

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS**

APPROVED

June 21, 2018

6:30 PM

The Town of Manlius, Zoning Board of Appeals assembled at the Town Hall, 301 Brooklea Drive, Fayetteville, New York, with Chairman Henry McIntosh presiding and the following Board members present:

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

Also, Present: Kirk Marinich, Mark & Arlene Westfall, Nathan Milner, Ashley & Louis Bird, Chelsey & Matt Miller, Tom Apicieeli

The Pledge of Allegiance was recited

Minutes and Legal Notices

Member Ruthig made a motion, seconded by Member Campbell to approve the minutes of May 17, 2018 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 Kelly to waive the reading of the publication for the items on the agenda and it was carried unanimously.

Matthew & Chelsey Miller, 108 Brinan Fields Run, Manlius NY for a 12' X 24' inground pool, with an existing rear yard setback on one corner of 11' they will need a variance of 14' to meet the required 25', with an existing rear yard setback on the other corner of 9' they will need 16' to meet the required 25' both requests are rear yard off different corners of the pool.

Chairman McIntosh asked if the neighbors had been notified, answered yes

Mr. Miller stated they would like to install a 12' X 24' inground pool.

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

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

Board Questions

Member Schepp asked if the wall could be moved to the west. Mr. Miller stated it would be a problem do to the retaining wall and drainage.

Mr. Miller asked if they could get a 17' variance. Member Kelly explained that if they are requesting a change that is greater than what was published in the legal notice they would have to wait until the next meeting, so the new distance could be published. Mr. Miller decided to go with the original variance of the 16'.

Chairman McIntosh opened the Public Hearing at 6:42 PM.

Chairman McIntosh with no comments from the public closed the Public Hearing at 6:43 PM.

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 Schepp made a motion, seconded by Member Kelly to grant an area variance to Matthew & Chelsey Miller, 108 Brinan Fields Run, Manlius NY (117.-02-04-5) to install a 12' X 24' inground pool, with an existing rear yard setback on one corner of 11' they will need a variance of 14' to meet the required 25', with an existing rear yard setback on the other corner of 9' they will need 16' to meet the required 25' both requests are rear yard off different corners of the pool.

The Board voted as follows:

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

The motion was carried.

Ashley & Louis Bird, 8209 Kirkville Rd., Kirkville NY (052.-01-09.6) for an area variance for a 27' above ground pool, with an existing rear yard setback of 1' they will need a variance of 39' to meet the required 40' rear yard setback.

Chairman McIntosh opened the public hearing at 6:43 PM. Chairman McIntosh asked if the neighbors had been notified. Mr. Bird answered yes

Mr. Bird stated that they would like to build a 27' above ground pool that will be notched into the existing deck.

Chairman McIntosh stated that the land behind the home was all woods and a cornfield.

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

Board Questions

Member Ruthig asked how they will fence the pool. Mr. Bird answered they have a chain link fence with a locking gate at the bottom of the both set of deck stairs and the only other way to the pool will be through the house.

Member Schepp asked if the pool could be moved to the west a bit to make is easier to walk around. Mr. Bird answered that there is a sump on one side and a septic on the other.

Member Kelly stated he is concerned about there only being 1' between the pool and the property line. Chairman McIntosh asked if they could get a smaller pool. Mr. Bird answered yes. Member Schepp stated he would be more comfortable with 3' instead of 1'.

6:55 PM Code Officer Capriotti left the meeting – for a code issue.

Chairman McIntosh closed the public hearing at 6:58 PM.

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, seconded by Member Kelly to grant a variance to Ashley & Louis Bird, 8209 Kirkville Rd., Kirkville NY to install an above ground pool, the variance shall provide for a rear yard setback of 3' which means they will need a 37' variance to meet the required 40' setback.

The Board voted as follows:

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

The motion was carried.

Rachel Galusha, 5098 Reis Circle, Fayetteville NY (093.-04-11.0) for an area variance for a 10' X 16' Shed, 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 7:05 PM. Chairman McIntosh asked if the neighbors had been notified. Mr. Apicieeli answered yes.

Mr. Apicieeli stated he would like to amend the request and would like a 10' variance instead of the 4' originally requested. Member Schepp explained that he could do that but that would delay a decision from the board until the August meeting because the requested changes would have to be re-published. Mr. Apicieeli stated he didn't want to wait and would stay with the original request of 4'.

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

Board Discussion

Member Kelly asked if it would be possible to move the shed to a different part of the yard. Mr. Apicieeli answered one neighbor did prefer it not be near the grouping of trees and because this is where his wife wants it located and this location will not be an eye sore to anyone. Member Kelly asked if the shed will mirror the look of the house. Mr. Apicieeli answered it will have siding, cape cod shingles, barn door, a bench and 2 window boxes.

Chairman McIntosh asked if they will have electric power. Mr. Apicieeli answered no

Member Kelly asked if the neighbor closest is okay with the location of the shed. Mr. Apicieeli answered yes.

Chairman McIntosh closed the public hearing at 7:10 PM.

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 Schepp made a motion, seconded by Member Campbell to grant an area variance to construct a shed approximately 10' X 16' with an existing side yard setback of 16' to grant a 4' side yard setback to meet the required 20' set back.

The Board voted as follows:

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

The motion was carried.

