

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
August 20, 2015**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on August 20, 2015 in the Town Hall, 301 Brooklea Drive, Fayetteville, New York. Those present were:

Chairman	Henry McIntosh	
Member	KP Kelly	
Member	T.R. Schepp	
Member	Al Ruthig	
Member	Jim Campbell	
Secretary	Deborah Demmon	
Code Enforcement Officer	Michael Jones	Absent
Town Attorney	Timothy Frateschi	

Also Present: Anne Giegerich, Larry Barnes, Toni Barnes, John Zuti, Anne Hesse, Charles Hesse

The Pledge of Allegiance was recited.

Lawrence Barnes, 114 Miller Dr., East Syracuse NY Tax Map # 066.-02-16.0 – Area Variance – to install a 14’ X 21’ steel storage shed on existing driveway, requesting a rear yard setback of 4’, instead of the required 25’ per chapter 155-9-B

Chairman McIntosh stated this is a continuation of the application of Lawrence Barnes, for an area Variance – to install a 14’ X 21’ steel storage shed on an existing driveway, requesting a rear yard setback of 4’, instead of the required 25’. Chairman McIntosh stated that the public hearing was held last meeting and closed but if anyone has something to say the Board would like to hear your comments.

Ann Hesse, 118 Miller Dr. asked if a building 14’ X 21’ would need a building permit. If Mr. Barnes had gotten a building permit would the Town have gone out to determine if the location of the building was okay?

Attorney Frateschi reviewed the steps for obtaining a building permit and an Area Variance. Yes, the building would need a building permit and this would trigger the requirement to obtain an area variance if it is too close to a side, rear or front yard boundary. Attorney Frateschi did state that not everyone knows to get a building permit and when made aware they usually come to the Town and try to conform to the rules.

Attorney Frateschi stated the roll of the Zoning Board of Appeals under State Law is to review applications/requests for a variance. The ultimate decision the Zoning Board of Appeals has to make regarding an area variance is “Whether the benefit to the applicant outweighs any detriment to the neighborhood.”

Anne Giegerich, 112 Miller Dr. stated she does not feel this building is a detriment to the neighborhood.

Attorney Frateschi reviewed a map of the neighborhood and where the building is located as well as the neighbor's properties.

Mr. Zuti, 116 Miller Dr, is the neighbor most affected by the structure and he stated he is fine with the building and his neighbor.

Mrs. Hesse, a neighbor who lives a house away, said she is opposed to the variance.

Attorney Frateschi asked Mrs. Hesse how the building is a detriment to the neighborhood or to her directly.

Ann Hesse answered because the applicant has seven buildings in his back yard.

Attorney Frateschi stated that the focus of this Board is on the application for a variance of 21' so the applicant can have a 4' rear yard setback. The number of buildings is not what is before the Board. Mrs. Hesse said that the driveway is too close to the side yard. Attorney Frateschi stated that the Board is not here to hear about driveways or other structures.

Ann Hesse stated it is robbing me of the scenery of my back yard.

Board Discussion

Member Schepp stated the most adversely affected neighbor would be the rear neighbor who was notified and he is okay with the building (the rear neighbor is a railroad track). Member Schepp stated the shed is fitting with the character of the neighborhood and the location on the property makes the most sense. Member Schepp stated he believes the benefit to the applicant outweighs the detriment to the neighborhood.

Attorney Frateschi asked Member Schepp why he believes it make sense to have the building where it is.

Member Schepp stated if it were placed anywhere else on the property (including if it met the rear yard setback requirement) it would consume more real estate, it would be an eye sore and its utility would be lessened and it would cause more disturbances to the land in the area around the property. In fact, it would be much closer to the Hesse property.

Attorney Frateschi noted the three structures; (garage, car port and shed) are inline and look uniform. If the building were to be moved up 25' it would not be uniform and would place the building closer to the neighbors along Miller Drive.

