

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
July 20, 2017**

The minutes of the Town of Manlius Zoning Board of Appeals Meeting held on July 20, 2017 in the Town Hall, 301 Brooklea Dr. Fayetteville New York. Those present were:

Chairman	Henry McIntosh
Member	KP Kelly
Member	T.R. Schepp
Member	Al Ruthig
Member	Jim Campbell
Secretary	Deborah Witzel
Code Enforcement Officer	Randy Capriotti

Also, Present: Stacey Thomas, Michael Spoont, Keith Thomas, Clark & Mary Goodwin, Andrew Goodwin, John & Christine Hodges.

The Pledge of Allegiance was recited

Minutes and Legal Notices

Member Kelly made a motion, seconded by Member Ruthig to approve the minutes of June 15, 2017, and it was carried unanimously.

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

Clark & Mary Goodwin, 103 Foxcroft Lane, Fayetteville NY

Public Hearing - for an area variance to construct a 12' X 16' shed with an existing side yard setback of 9.2' they will need a variance of 10.8' to meet the required 20' side yard setback. With an existing rear set back of 25.6' they will need a variance of 14.4' to meet the required 40' rear yard setback.

Mr. Goodwin stated they would like to place a shed in the back-northwest corner of his property.

Chairman McIntosh asked if Mr. Goodwin had notified his neighbors. Mr. Goodwin 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. Goodwin stated - yes
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Goodwin stated - no
- 3) Whether the requested Variance is substantial? Mr. Goodwin stated – no

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

Board Questions

Member Schepp asked if the fire pit will remain in the yard. Mr. Goodwin answered no. Member Schepp asked why they choose to put the shed at an angle. Mr. Goodwin stated it was personal preference after looking at other location options. Member Schepp asked if the shed were not at an angle would it affect the landscape, Mr. Goodwin answered yes. Member Schepp asked if the neighbors had opinions about the shed. Mr. Goodwin answered neighbors are in support of the project. Member Schepp asked what would be kept in the shed. Mr. Goodwin answered pool chairs, umbrellas, grill and such. Member Schepp asked if there would be utilities in the shed. Mr. Goodwin answered no.

Chairman McIntosh asked what color the shed will be. Mr. Goodwin answered the same as the house.

Member Kelly stated he had no objection to the shed and believes it fits the character of the neighborhood.

Chairman McIntosh opened the public hearing at 7:14PM

Chairman McIntosh closed the public hearing at 7:15PM

Board Discussion

Member Campbell stated the shed will not be seen from the road.

Members Kelly & Ruthig stated they are okay with the shed.

Member Schepp stated that the shed will not be any more intrusive on the neighbor than the house is, the neighbors are okay with the shed and it does 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

Member Kelly made a motion to grant an area variance to Clark & Mary Goodwin, 103 Foxcroft Lane be granted an area variance for constructing a 12' X 16' shed with an existing side yard setback of 9.2' they will need a variance of 10.8' to meet the required 20' side yard setback. With an existing rear set back of 25.6' they will need a variance of 14.4' to meet the required 40' rear yard setback, seconded by Member Campbell.

The Board voted as follows:

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

The motion was carried.

John Hodges, 5850 Minoa Rd., Kirkville NY

Public Hearing – for an area variance to construct a 15’ X 26’ above ground pool, with an existing side yard setback of 16’ they will need a variance of 4’ to meet the required 20’ side yard setback.

Chairman McIntosh opened the public hearing at 7:19PM

Mr. Hodges stated they are putting in pool in because the family wanted one.

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

Board Questions

Member Kelly asked how much above ground the pool would be. Mr. Hodges answered above the minimum of 48”. Member Kelly asked if there will be a deck around the pool. Mr. Hodges answered yes, with the stairs that folds up. Member Kelly stated that the requested 16’ setback would be to the deck. Mr. Hodges answered yes.

Member Schepp asked what were the setbacks advertised in the legal notice.

Clerk Witzel, answered the setbacks are the same in the legal notice as what is written in the agenda.

Member Schepp asked if there might be another place to position the pool. Mr. Hodges answered no it would be too close to the driveway.

Chairman McIntosh confirmed that Mr. Hodge did notify his neighbors.

Chairman McIntosh closed the public hearing at 7:28PM.

Board Discussion

Member Ruthig stated that he is okay with the request of 4'.

Code Officer Capriotti stated that he walked the property and he saw no where else the pool could fit without a lot of upheaval to the yard.

Member Campbell agreed with Code Officer Capriotti that is the best location for the pool.

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

Member Ruthig made a motion to grant an area variance to John Hodges, 5850 Minoa Rd., Kirkville NY, to construct a 15' X 26' above ground pool, with an existing side yard setback of 16' they will need a variance of 4' to meet the required 20' side yard setback, 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.

Keith Thomas, 8041 Merrimac Dr., Manlius NY

Public Hearing - for an area variance to construct a 21' diameter above ground pool, with an existing side yard setback of 12'3" they will need a variance of 7'.9" to meet the required 20' side yard setback.

Chairman McIntosh opened the public hearing at 7:30PM.

Chairman McIntosh confirmed that Mr. Thomas had notified his neighbors.

