

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
July 21, 2016**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on July 21, 2016 in the Town Hall, 301 Brooklea Dr. Fayetteville New York. Those present were:

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

Also Present: Deborah Tickell, Andrew Crowell, Scott & Marianne Spratt, Justin Kohlbrenner, Rick Needle, Edward Eggert, Vicky Richardson, David & Dorothea Eddy.

The Pledge of Allegiance was recited

Minutes and Legal Notices

Member Campbell made a motion, seconded by Member Kelly to approve the minutes of May 19, 2016, and it was carried unanimously.

Member Ruthig made a motion, seconded by Member Kelly to approve the minutes of June 16, 2016, and it was carried unanimously.

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

Scott Spratt, 305 Fayette Dr., Fayetteville (Tax Map # 087.-06-05) requesting a 10' rear yard setback for a 16' X 28' in ground pool instead of the required 25' rear yard setback
Chairman McIntosh opened the Public Hearing at 7:03PM.

Mr. Spratt is seeking a 15' rear yard variance to install an in ground pool for health and recreation proposes.

Chairman McIntosh asked if he had notified his neighbors. Mr. Spratt answered the neighbors had been notified of the variance request.

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. Spratt stated - no

- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Spratt stated - no
- 3) Whether the requested Variance is substantial? Mr. Spratt stated – yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Spratt stated - no
- 5) Whether the alleged difficulty was self-created? Mr. Spratt stated - no

Board Questions

Member Kelly asked Code Officer Jones what the zoning code is for this property. Mr. Jones answered it is R2 which would make the front & rear yard required setbacks 20', side yard setbacks 10'

Attorney Frateschi asked why he is requesting a 10' rear yard setback. Mr. Spratt answered so the pool will look more centered in the yard and not be too close to the house. Attorney Frateschi asked if there are any other pools in the neighborhood. Mr. Spratt answered yes two doors down from him with almost the same configuration he is requesting.

Chairman McIntosh asked if there would be any drainage issues. Mr. Spratt answered no

Member Campbell asked if the fence belonged to Mr. Spratt or the neighbor. Mr. Spratt answered it is his fence

Member Kelly stated he thought the pool would be better closer to the house and more behind the house. Discussion ensued about moving the pool closer to the house which would mean two trees would have to be cut down. The Board determined that cutting the trees down would be more detrimental to the applicant and neighborhood than granting the variance.

Chairman McIntosh closed the public hearing at 7:10PM

Board Discussion

Member Kelly stated he is in favor of the project as purposed stating it would not change the character of the neighborhood.

SEQRA 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:

Based on the above testimony and discussion, Member Kelly made a motion to grant an area variance to Scott & Marianne Spratt, 305 Fayette Dr., Fayetteville NY, to construct a 16' X 28' in ground pool granting a 10' variance from the rear yard line instead of the required 20', the motion was seconded by Member Campbell.

The Board voted as follows:

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

The motion was carried.

Vicky Richardson, 5215 Duane Dr. (Tax Map # 092.-03-05.0) requesting a 10' front yard setback for an 18 X 30 in ground pool instead of the required 40'

Ms. Richardson stated she is requesting a front yard setback of 10' for an 18' X 30'in ground pool and fence.

Chairman McIntosh asked if Ms. Richardson had notified her neighbors. Ms. Richardson answered yes

Chairman McIntosh opened the Public Hearing at 7:17PM

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? Ms. Richardson stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Ms. Richardson stated - no
- 3) Whether the requested Variance is substantial? Ms. Richardson stated – yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Ms. Richardson stated - no
- 5) Whether the alleged difficulty was self-created? Ms. Richardson stated - yes

Member Ruthig asked where the pool is going relative to the survey. Code Officer Jones explained you measure from the property line which includes 15' of street right-a-way. Member Kelly explained if you measure from the center of the road you have 15' of road, 15' of grass then you have the property line. As a result, the actual distance the pool will be from the road pavement is significantly further than would appear based on the variance.

Member Ruthig confirmed that the pool would be 26' from the road pavement. Member Ruthig asked if there would be a fence. Ms. Richardson stated a 6' privacy fence that will enclosed the entire backyard. Ms. Richardson stated the fence will be 5' from the water's edge on the street side.

Member Kelly asked what distance does the overhead power line need to be from the pool. Code Officer Jones answered we do not have a code for power lines and the applicant should check

with National Grid. Ms. Richardson stated she was told by the pool company if it is high voltage line it needs to be 40', for lower voltage it should be 20'.

Member Kelly asked if the board needs to wait for the information from National Grid. Member Ruthig answered that the pool can be moved within the boundaries according to what the findings are.

