding a 2nd bay onto an already existing garage, requesting a side yard setback of 11’ instead of the required 20’ and a front yard setback of 29.5’ instead of the required 40’ with the conditions as set forth above. The motion was seconded by Member Ruthig.

Based on the foregoing the Board voted to approve the area variance for a garage addition in accordance with the exhibits submitted with the following conditions: (1) the applicant will meet and confer with the neighbors to come up with a plan as far as the planting of new trees or vegetation (to be capped at no more than \$1,000.00) in the side yard at issue is concerned; and (2) the Project is to be completed within 90 days of the date of commencement.

Chairman McIntosh	aye
Member Schepp	aye
Member Ruthig	aye

The motion was carried unanimously.

OTHER BUSINESS

Chairman McIntosh told members that the policy for Neighbor Notifications had been emailed to them and he would like them to look it over and have a discussion at the next meeting of July 18.

ADJOURNMENT

With there being no other business, Member Ruthig made a motion, seconded by Member Schepp, and carried unanimously, to end the meeting at 7:55pm.

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