Mr. Thomas stated he is seeking a variance to construct a 21' above ground pool.

Chairman McIntosh stated that the pool has already been constructed.

Mr. Thomas confirmed that the pool is already in place stating that he was not aware that he needed a variance.

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

Board Questions

Member Schepp asked if there were other above ground pools in the neighborhood. Mr. Thomas Answered No. Member Schepp asked if the pool could be placed so a variance would not be needed. Mr. Thomas answered only with a smaller pool, because he is confined with a drainage easement.

Public Comments

Mr. Spont, 8045 Merrimac Dr. lives next door to Mr. Thomas and his yard faces the pool. Mr. Spont presented photos showing the pool from his yard which is the back of the pool and all of the mechanics attached to run the pool. Mr. Spont did state that Mr. Thomas never spoke to him about the construction of the pool. Mr. Spont did call the town codes office to advise them that Mr. Thomas had put a foundation in. Mr. Spont called the first Monday to let the town codes know the pool was completed. The codes officer went out and looked and determined Mr. Thomas did need a variance for the pool. Mr. Spont is concerned that the pools position will lower his property value.

Mr. Spont wanted the board to know that he and Mr. Thomas had a previous dispute that the town was involved with. It concerned Mr. Thomas bringing soil in and filling in his yard and disrupting the drainage this matter did end up in court.

Chairman McIntosh asked Mr. Spont if he had been notified about this hearing. Mr. Spont answered yes, a paper was taped to his front door. Chairman McIntosh asked if Mr. Spont's objection to the project is more than the pool. Mr. Spont answered he has no problem with the pool just with where it has been placed on the property and having to view the mechanics of the pool. Mr. Thomas should have chosen a smaller pool that would fit within the yard setbacks and away from the easement.

Member Schepp pointed out that Mr. Spont had brought up 3 points.

1. The pool would lower his home value. Mr. Spont had no documentation to prove this to be true.
2. That his neighbor had failed to meet the distance requirements. Member Schepp stated that is why the Zoning Board exists: to review the requirements and reach a solution.

3. Mr. Thomas's pattern of behavior based on a prior dispute that was settled by the town. Mr. Thomas had put over 100 yards of topsoil in his yard and changed the water flow outside the easement which created a water flow problem in Mr. Spoont's Property.

Member Campbell having worked in the assessor's office for over 12 years stated that he never saw where a pool effected property values.

Mr. Thomas and Mr. Spoont went back and forth discussing the history of past events between them.

Mr. Thomas stated that his other neighbors are okay with the pool and support him.

Chairman McIntosh asked Mr. Spoont if he would be okay with the pool if it were moved 8' away from his property line. Mr. Spoont answered yes he would have no problem if the pool were moved the 8'.

Mr. Thomas stated that moving the pool would be a burden in that he would affect his patio and landscaping.

Member Schepp asked Mr. Spoont if the pool would exacerbate any drainage issues. Mr. Spoont answered no it shouldn't.

Mr. Spoont is concerned that if the pool gets a hole in it that the water would come on to his yard and house.

Discussion ensued about the drainage and where the water would go if a problem occurred.

Chairman McIntosh closed the public hearing at 8:00PM

Board Discussion

Member Campbell asked Mr. Thomas when the pool was completed. Mr. Thomas answered it was put up on Memorial Day weekend.

Member Kelly asked Mr. Thomas what the relationship from the pool to the culvert is. Mr. Thomas answered according to his test the culvert would handle 8 cubic feet per second and could handle the water from the pool.

Member Ruthig asked Mr. Thomas what the impact was on the drainage after the soil was added to his yard. Mr. Thomas refutes that there was 100 yards of soil brought in. Mr. Thomas stated it was 45 yards of compost which would be about an inch and a half. Mr. Thomas stated that everything he has done so far has been to improve the drainage and filtration of any water. Mr. Thomas asked that the board grant his request for the variance.

Mr. Spoont stated that he believes the water from the pool would come into his yard and asked that the pool be moved.

Chairman McIntosh stated he didn't believe 8 feet would make any difference if the pool were to break.

Member Kelly stated that from what he has heard tonight that if the pool were to break it would not flood Mr. Spont's house and that the culvert would handle the water.

Chairman McIntosh does not believe the pool will impact property values.

Member Schepp believes what Member Campbell stated that he had never seen a pool impact property values.

Mrs. Spont stated she does not want to look at the back side of the pool and moving it 8' would lessen the intrusion she also mentioned a fence hide the pool from their view.

Code Officer Capriotti advised the board that the town does not have a fence code.

Member Ruthig asked that there be a provision of the variance that a fence or bushes be installed to hide the pool pipes, something that both parties agree to.

Board Action

Member Schepp made a motion that the board table the request until September 21, 2017 to allow Mr. Thomas and Mr. Spont time to get together and decide on screening that they both can agree on. Motion 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.

Chairman McIntosh stated that he would like to appoint Member Kelly as Deputy Chairman for the Zoning Board of Appeals 2017. Member Kelly accepted the appointment.

Adjournment

With there being no other business, Member Schepp made a motion, seconded by Member Campbell, and carried unanimously, to end the meeting at 8:18PM

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