Member Kelly asked how close the pool can be to the septic system in the back. Code Office Jones answered 10'. Ms. Richardson stated she does not want to go any closer to the septic because they are not sure exactly where the tank is.

Chairman McIntosh closed the public hearing at 7:30PM

Board Discussion

Member Campbell stated a number of houses in the neighborhood have pools in similar positions and this would fit with the character of the neighborhood.

SEQRA 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:

Based on the above testimony and discussion, Member Ruthig made a motion that Vicky Richardson, 5215 Duane Dr. Fayetteville NY be granted an area variance to provide for a 10' front yard setback for the purpose of the installation of an 18' X 30" in ground pool instead of the required 40', the motion was seconded by Member Campbell.

The Board voted as follows:

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

The motion was carried.

Andrew Crowell, 121 McClennan Dr. (Tax Map # 085.-08-02.0) requesting a rear yard setback of 4' for a 22' X 24' garage instead of the required 20', requesting a side yard setback of 3' instead of the required 10', requesting a height variance of 18' instead of the required 17'

Mr. Crowell stated he currently has a 12' X 20' garage, he would like to keep the back left corner the same and expand it forward by 4' and to the side for a total of another 10'. Mr. Crowell has 2 concerns:

- 1) If he moves the garage too far to the right it will not line up with the driveway.
- 2) If he moves the garage too far to the right it will make it difficult to move items in and out.

Mr. Crowell stated he would like to build a 16' X 24' garage and on the right side put a shed. Chairman McIntosh asked if Mr. Crowell had notified his neighbors. Mr. Crowell answered yes.

Chairman McIntosh opened the Public Hearing at 7:35PM

Board Questions

Member Campbell asked if he would be tearing down the old garage and will the new garage match the house. Mr. Crowell answered yes it will be torn down and it will match the house with the same siding.

Chairman McIntosh asked who will be doing the work and how long it would take to complete the project. Mr. Crowell answered he will have someone do the foundation and then he will complete the rest. Mr. Crowell stated he is hoping to have it completed in a couple of months.

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. Crowell stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Crowell stated - no
- 3) Whether the requested Variance is substantial? Mr. Crowell stated – yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Crowell stated - no
- 5) Whether the alleged difficulty was self-created? Mr. Crowell stated – no

Chairman McIntosh closed the public hearing at 7:36PM

Board Discussion

Member Kelly stated it will be the same side and rear setbacks as now, plus the 1' height variance it's a good project. Therefore, the detriment to the neighborhood would be minimal because it's very close to what exists now. It will just be new.

SEQRA 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:

Based on the testimony and the discussion above, Member Campbell made a motion that Andrew Crowell, 121 McClennan Dr. Fayetteville NY be granted an area variance of a 16' (a 4' setback on the rear yard instead of the required 20'), and a 7' variance (a 3' setback on the side yard instead of the required 10') and a height variance of 1' (18' height instead of 17' as required), 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.

James & Deborah Tickell, 222 Hunt Dr. (Tax Map # 087.-09-11.0) requesting a side yard setback of 3.91' for a 8' X 12' Storage Shed instead of the required 10'

Ms. Tickell stated they are asking for a side yard setback of 3.91' as well as a 10' X 12' storage shed instead of the requested 8' X 12' shed because they found they have enough siding for the larger shed.

Member Kelly asked if that meant that the shed would match the house. Ms. Tickell answered yes.

Member Kelly asked if Ms. Tickell had notified her neighbors. Ms. Tickell answered yes and no one had a problem with the plan.

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? Ms. Tickell stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Ms. Tickell stated - no
- 3) Whether the requested Variance is substantial? Ms. Tickell stated – yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Ms. Tickell stated - no
- 5) Whether the alleged difficulty was self-created? Ms. Tickell stated – yes

Chairman McIntosh opened the Public Hearing at 7:40PM

Chairman McIntosh closed the Public Hearing at 7:41PM

Board Discussion

Chairman McIntosh stated the plan looked good and would fit with the neighborhood

Member Kelly stated it will fit with the look of the neighborhood.

Ms. Tickell asked if making the shed larger would require anything more. Code Officer Jones answered no the setback will stay the same. He did ask for new building plans for the larger shed.

Member Kelly asked if the larger shed comes further out would it change the roof line from the garage to the shed.

Ms. Tickell answered the roof line of the garage is 8.5' but the ledger board on the back of the garage is three blocks high so even if the roof pitch is at 5'12' it will not be a problem

SEQRA 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:

Based on the testimony and discussion above, Member Kelly made a motion that Deborah Tickell, 222 Hunt Dr. be granted an area variance of 7' (a side yard setback of 3 instead of the required 10') for the construction of 10' X 12' storage shed, the motion was seconded by Member Campbell.

