

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
September 19, 2013**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on September 19, 2013 in the Town Hall, 301 Brooklea Drive, Fayetteville, New York. Those present were:

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

Also Present: Mark Willette, Michael & Paula Lynch, Jeffrey S. Gottheld, Ken Adams

The Pledge of Allegiance was recited.

MINUTES AND LEGAL NOTICES

Member Kelly made a motion, seconded by Member Ruthig to approve the minutes of August 15, 2013 and it was carried unanimously.

Chairman McIntosh stated that he has confirmed that the legal notice had been published for the application on the agenda. Member Ruthig 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.

**MARK & KELLY WILLETTE, 131 CRYSLER DRIVE, E. SYRACUSE, NY 13057
CONTINUED PUBLIC HEARING - AREA VARIANCE - CONSTRUCT A DECK 6'X 16'
AND A 24'X 52" POOL REPLACEMENT - REQUESTION A 5' SIDE YARD SETBACK
INSTEAD OF THE REQUIRED 20' AND A REAR YARD SETBACK OF 26' INSTEAD OF
THE REQUIRED 40'**

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

Chairman McIntosh read into the record the following letter from Melissa Diaz, 103 Crysler Drive, E. Syracuse, NY:

"I have a question about a decision made by the Zoning Board of Appeals in the Willette Variance Case. The Willettes' replaced a previous pool and deck within the previous dimensions. A deck permit was pulled and constructed based on approved dimensions. The Lynch's argument is that this reduces their privacy. Can The Willette's put up a privacy screening above the fence? Are there any other steps they can take to keep their deck and pool in the same spot? Thank you for your time and assistance."

Attorney Seiter stated for the record that she personally emailed Ms. Diaz and invited her to appear at the meeting tonight, explaining that there is a continuation of the Public Hearing regarding the Willette's variance application. Attorney Seiter explained to Ms. Diaz via email that since most of Ms. Diaz's comments were in question form and she could not answer the questions, the best way to get her questions answered was to come to the meeting tonight.

Chairman McIntosh stated that the 5 criteria questions and statements regarding the pool and deck were discussed at the Zoning Board meeting of August 15, 2013. The issue currently before the Board is the variance as it relates to the deck.

Mark Willette, the applicant, stated that he turned into the Board 2 different options in which the deck could be located on his property. He said that Option 1 is to have the deck behind the pool facing the house, and Option 2 is to have the deck placed between the house and the pool.

Chairman McIntosh asked Mr. Willette which option he preferred. Mr. Willette said in order to make it visibly appealing to the neighbors, he picks Option 1.

Member Ruthig again asked the applicant, again, to verify that he chose option 1. The applicant said yes, option 1.

Member Ruthig said that if we act on option 1, he will need a side and rear yard setback.

Member Kelly stated that the fence line is not the property. The applicant's property line is on his side of the fence. Mr. Willette said yes, but referred to Member Kelly's statement at a previous meeting that you cannot go by the scale on the survey. Member Kelly said that's right, you cannot go by the scale on the survey.

Attorney Seiter said that the Town has to be able to use the scale on the survey. The Town cannot go out and measure all of these things themselves. Rather, the Town has to be able to rely on the survey and its scale for determining the amount of the variance needed.

Member Kelly said that the variance should be reduced to 24' and Member Ruthig said that he was going to opt for between 20 and 22 feet.

Attorney Seiter reminded the Board that this application was only advertised for 26'. The Board has the option of tabling the application and re-advertising because the variance now sought is smaller than the variance as it was originally advertised.

Chairman McIntosh stated that he would like to table the application until the October ZBA meeting for the purpose of re-advertising. The numbers to re-advertise are as follows: 10' side yard setback and a 20' rear yard setback.

PUBLIC COMMENT

Mr. & Mrs. Lynch asked if they could see the new drawings for the deck. They reviewed the drawings, and agreed that option 1 should work out perfectly. They Lynches also

reiterated that they had no objection to the location of the pool itself for purposes of the variance application.

Mike Lynch said that he had a new survey done on his property yesterday, but it is not printed yet.

Attorney Seiter said again that the Board doesn't care where the property line is located, particularly because that is an issue between the property owners. The variance will be granted or denied based on what has been presented at the hearing, and if the property line is later determined to be in a different location, Mr. Willette will be responsible for ensuring that he is still in compliance with the requested variance.

