

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

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on December 19, 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: John Sidd, Peter Hubbard, Michael & Paula Lynch, Steven & Victoria Farrington

The Pledge of Allegiance was recited.

MINUTES AND LEGAL NOTICES

Member Kelly made a motion, seconded by Member Ruthig to approve the minutes of November 21, 2013 and it was carried unanimously. Member Schepp abstained as he wasn't at the meeting.

Chairman McIntosh stated that he has confirmed that the legal notice had been published for the application on the agenda. Member Schepp made a motion, seconded by Member Urciuoli to waive the reading of the publication for the items on the agenda and it was carried unanimously.

**STEVEN FARRINGTON, 99 SUNSET DRIVE, EAST SYRACUSE, NEW YORK 13057
CONTINUED PUBLIC HEARING – AREA VARIANCE-CONSTRUCT A 12'X20'
CARPORT AND A 12'X14' & 10'x15' 2 LEVEL DECK - REQUESTING A SIDE YARD
SETBACK OF 4'1/2" AND 15' INSTEAD OF THE REQUIRED 20'.**

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

Chairman McIntosh stated that the 5 criteria questions were asked and answered at the meeting of November 21.

Chairman McIntosh asked the applicants if they brought the paperwork that the Board had asked them to bring from the last meeting. Mrs. Farrington said no they were looking for a complaint against the carport.

Mrs. Farrington said that at the last meeting it was stated that there were no carports in the area, when in fact there are approximately 8 in the neighborhood.

Chairman McIntosh said that at the last meeting the Board had asked the applicants for proof of when the house was purchased and when the carport was added. Mrs. Farrington said that the house was purchased in 2010 and the carport was already on the property.

Attorney Seiter said that she pulled the Onondaga County Property Tax records from Ongov.net and the house was purchased on January 29, 2010. The previous owner was Victoria Steer. Further back, Ms. Steer was the owner in 2003 it then belonged to a Donald Steer and he owned it in 2000.

Member Kelly asked about the house being a quick sale and if there was any connection to Mrs. Farrington and the previous owner? Mrs. Farrington said that she is Victoria Steer. Member Kelly then said so you owned the house before when the violations occurred. Mrs. Farrington said no. David Gilkey owned the home when the carport was installed, maybe 2002 or 2003; that's where the dollar sales come in.

Member Ruthig said that the violations talked about last month looked like something was done without a building permit and that was in November 2010 after Mr. Farrington purchased the house. So what was being constructed at that time to receive this violation? Mrs. Farrington said nothing; she again explained that they were having the bathroom redone and all the debris was put on the front lawn, someone made a complaint. The gentleman who showed up to check out the complaint, he said that it looked like the carport was being enclosed and it wasn't; it was being used as a wind shield.

Member Ruthig asked if the violation has been resolved or still pending. Code Officer Jones said the violation is still pending. Attorney Seiter said that if the Board gives them the variance it will correct the problem and they will be able to obtain the necessary permits for what has already been built.

Attorney Seiter also said that the documents that the Board was given regarding the outstanding reports, the "working without a permit" from November 2010 and March of 2013 are the same violation regarding the carport.

Member Schepp said if this was originally addressed in November 2010, 2 years later it came back in December 2012, what took the Town so long to look into this violation again? CEO Jones said that the Code Officer at the time, John Dunham, had retired.

Mr. & Mrs. Farrington said that Mr. Dunham said everything was fine once he realized that the garage wasn't being enclosed. Then Mr. Weber showed up and said that he was new in the position and that it was an open violation in the computer. CEO Jones said that there was not permit issued.

Member Kelly asked when the carport was built. Mrs. Farrington said David Gilkey built it for a boat. The carport shows on a survey from 1990.

Member Schepp asked the applicants if they received an updated survey when they bought the house 2 years ago. Mr. Farrington said no because it was a short sale.

Member Kelly asked if they received a survey from David Gilkey when they bought the house from him. They said yes, the survey from 1990.

Mrs. Farrington said that she and her ex-husband bought the house in 1993, they went through a nasty divorce and she couldn't afford the house on her own so that's where David Gilkey comes into play. Then he did some things and the house went back to Mrs. Farrington.

Member Kelly stated that the board was looking at the deck also for this Variance and that the deck is on the survey from 1990.

BOARD DISCUSSION

PUBLIC COMMENT

There were no comments from the Public.

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 and will not be visible by the applicants' neighbors; it is substantial because the variance will be ' instead of the required, 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 for the real property located at 99 Sunset Drive, East Syracuse, New York for an Area Variance for the purpose of a 12' x 20' Carport and a 12'x14' & 10'x15' 2-Level Deck requiring a Variance of 4'1/2" and 15' instead of the required 20'. The motion was seconded by Member Ruthig.

Based on the foregoing the Board voted to approve the variance for a 12' x 20' Carport and a 12'x14' & 10'x15' 2-Level Deck in accordance with the exhibits submitted with the no conditions because the construction of these two projects were completed prior to 1990.