The Board voted as follows:

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

The motion was carried.

Edward Eggert, 6634 Mari Carol Lane (Tax Map # 051.-08-11.0) requesting 118'.69 for road frontage instead of the required 150'

Mr. Eggert stated they are asking for road frontage to build a new 2,000 square foot colonial house on the property.

Attorney Frateschi stated the variance for lot coverage at 6634 was not published so it will have to be heard at the August 18, 2016 meeting. The Public Hearing continued for the road frontage variance.

Attorney Frateschi went over the history of the lots stating the lots were conforming when the subdivision was developed so they fit the look of the neighborhood and now the code requirements are different.

Member Kelly asked if it would be on a septic system. Mr. Eggert answered yes with approval for both lots.

Code Officer Jones stated that a single family home, on a lot with 150' frontage, will need a minimum of 80,000 square feet, not 40,000 square feet because the house will be on a septic system. Onondaga County requires 10,000 square feet of open unimproved land, to put a septic system in.

Chairman McIntosh opened the Public Hearing at 7:55PM

Mr. Eggert's neighbor's Dave & Dot Eddy, live at 6598 Mari Carol Lane from across the street from 6595 Mari Carol Lane and would love to see a house on the lot, and they support the project.

Chairman McIntosh adjourned the Public Hearing at 8:00PM, and will be continued at the August 18, 2016 meeting. So the request can be published with the corrected 80,000 square feet, instead of the 40,000 previously published.

Edward Eggert, 6595 Mari Carol Lane (Tax Map # 051.-02-38.0) for Lot Coverage, requesting 18688.51 square feet instead of the required 40,000 square feet

Chairman McIntosh tabled this item until the August 18, 2016 meeting so it can be published with the 80,000 square feet, instead of the 40,000 previously published.

Justin Kohlbrenner, 5788 Frostiana Circle (Tax Map # 077.-09-39.0) requesting a rear yard setback of 7' for an in ground pool instead of the required 25'

Chairman McIntosh asked if Mr. Kohlbrenner notified his neighbors. Mr. Kohlbrenner answered yes this week.

Mr. Kohlbrenner stated they would like to install an in ground pool.

Chairman McIntosh opened the Public Hearing at 8:02PM

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. Kohlbrenner stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Kohlbrenner stated - no
- 3) Whether the requested Variance is substantial? Mr. Kohlbrenner stated – yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Kohlbrenner stated - no

5) Whether the alleged difficulty was self-created? Mr. Kohlbrenner stated – no

Board Questions

Member Kelly asked if the pool could be turned. Mr. Kohlbrenner answered if they reduce the size of the pool. Member Kelly asked if the pool would fit on the garage side of the yard. Mr. Kohlbrenner answered no because the neighbors pool is very close on that side.

Member Ruthig asked if there are any drainage issues. Mr. Kohlbrenner stated he and the neighbor behind him are checking to see if there is an easement between them. Mr. Kohlbrenner believes there is a trench between the two properties on Snowball Run, but that would need to be checked.

Member Campbell asked if the fence belonged to him. Mr. Kohlbrenner answered no.

Chairman McIntosh asked if his property is a grade higher than the neighbors. Mr. Kohlbrenner stated he believes his property is a bit more elevated.

Member Kelly has concerns about the drainage because there have been issues in this area before. Mr. Kohlbrenner said his neighbor had some drainage work done on this property last year. Member Kelly asked if there is a catch basin on the street. Mr. Kohlbrenner answered yes at the other end of Frostiana and Spring Mountain.

Member Campbell asked if the pool behind them has ever caused any drainage problems. Mr. Kohlbrenner answered no.

Chairman McIntosh stated that he had received 2 letters of concern about drainage and neighbors did not receive the neighbor notifications in time. Chairman McIntosh stated the ZBA has a 10 day neighbor notification policy which was not met.

Chairman McIntosh read a letter from a neighbor who is concerned about the drainage, she states there is already a severely wet area under normal circumstances and any change in the grade would raise the property and cause more water.

Member Ruthig would like to table this item to give the neighbors the opportunity to come before the board.

Mr. Needle a neighbor stated he did send an e-mail today just wanting more information about where the pool would be placed. He does not have a problem with the variance being requested for the pool.

Chairman McIntosh adjourned the Public Hearing at 8:19PM to be continued at the August 18, 2016 meeting.

Attorney Frateschi asked that Mr. Kohlbrenner notify his neighbors again about the new meeting date.

Member Kelly asked to have Highway Superintendent Cushing take a look at the drainage.

Adjournment

With there being no other business, Member Ruthig made a motion, seconded by Member Campbell, and carried unanimously, to end the meeting at 8:24PM

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