

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

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on July 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	Lauren Seiter

Also Present: Hal R. Romans, James and Joan Kistner, Tim Coyer

The Pledge of Allegiance was recited.

MINUTES AND LEGAL NOTICES

Member Schepp made a motion, seconded by Member Ruthig to approve the minutes of June 20, 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 Urciuoli 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.

**JAMES AND JOAN KISTNER, 5798 PINWHEEL CIRCLE, E. SYRACUSE 13057,
PUBLIC HEARING – CONSTRUCT A 12’X16’ DECK- REQUESTING A REAR YARD
SETBACK OF 14’ INSTEAD OF THE REQUIRED 25’.**

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

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. Kistner answered – No.

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

- Mr. Kistner answered – No.

3) Whether the requested Variance is substantial?

- Mr. Kistner answered - Yes

The applicant is seeking a 14' rear yard variance instead of the required 25'.

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

- Mr. Kistner answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Kistner answered – Yes.

PUBLIC COMMENT

There were no comments from the Public.

BOARD DISCUSSION

Member Schepp asked the applicants if they planned on covering the deck, and they said no. The applicants also indicated that the deck would be made of asic, a form of recycled plastic, which would not be stained.

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 deck will have little if any effect on the neighboring properties; it is substantial because the rear yard will be set back 14 feet instead of the required 25, for an 11 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 Schepp made a motion to allow an area variance for the real property located at 5798 Pinwheel Circle, E. Syracuse New York for an Area Variance for the purpose of constructing a 12' x 16' deck, requiring a rear yard setback variance of 14 feet. The motion was seconded by Member Kelly.

Based on the foregoing the Board voted to approve the area variance for a 12'x16' deck in accordance with the exhibits submitted with the condition that the Project to be completed within 45 days of commencement

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

The motion was carried unanimously.

MELISSA AND CAMERON RAINES, 204 MOTT ROAD, FAYETTEVILLE, NY 13066
PUBLIC HEARING – AREA VARIANCE TO CONSTRUCT A SHED 12'X16'-
REQUESTING A 20' REAR YARD SETBACK INSTEAD OF THE REQUIRED 40.

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

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. Raines answered – No.

The applicant is taking down an existing shed and wants to center the new shed in the back of his property.

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

- Mr. Rains answered – Yes.

The applicant said yes because they would like to center the shed in back of their yard. However, there is additional space within the yard to install the shed in another location.

3) Whether the requested Variance is substantial?

- Mr. Rains answered - Yes

The applicant is seeking a 20' rear yard setback instead of the required 40'.

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

- Mr. Rains answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Rains answered – Yes.

PUBLIC COMMENT

There were no comments from the Public.

BOARD DISCUSSION

Member Kelly said that it appears that the applicant is replacing an old shed in a different location. He also clarified with Code Enforcement Officer Jones that the rear yard setback is 40', not 25'.

Chairman McIntosh asked if there was going to be electricity. The applicant said no.

Member Kelly asked if it was going to be a standard wooden shed. The applicant said yes with a wood floor. The shed and shingles will eventually match the house (they are siding the main house next year and it will match the bluish/grey color of the new shed).

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 match the siding of the existing house and will fit in with the character of the neighborhood; it is substantial because the rear yard will be set back 20 feet instead of the required 40, 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 Urciuoli made a motion to allow an area variance for the real property located at 204 Mott Road, Fayetteville, New York for an Area Variance for the purpose of constructing a 12'x16' shed, requesting a rear yard setback of 20' instead of the required 40' with the conditions as set forth above. The motion was seconded by Member Kelly.

Based on the foregoing the Board voted to approve the area variance for a 12'x16' deck 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
Member Urciuoli	aye
Member Kelly	aye

The motion was carried unanimously.

RYAN HOMES, 159 DWIGHT PARK CIRCLE, SYRACUSE, NY 13209
PUBLIC HEARING – AREA VARIANCE AT 112 BRANDYWINE DRIVE, MANLIUS, NY-
NEW HOUSE- REQUESTING A 38.3' FRONT YARD SETBACK INSTEAD OF THE
REQUIRED 40'.

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

Hal R. Romans, Land Surveyor, was there to represent Ryan Homes.