BOARD DISCUSSION

Member Kelly made a motion, seconded by Member Ruthig, to table the request to allow for re-advertisement of the side yard and rear yard setbacks for the deck.

Chairman McIntosh	aye
Member Ruthig	aye
Member Kelly	aye

The motion was carried unanimously.

CHRISTOPHER RAUSCHER, 8065 MERRIMAC CIRCLE, MANLIUS, NY 13104 **PUBLIC HEARING – CONSTRUCT AN UNATTACHED 24'X24' 2-CAR GARAGE -** **REQUESTING A SIDE YARD SETBACK OF 8' INSTEAD OF THE REQUIRED 20'.**

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

Mr. Rauscher told the board that the original side line setback was 10'.

Chairman McIntosh asked why the applicant was putting the garage in that location. Mr. Rauscher said because it makes the most sense topographically. If he put the garage in the front of the house, it would be a disruption to the entire neighborhood.

Attorney Seiter asked why the applicant needs 2 more garage bays on his property. Mr. Rauscher said that he plans on having 2 more cars at his home and wants to store them indoors.

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. Rauscher answered – No.

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

- Mr. Rauscher answered – No.

To put an additional garage on the front of the house would be uncharacteristic in the neighborhood. The proposed garage won't be visible from the street.

3) Whether the requested Variance is substantial?

- Mr. Rauscher answered - No

The applicant is seeking an 8' side yard variance instead of the required 20', for a variance of 12'.

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

- Mr. Rauscher answered – No.

The applicant stated that the west side of his property has a catch basin/culvert that flows to Limestone creek.

5) Whether the alleged difficulty was self-created?

- Mr. Rauscher answered – No.

Member Ruthig stated that the Board each received a packet containing information about covenants in the neighborhood and didn't know if there was still a Home Owners Association or not. Member Ruthig asked whether the applicant has run the variance request by the Home Owner's Association.

Attorney Seiter stated that the Town's should not be concerned with restrictive covenants, as those are private restrictions imposed by homeowners. This Board can only make decisions based on applicable Zoning Laws and use the 5 criteria to make a determination. Thus, the Board may approve the variance, but the applicant may not be able to do what he wants based on the restrictive covenants.

Member Kelly said that the project is reasonable to him.

Attorney Seiter asked whether it would be feasible to expand the existing garage. Mr. Rauscher said that it would require a significant amount of design and engineer work in order to add an extra bay onto the existing garage.

Attorney Seiter asked if there were any other detached garages in the neighborhood. The applicant said no. She also asked whether there would be heat and electricity to the new freestanding garage. The applicant said yes to both and said that the detached garage would match the existing house.

Member Kelly asked if there was going to be a business run out of the new garage. The applicant said no.

PUBLIC COMMENT

Chris Rinehart, 8058 Merrimac Drive, has a few concerns:

1. This project does not go along with the HOA.
2. There are no other houses with separate garages in the neighborhood, everything is

attached.

3. There are to be no free standing garages, no sheds, no fences, and the neighborhood was intended to be "kind of like a forever wild area."
4. How high is the garage wall going to be? Member Kelly said about 8-10 feet off the ground. Ms. Rinehart was concerned that she would be looking at an 8-10 block wall when she looked in the direction of the applicant's home. The applicant agreed that he would be willing to do some kind of planting between their homes to improve his neighbor's view.
5. What about run-off? Attorney Seiter said that the Board can put conditions on the project, like gutters or rain gardens or other types of diversions of the water so that it will be directed away from Ms. Rinehart's home.

Mr. Rauscher said that he is willing to put in screening or vegetation around the garage.

BOARD DISCUSSION

Member Kelly said that it is a reasonable project, and he would like to add the conditions of putting up screens or vegetation, and to taking care of drainage to the neighbor's property. Member Kelly also asked that the garage match the existing house.

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 garage will have little if any effect on the neighboring properties; it is substantial because the side yard will be set back 8 feet instead of the required 20, for a 12 foot variance, but it will not have an adverse effect on environmental conditions in the neighborhood given that the applicant will put up screens or vegetation and take care of drainage to his neighbor's property; 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 8065 Merrimac Circle, Manlius New York for an Area Variance for the purpose of constructing a 24' x 24' 2-car unattached garage, requiring a side yard setback variance of 8 feet. The motion was seconded by Member Ruthig.