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

The motion was carried unanimously.

PETER & HANNAH HUBBARD, 125 GADWELL LANE, MANLIUS, NEW YORK 13104
PUBLIC HEARING AREA VARIANCE- TAKE DOWN AN EXISTING DECK AND
CONSTRUCT A NEW 12'X21' DECK- REQUESTING A SIDE YARD SETBACK OF 3'8"
INSTEAD OF THE REQUIRED 20' AND A REAR YARD SETBACK OF 34' INSTEAD OF
THE REQUIRED 40'.

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

John Sidd, Attorney, was there to represent Mr. & Mrs. Hubbard. The homes in Mallards Landing are in a cluster development and the homes are very closer to one another. Chairman McIntosh asked the applicant to respond to the 5 criteria to be considered for an area variance.

Member Schepp asked when construction will begin and how long the project will take. Mr. Sidd said maybe this winter, but probably in the spring and no more than a week to construct.

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

- Mr. Sidd answered – No.

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

- Mr. Sidd answered – No.

3) Whether the requested Variance is substantial?

- Mr. Sidd answered - No

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

- Mr. Sidd answered – No.

5) Whether the alleged difficulty was self-created?

- Mr. Sidd answered – No.

PUBLIC COMMENT

There were no comments from the Public.

BOARD DISCUSSION

Chairman McIntosh asked if the house was going to be two-stories or one. Mr. McDougal said one.

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 and will not be visible by the applicants' neighbors; it is substantial because the variance will be 3'8" and 34' instead of the required 20' and 40', 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 125 Gadwell Lane, Manlius, New York for an Area Variance for the purpose of constructing a 12' x 21' Deck requiring a Variance of 3'8" and 34" instead of the required 20' and 40'. The motion was seconded by Member Urciuoli.

Based on the foregoing the Board voted to approve the variance for a 12' x 21' Deck in accordance with the exhibits submitted with the condition that the addition match the soon to be built house.

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

The motion was carried unanimously.

DANIEL JEFFERY & PATRICIA OOT, 7668 STONEHEDGE LANE, MANLIUS, NY 13104
PUBLIC HEARING AREA VARIANCE- CONSTRUCT A 10X12 SHED- REQUESTING A
REAR YARD SETBACK OF 5' INSTEAD OF THE REQUIRED 40'.

The applicant was not in attendance at the Board meeting so the Zoning Board of Appeals voted to adjourn this application to the meeting of January 16, 2014.

Member Schepp made a motion, seconded by Member Kelly, to table this application until the meeting of January 14, 2014 because the applicant was not in attendance.

The Board voted as follows:

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

The motion was carried unanimously.

OTHER BUSINESS

The Board received a letter from Mark Willette at 131 Crysler Drive (on file in the Planning and Development Office) requesting an extension on the variance of moving his deck until April 2014 due to Health Issues and weather conditions.

Secretary Baleno told the Board that Building Permits were issued on December 17, 2013.

Member Kelly said that he thought that once a Building Permit is issued it is good for 6 months. Attorney Seiter said that they are good for a year.

Attorney Seiter said that the variance was granted with the condition that the construction be completed within 60 days of commencement, which is how this Board normally words it, because the commencement of the deck was already done. So the way the original variance was worded was that he had 60 days to move the deck; so essentially Mr. Willette is asking for a time extension so that his variance doesn't expire.

Attorney Seiter said that this Board needs to decide if the time extension until the end of April is warranted or a reasonable request under the circumstances.

Attorney Seiter reminded everyone that the Building Permit is good for a year.

Member Schepp said that in order to close the violation, the pool and the deck, the Board granted a variance on a condition that it be completed in 60 days. Member Schepp also asked CEO Jones if he closed out the violation. CEO Jones said he issued the permits in order to remedy the problem.

CEO Jones said that until he goes out to the property to do the initial inspection he can't close the violation.

Member Schepp said then he is technically still in violation until CEO Jones has done his follow-up. Member Kelly said no, the violation was that he didn't have his permit. Member Schepp then said CEO Jones just said that he is still in violation because he hasn't done any inspections. CEO Jones said that the permits aren't closed until after the inspections.

PUBLIC COMMENTS

Mr. Lynch said that Mr. Willette wants until the end of April because of weather? Chairman McIntosh said yes.

With there being no more comments from the Public, Chairman McIntosh closed the Public Hearing.

Member Kelly made a motion to allow a time extension of the end of April for the real property located at 131 Chrysler Drive, East Syracuse, New York for the purpose of moving a deck with the following condition: to complete the moving of the deck before the pool is open for use. The motion was seconded by Member Ruthig.

The Board voted as follows:

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

The motion was carried unanimously.

ADJOURNMENT

With there being no other business, Member Schepp made a motion, seconded by Member Urciuoli, and carried unanimously, to end the meeting at 7:50pm.

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