

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
May 19, 2016**

The Town of Manlius Zoning Board of Appeals met in the Manlius Town Hall, 301 Brooklea Dr. Fayetteville NY at 7:00 PM with Chairman Henry McIntosh presiding and the following Members were present:

Member	KP Kelly
Member	T.R. Schepp
Member	Al Ruthig
Member	Jim Campbell
Secretary	Deborah Witzel
Code Enforcement Officer	Michael Jones
Attorney for the Town	Robert Germain

Also Present: Tom Oot, Alex Henn, Ric Maar, Amy Lunderman, John DiMartino, Stella Penizotto, Paul Curtin, James Donnelly, Patricia Donnelly, Ryan Smith

The Pledge of Allegiance was recited.

Minutes and Legal Notices

Member Ruthig made a motion, seconded by Member Campbell to approve the minutes of March 21, 2016, and it was carried unanimously.

Chairman McIntosh stated that he has confirmed that the legal notice's had been published for the applications on the agenda.

Member Schepp made a motion, seconded by Member Kelly to waive the reading of legal notices for the applications on the agenda and it was carried unanimously.

James & Patricia Donnelly, 7291 Snowball Run, E. Syracuse NY Tax Map # 077.-05-17.0 – Area Variance for an addition of a first floor bedroom and bathroom requesting a side yard setback of 12'.5" instead of the required 15' per chapter 155-9-B

Tom Oot stated he was there representing Mr. & Mrs. Donnelly. Mr. Oot stated that a master bedroom and bath were needed on the 1st floor due to mobility issues for the owner. Mr. Oot stated the addition is planned for the right side of the house and is asking for a minimum 12' side yard setback. The addition will be in character with the neighborhood.

Chairman McIntosh proceeded with the applicant through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Mr. Oot stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Oot stated - no
- 3) Whether the requested Variance is substantial? Mr. Oot stated - no

- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Oot stated - no
- 5) Whether the alleged difficulty was self-created? Mr. Oot stated – yes

Chairman McIntosh asked if the trees will be affected. Mr. Oot answered they should be about 15' from the trees.

Member Kelly asked about the addition being so close to the easement. Code Officer Jones answered that it will not be a problem.

Member Campbell stated that many of the houses in the neighborhood have put on additions and this plan is in character with the neighborhood.

Public Comment:

Chairman McIntosh opened the public hearing and asked if any members of the public wanted to speak, there being no response the public comment session was closed.

Board Discussion

Members Schepp and Kelly both stated the project is in keeping with the neighborhood and they have no objection to the addition.

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 grant the application of James & Patricia Donnelly of 7291 Snowball Run a variance allowing for an addition with a side yard setback of 12'5" instead of the required 15' with substantial compliance with exhibit A mark the plans and the motion was seconded by Member Kelly.

The Board voted as follows:

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

The motion was carried.

Robert Stewart, 4718 Sabre Lane, Manlius NY Tax Map # 114.-04.75.0 – Area Variance for a 12'X18' deck requesting a side yard setback of 15' instead of the required 30' per chapter 155-11-F-2

Public Comment:

Chairman McIntosh opened the public hearing and asked if any members of the public wanted to speak, there being no response the public comment session was closed.

John DeMartino introduced himself as the contractor for the project at 4718 Sabre Lane. Requesting a side yard setback of 15' to replace and upgrade an existing deck.

Chairman McIntosh asked if the neighbors had been notified. Mr. DeMartino answered yes.

Chairman McIntosh proceeded with the applicant through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Mr. Stewart stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Stewart stated - no
- 3) Whether the requested Variance is substantial? Mr. Stewart stated - yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Stewart stated - no
- 5) Whether the alleged difficulty was self-created? Mr. Stewart stated – yes

Board Questions:

Member Schepp asked if the deck would go to the edge of the house. Mr. DeMartino answered no this will be 4" less.

Member Kelly asked if the deck stairs would go further out. Mr. DeMartino answered yes into the backyard.

Chairman McIntosh asked if the wood will be pressure treated. Mr. DeMartino answered yes

Board Discussion

Member Ruthig stated he was okay with the plan.

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 Ruthig made a motion to grant the application of Robert Stewart, 4718 Sabre Lane for the purpose of building a new 12'X18' deck to replace the existing deck allowing for a side yard setback of 15' instead of the required 30' the motion was seconded by Member Kelly.

The Board voted as follows:

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

The motion was carried.

Ryan Smith, 5012 MacClenthen Rd, Manlius NY Tax Map # 100.-01-23.0 – Area Variance for Lot Size requesting 44787.6 instead of the required 80,000 per chapter 155-7-A-1

Mr. Smith stated he is planning on building a house and was made aware that a lot variance would be needed.