Nathan Milner, 421 Churchill Lane, Fayetteville NY (104.-01-25) for an area variance for a 25' X 24' X 13' X 8' deck, with an existing rear yard setback of 37' they will need a variance of 3' to meet the required 40' rear yard setback.

Mr. Milner stated that they want to construct a deck for the kids to have some cover when outside playing. Cannot put a deck straight along the back of the house because of the air conditioning unit that is in the middle of the back of the house and they can't go north because of the septic tank, the plan is to build a semi-wrap-around deck

Chairman McIntosh asked if he had notified his neighbors. Mr. Milner 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. Milner – stated no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Milner – stated no
- 3) Whether the requested Variance is substantial? Mr. Milner – stated no
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Milner – stated no
- 5) Whether the alleged difficulty was self-created? Mr. Milner – stated no

Chairman McIntosh opened the public hearing at 7:12 PM.

Board Questions

Member Kelly asked if the deck can go out 13' without running into the up slope of the yard. Mr. Milner answered yes. Member Kelly asked about the distance between his house and the house behind. Mr. Milner stated the house behind is about 700' back. Member Kelly asked how the deck would be constructed. Mr. Milner answered with pressure treated wood, there will be hand rail all the way around the deck except where the 2 sets of stairs are. Mr. Milner stated the deck will be built by a contractor.

Chairman McIntosh closed the public hearing at 7:17 PM.

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, seconded by Member Campbell to grant an area variance to Nathan Milner, 421 Churchill Lane, Fayetteville NY to construct a 25' X 24' X 13' X 8' deck, modifying the 40' rear yard setback to that of 37' making it 3' variance to meet the required 40' rear yard setback.

The Board voted as follows:

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

The motion was carried.

Melanie Comito & Spencer Brown, 8043 Changing Seasons Dr., Fayetteville (090.-05-10.0) for an area variance for an 18'X 16' deck and stairs, with an existing rear yard setback of 32' they will need a variance of 8' to meet the required 40' rear yard setback.

Chairman McIntosh opened the public hearing at 7:21 PM.

Mr. Marinich (Builder representing the owners) introduced himself to the board.

Chairman McIntosh asked if the neighbors had been notified. Mr. Marinich answered yes. Chairman McIntosh read an email from Deborah Royle (neighbor) stating she has no objections to the proposed deck.

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

Board Questions

Member Campbell stated that in the application it stated the rear yard setback is about 30', he asked what the actual distance is. Mr. Marinich stated the existing rear yard setback is 32'.

Member Schepp asked Mr. Marinich to describe the property to the rear that would be most affected by the variance. Mr. Marinich stated the back of the house is a long property that goes along Summerview. Member Schepp clarifying there is a good distance between the houses with a wooded area in between the two houses. Mr. Marinich agreed.

Member Campbell stated you can't see the house behind.

Chairman McIntosh Closed the public hearing at 7:26 PM.

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 Schepp made a motion, seconded by Member Campbell to grant an area variance to Melanie Comito & Spencer Brown, 8043 Changing Seasons Dr., Fayetteville, for an area variance to construct an 18' X 16' deck and stairs, with an existing rear yard setback of 32' they will need a variance of 8' to meet the required 40' rear yard setback.

The Board voted as follows:

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

The motion was carried.

Mark & Arlene Westfall, 6586 N. Manlius Rd., Kirkville (051.-02-06.0) for and area variance for 14' X 28' garage, with an existing rear yard 35' they will need a variance of 5' to meet the required 40' rear yard setback. With an existing side yard setback of 15' they will need a variance of 5' to meet the required 20' side yard setback.

Chairman McIntosh opened the public hearing at 7:34 PM.

Mrs. Westfall stated there were 2 sheds existing in the yard when they purchased the house and they would like to remove both shed and replace it with one shed.

Chairman McIntosh asked if the neighbors had been notified, Mrs. Westfall 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. Westfall stated - no
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Westfall stated - no
- 3) Whether the requested Variance is substantial? Mr. Westfall stated – no
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Westfall stated - no
- 5) Whether the alleged difficulty was self-created? Mr. Westfall stated - no

Board Discussion

Member Kelly stated that there are two variances and they will be taken together. Member Kelly remarked that there are other sheds in the area, so this would be fitting the character of the neighborhood. Mrs. Westfall showed a picture of the shed and described that it will have a barn shaped roof with a wood floor and sit on a bed of gravel.

Member Schepp asked if they would be putting any utilities in the shed. Mr. Westfall answered no, not at this time. Member Schepp to clarify asked, you are going to be 35' of the rear yard and 15' off the side yard. At this point the board is reviewing the measurements and realized the numbers were off. Member Schepp went to get Code Enforcement Officer Capriotti.

Code Officer Capriotti enters and the board explains the issue with the measurements.

Code Officer Capriotti states that because of the error the applicant will have to come back for the August meeting, so the new measurements can be published.

The board members assisted in reviewing what the measurements should be.

Chairman McIntosh Closed the public hearing at 7:54 PM.

The board determined they would hold a special meeting on July 6, 2018 at 4:30 PM so the applicant would not have to wait another month.

Adjournment

With there being no other business, Member Schepp made a motion, seconded by Member Campbell, and carried unanimously, to end the meeting at 7:55PM

Respectfully submitted,
Deborah Witzel, Secretary
Zoning Board of Appeals