Member Kelly stating this is not a code request, but suggested maybe the applicant could plant foliage to block the sightline to the neighbors.

Lawrence Barnes, applicant, offered to put a fence up or plant foliage if that would help.

Mr. & Mrs. Hesse stated their concern is that Mr. Barnes has seven buildings and asked if there is a code on how many buildings he can have.

Attorney Frateschi stated there is no limit to the number of structures.

Mr. Hesse stated that the Board is endorsing a compound and this building will hurt property values.

Attorney Frateschi stated the Board is considering nothing more than an application for a variance for a rear yard setback. Attorney Frateschi stated Mr. & Mrs. Hesse are asking the Zoning Board of Appeals to address issues that it is not authorized to address.

Attorney Frateschi reviewed under New York State Law the duties of the Zoning Board of Appeals. Attorney Frateschi asked the Board for their thoughts on what the benefits to the neighborhood verses the benefits to the applicant are.

Member Schepp going through the 5 criteria questions for Mr. Barnes application:

1. Whether the Variance will have an adverse effect on physical or environmental conditions?
Answer: Environmental impact is negligible if any. In fact, placing the structure where proposed will tuck it away in the back and not affect residential homes behind it since there are none.

2. Whether the benefit sought by the Applicant can be achieved by some other feasible method?
Answer: Yes, it could be moved away from the rear yard line. However, this would make the structure more visible from residential properties and in its current location the building does not interfere anymore with the sightline than what the existing structures have at this time.

3. Whether the Variance will result in an undesirable change in the character of the neighborhood
Answer: There are many sheds in the neighborhood of similar size and does not see where granting a 21' variance would be a detriment to the area as previously explained.

4. Whether the requested variance is substantial?
Answer: Substantial relative to the area; there is an existing structure that's within similar distance from the rear yard and is in character with the neighborhood. While it may be substantial in terms of distance, it is insubstantial in terms of its practical impact on the residences, as stated previously.

5. Whether the alleged difficulty was self-created?

Answer: The last criteria question is almost always self-created and is not a determinate of whether a variance is going to be approved. As stated previously, the proposed location makes the most sense.

Member Campbell stated that he had worked 12 years in the Assessor's Office and as to the question of would the building hurt the values of the neighboring properties, he does not believe this shed will decrease the values of the neighboring properties.

To that point, Attorney Frateschi stated there is no evidence that following the Town Code will reduce the value of the property. You can't make a claim that doing what the Town Code allows you to do will reduce the value of property.

SEORA Review:

Chairman McIntosh determined the proposed project and action contemplated comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action:

Member Schepp made a motion to approve the application of Lawrence Barnes, 114 Miller Dr., to construct a steel 14' X 21' steel shed on his property with a setback in the rear of 4' instead of the required 25' for all the reasons set forth by the Members of the Board during the Board Discussion part of the meeting. The motion was seconded by Member Kelly

The Board voted as follows:

Chairman McIntosh	aye
Member Kelly	aye
Member Campbell	aye
Member Schepp	aye
Member Ruthig	aye

The motion was carried.

Minutes and Legal Notices

Member Kelly made a motion, seconded by Member Campbell to approve the minutes of July 16, 2015, and it was carried unanimously.

Other Business

Member Schepp asked about an issue that came up last year concerning LED signs and how it took 3 meeting to resolve the issue and make a ruling. There was at the time a discussion about if the Town Code even covered LED Signs. Member Schepp is requesting the Zoning Board send a letter to the Town Board asking them to clarify the code for LED lights in the Town.

It was also brought up that the Zoning Board sent a letter to the Town Board concerning monument signs and has not received a response. Attorney Frateschi stated he would follow up on this request with the Town Board.

Adjournment

With there being no other business, Member Schepp made a motion, seconded by Member Ruthig, and carried unanimously, to end the meeting at 7:43pm.

Respectfully submitted,
Deborah Demmon, Secretary
Town of Manlius Zoning Board of Appeals