Chairman McIntosh proceeded with the applicant through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Mr. Smith stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Smith stated - no
- 3) Whether the requested Variance is substantial? Mr. Smith stated - yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Smith stated - no
- 5) Whether the alleged difficulty was self-created? Mr. Smith stated – no

Board Questions:

Chairman McIntosh asked if there is already a foundation on the property. Mr. Smith answered yes, it is cinder block with poured concrete. Mr. Smith was told by Code Officer Jones that an engineer would have to provide certification that the foundation is okay

Member Schepp asked if Onondaga County Health had signed off on the septic system. Mr. Smith answered yes and he has the report dated 8-7-15, if the Board needs it.

Member Campbell asked how long the foundation has been there. Mr. Smith answered according to the original building permit 1988.

Public Comment:

Chairman McIntosh opened the public hearing and asked if any members of the public wanted to speak.

Neighbor Amy Lunderman stated she has 3 concerns:

- 1 Sewer – if the septic systems being so close together would be a problem for the environment.
1. The well – will another well take away from the neighbors existing wells.
2. Also if the driveways being so close together would be a problem

Chairman McIntosh closed the public hearing.

Mr. Smith did get approval from Onondaga County Health which is required in order to be issued a building permit. Mr. Smith stated it took about 3 years to get the system to where it would be approved. The system is designed with infiltrators.

Mr. Smith stated he had talked to Highway Superintendent Cushing and he approved the driveways stating there is a clean site line when exiting the driveways.

Mr. Smith stated he understands Ms. Lunderman's concerns' and will do everything to not hurt the environment.

Board Discussion

Member Schepp stated the project is in keeping with the neighborhood and health department signed off on it and he has no issue with the project.

Member Kelly stated it is part of an approved subdivision and with the health departments approval he has no problem with the project.

Mr. Smith stated it will be a one story house with a walk out basement.

Chairman McIntosh asked how long it will take to complete the project. Mr. Smith said he hoped by the end of the summer.

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 grant the application of Ryan Smith, 5012 MacClenthen Rd, Manlius NY Area Variance for Lot Size requesting 44787.6 square feet instead of the required 80,000 square feet and being coincident with the presentation this evening, the motion was seconded by Member Kelly.

The Board voted as follows:

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

The motion was carried.

Shining Stars Daycare, John & Stella Penizotto, 4589 & 4595 Enders Rd. Manlius NY (Tax Map # 114.-01-09; 10; 11; 13, and 31) requesting a variance in the number of required

parking spaces from 79 spaces to 42 spaces. Of those 42 spaces, they would like to bank 12 spaces for front yard parking, to be installed if needed per chapter 155-20-F. Also applying for a variance for Lot Coverage of 60% instead of the required 35% per chapter 155-20-E.

Chairman McIntosh stated that Shining Stars Daycare has requested 3 variance's this evening.

1. Number of Parking Spaces
2. Lot Coverage
3. Front Yard Parking

Attorney Paul Curtin, introduced himself and Engineer Rick Maar and stated they will be representing the Penizotto's. Mr. Curtin gave a description of the site, it is located at the intersection of Enders Rd. & NYS Rt. 92 and is a triangular shape where the Penizotto's currently operate a daycare. Mr. Curtin Stated that over time the Penizotto's have acquired all the property up to the school line. Mr. Curtin stated that the property is zoned RM which is the only zoning in the Town of Manlius that will allow for a daycare. The RM zone carries some issues being that most of the properties in the area are zoned CA which that zoning allows more lot coverage. Mr. Curtin gave examples of properties at the intersection and their lot coverages allowed with CA zoning.

1. Parcel 1, to the west is at 46% lot coverage
2. Parcel 2, True Value is at 66% lot coverage
3. Parcel 3, is 65% lot coverage

Mr. Curtin stated the new firehouse will be across the street from this property. So it is the RM zoning that creates the distress for this property. Mr. Curtin stated that there are no residential properties abutting the Penizotto property.

Mr. Curtin stated they are proposing to build a 50,680 square foot child daycare facility, which is 39% lot coverage. Showing on the site plan what the coverage would be is the site were not used for daycare and required full build out with parking per town code. Mr. Curtin showed on the site plan shaded area's that would be used for reserve parking, bring lot coverage to 55%. Mr. Curtin stated that at 55% they would be consistent with the neighboring properties. On the site plan presented they are showing 39% and RM requires 35% so there is a 4% variance on the plan being shown.