Based on the foregoing the Board voted to approve the area variance for a 24'x24' 2-car unattached garage in accordance with the exhibits submitted with the following conditions: (1) that the Project to be completed within 120 days of commencement; (2) the new garage will match the existing home in color and roof; (3) the applicant will place vegetation or screening between the garage and his neighbor's house to improve the view of his neighbor; and (4) the applicant will use any feasible method, such as installing gutters or a rain garden, to ensure the water that runs off the new garage will be diverted away from his neighbor's property.

Chairman McIntosh
Member Ruthig

aye
aye

The motion was carried unanimously.

**JEFFREY & PAMELA GOTTHELD, 4540 WHETSTONE ROAD, MANLIUS, NY 13104,
PUBLIC HEARING – CONSTRUCT A 12'X16' SHED- REQUESTING A SIDE YARD
SETBACK OF 10' INSTEAD OF THE REQUIRED 20'.**

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

The applicants chose to put the shed along the tree line so it would not be as visible to the neighbors. The other side of the yard is open space.

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. Gottheld answered – No.

The shed will be hidden from most of the applicants' neighbors. The nearest neighbor is located 90 feet away from the applicants' property through the trees.

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

- Mr. Gottheld answered – No.

3) Whether the requested Variance is substantial?

- Mr. Gottheld answered - No

The applicant is seeking a 10' side yard variance instead of the required 20'.

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

- Mr. Gottheld answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Gottheld answered – No.

PUBLIC COMMENT

There were no comments from the Public.

BOARD DISCUSSION

Member Kelly asked about materials used to construct the shed. Mr. Gottheld said that the shed would be made of wood siding and shingled roof that will match the existing house. The shed will be painted to match the house as well.

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 and will not be visible by the applicants' neighbors; it is substantial because the side yard will be set back 10 feet instead of the required 20, for a 10 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 4540 Whetstone Road, Manlius, New York for an Area Variance for the purpose of constructing a 12' x 16' deck, requiring a side yard setback variance of 10 feet. The motion was seconded by Member Kelly.

Based on the foregoing the Board voted to approve the area variance for a 12'x16' shed in accordance with the exhibits submitted with the condition that the shed have siding and roof to match the existing house.

Chairman McIntosh	aye
Member Ruthig	aye
Member Kelly	aye

The motion was carried unanimously.

KEN ADAMS, 6427 KIRKVILLE ROAD NORTH, KIRKVILLE, NY 13082
PUBLIC HEARING – CONSTRUCT A 7'X26.6' FRONT PORCH- REQUESTING A
FRONT YARD SETBACK OF 15' INSTEAD OF THE REQUIRED 30'.

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

Mr. Adams said that he ripped out the front bushes and wants to put in a front porch. The porch will not go any further than the lamppost pictured in the photographs presented at the hearing. The steps will come out 5 feet. There will be a roof over the porch, will be tied into a roof that will span the entire front of the house.

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.

The applicant stated the porch would be an improvement to the neighborhood. He is simply replacing the bushes that are currently located in the front of his house with a porch.

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 - No

The applicant is seeking a 15' rear yard variance instead of the required 30'.

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

- Mr. Adams answered – No.

The pitch of the roof will be such that the snow and water will run away from the house.

5) Whether the alleged difficulty was self-created?

- Mr. Adams answered – No.

Member Kelly asked if there was going to be a railing on the deck. The applicant said the porch would be constructed with a PVC hand railing, pressure treated deck and a single roof.

The applicant also stated that the porch would not be enclosed.

Chairman McIntosh asked about the steps. The steps will come out to the sidewalk in an octagon type shape.

PUBLIC COMMENT

There were no comments from the Public.

BOARD DISCUSSION

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 porch will have little if any effect on the neighboring properties; it is substantial because the front yard will be set back 15 feet instead of the required 30, for an 15 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 Kelly made a motion to allow an area variance to construct a 7' by 26.6' front porch at 6427 Kirkville Road North, Kirkville, NY 13082, requiring a front yard setback of 15' instead of the required 30'. The motion was seconded by Member Ruthig.

Based on the foregoing the Board voted to approve the area variance for a 7' x 26.6' front

porch in accordance with the exhibits submitted with the condition that the Project to be completed within 45 days of commencement and with the materials as described.

Chairman McIntosh	aye
Member Ruthig	aye
Member Kelly	aye

The motion was carried unanimously.

OTHER BUSINESS

ADJOURNMENT

With there being no other business, Member Kelly made a motion, seconded by Member Ruthig, and carried unanimously, to end the meeting at 8:14pm.

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