Mr. Romans said that their plot plan missed a 4 foot extension on the rear of the garage. When the mason laid out the foundation, taking into account the 4 foot extension, it twisted the house, causing the house to be into the front yard setback by 1.7 feet. They looked into the cost of fixing the mistake and the cost would be at least \$20,000 to remove the entire front of the house and move it back 1.7 feet. Also, the garage would have an odd sized door, no longer making it a 2 car garage if they were to simply repair the mistake. Since this incident occurred, Iannuzzi & Romans and Ryan Homes have reviewed their

procedures regarding layout to make sure this doesn't happen again.

Member Schepp asked how this happened.

Mr. Romans said there is a plot plan that the Surveyors send to the Town which shows the proposed location of the house. From there, they set up the offsets from the house. Here, the Plot Plan mistakenly does not show the 4 foot extension off of the back of the garage. Thus, when they used the offset from that stake, it pushed the house 4 feet forward because there was a 4 foot extension at the back.

Member Schepp said then basically Ryan Homes submitted incorrect plans. Mr. Romans said no, they submitted plans with the 4' extension and my office missed it.

Chairman McIntosh asked why it would cost \$20,000 to rectify the problem. Mr. Romans said because they would have to remove a load bearing wall, demolish the face of the house, and pour a new foundation, so it would cost at least \$20,000.

Member Schepp asked since Mr. Romans is a Surveyor, isn't it his job to go out and check their work. Mr. Romans said they typically check the work when it gets to the point of the foundation being in and the framing is up. Member Schepp again asked isn't it your responsibility to make sure they are doing things right. Mr. Romans said that they are not called out to check on the foundation. Member Schepp: So even if you get called out after or when you say you did, the damage is already done. Mr. Romans answered yes.

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. Romans answered – No.

Mr. Romans explained that if you look at the house from the street, you cannot tell that it is not positioned straight on its lot.

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

- Mr. Romans answered – Yes.

Mr. Romans said yes but it will be expensive and probably won't look right as far as the garage doors are concerned.

3) Whether the requested Variance is substantial?

- Mr. Romans answered - No

The applicant is seeking a 38.3' front yard setback instead of the required 40' for a variance of 1.7'.

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

- Mr. Romans answered – No.

- 5) Whether the alleged difficulty was self-created?
- Mr. Romans answered – Yes.

PUBLIC COMMENT

There were no comments from the Public.

BOARD DISCUSSION

Member Schepp said that typically when the Board gets a request, it's usually for new construction. Occasionally we get something that someone missed, like a pool, where someone didn't realize how close they were to the property line. He doesn't know if this project was carelessness or incompetence, but he has a hard time accepting that this mason thought that it was ok to build it this way. He is not inclined to be as forgivable as he usually is with such a gross mistake as this. There is plenty of land out back and they laid it too close and it bit them in the rear end. Member Schepp said that he is not directing this at Mr. Romans, it sounds like someone out in the field just thought "well if they want it off square, I'll do it off square" and it's frustrating. Member Schepp then asked CEO Jones if he had been to the place. Mr. Jones said yes.

Member Kelly said that it's hard to say, but it is a common mistake and it happens more often than you think. It's probably not the first time it's happened and probably not the last.

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 neighbors would not be able to tell from the street that the house is slightly twisted on its lot; it is not substantial because the front yard will be set back 38.3 feet instead of the required 40, for a 1.7 foot variance, and 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 Kelly made a motion to allow an area variance for the real property located at 112 Brandywine Drive, Manlius, New York for an Area Variance for the purpose of constructing a new home, requesting a front yard setback of 38.3' instead of the required 40' with the conditions as set forth above. The motion was seconded by Member Urciuoli.

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

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

The motion was carried unanimously.

OTHER BUSINESS

1) Chairman McIntosh said that the Zoning Board does not have a Deputy Chairman and he would like to appoint one.

Attorney Seiter said that normally, the Board members would vote to have someone act as Chair for a meeting if the Chairman were not present, but she has no problem with the Chairman appointing a Deputy Chairman to act as Chair in Mr. McIntosh's absence so that person will have time to prepare in advance of the meeting.

The Board tabled the discussion to the next meeting.

2) Chairman McIntosh brought up the Neighbor Notification Policy asking the Board if they had any thoughts as to changing it or leaving it as is.
Discussion ensued regarding the Neighbor Notification Policy.

ADJOURNMENT

With there being no other business, Member Urciuoli made a motion, seconded by Member Schepp, and carried unanimously, to end the meeting at 7:47pm.

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