Mr. Curtin stated they meet all the setback requirements for the town. The reason they are asking for front yard parking is because with the required parking build out they would need the front. Mr. Curtin referred to the town planning board and stated he did not hear any site specific issues for the proposal and they stated they had no objection to the front yard parking. Mr. Curtin asked the Board to evaluate the equities in this section of the code, versus the harm created if any.

Chairman McIntosh proceeded with the applicant through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Mr. Curtin stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Curtin stated – no, it is consistent with the area and will have a residential look as the code says.

- 3) Whether the requested Variance is substantial? Mr. Curtin stated – no, it is not substantial in phase one which is only for child daycare and is consistent with what is already there.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Curtin stated – no, none have been raised by any of the boards they have presented to.
- 5) Whether the alleged difficulty was self-created? Mr. Curtin stated – no, the zoning classification created the hardship.

Mr. Curtin outlined the first request as: Lot Coverage of 55% instead of the required 35%.

55% would be at full build out.

39% as the site plan shows now.

Board Questions:

Member Kelly asked why they are not using the entire lot. Mr. Curtin responded that it would create a financial hardship and the lender would not support it.

Member Ruthig asked what the plan is for the additional land. Mr. Curtin responded that nothing is planned at this time.

Member Schepp stated the reason the Penizotto's are asking for the variances, is because it is zoned RM. Member Schepp stated he feels this land should be zoned commercial with an allowed use for a daycare.

Member Kelly asked if there might be other options for the building like making the building smaller or a 2 story. Mr. Curtin responded with a no, stating because of the cost.

Member Schepp asked where they will stack the snow. Mr. Curtin answered there will be plenty of area for the snow.

Public Comment:

Chairman McIntosh opened the public hearing and asked if any members of the public wanted to speak.

Alex Henn a resident and a parent of a child currently enrolled at the daycare stated he is in favor of the project to divide the land into 2 lots. And to have the daycare built closer to Eagle Hill Middle School.

Chairman McIntosh closed the public hearing.

Board Discussion

First Item – Lot Coverage

Chairman McIntosh stated the first item to be discussed will be lot coverage. Reminding the board that Onondaga County Planning Board disapproved this site plan request, with no comment about front yard parking.

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 grant Shining Stars Daycare located at 4589 & 4595 Enders Rd. an area variance allowing for lot coverage of 55% instead of the required 35% being consistent with the plans submitted tonight and subject to any revisions that the Planning Board might have, the motion was seconded by Member Campbell.

Ayes: Chairman McIntosh, Member Campbell, Member Schepp

Nays: Member Kelly, Member Ruthig

Motion Carries 3 to 2

Member Kelly asked what the average lot coverage in the town is for an RM zone. Mr. Maar stated their research found that most of the RM zones in the Town of Manlius do exceed the lot coverage requirements.

Discussion ensued about lot coverage and parking.

Second Item – Parking Spaces

Chairman McIntosh outlined the Second request – the request is for 31 parking spaces

Mr. Curtin stated they did a parking study of daycares in the county and the average number of cars was about 12.

Member Schepp asked if there are any special events held at the daycare during the year. Mrs. Penizotto said they have a Halloween event every year and have not had an issue with parking.

Chairman McIntosh opened the public hearing and asked if any members of the public wanted to speak, with there being no response the public comment session was closed.

Member Ruthig made a motion to grant Shining Stars Daycare located at 4589 & 4595 Enders Rd. an area variance allowing for 43 parking spaces instead of the required 79 spaces, 12 spaces of which are to be banked being consistent with the plans submitted tonight and subject to any revisions that the Planning Board might have, the motion was seconded by Member Kelly.

The Board voted as follows:

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

Motion Carries

Third Item – Front Yard Parking

Asking for 12 front yard spaces from the allowed 43 spaces.

Discussion ensued about the location of the 12 spaces.

Member Campbell made a motion to grant Shining Stars Daycare located at 4589 & 4595 Enders Rd. an area variance allowing for 12 front yard parking spaces from the allowed 43 parking spaces being consistent with the plans submitted tonight and subject to any revisions that the Planning Board might have, the motion was seconded by Member Ruthig

Motion Vote:

Ayes: Member Ruthig, Member Campbell, Member Schepp

Nays: Chairman McIntosh, Member Kelly

Motion Carries: 3 to 2

Adjournment

With there being no other business, Member Kelly made a motion, seconded by Member Ruthig, and carried unanimously, to end the meeting at 9:00PM.

Respectfully submitted,

Deborah Witzel, Secretary

Town of Manlius Zoning Board of Appeals