

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
November 15, 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	Allison Weber

Also, Present: Randy Capriotti, Director of Code Enforcement. Rainna Sawicky, Applicant.

The Pledge of Allegiance was recited.

Minutes

Member Kelly made a motion, seconded by Member Ruthig, to approve the minutes of October 18, 2018 as submitted by Secretary Weber and it was carried unanimously.

Legal Notices

Member Campbell made a motion, seconded by Member Kelly to waive the reading of the public notices and it was carried unanimously.

Nick & Rainna Sawicky, 125 Crane Landing Manlius, NY 13104 - PUBLIC HEARING – Area Variance - requesting a rear yard variance of 6 feet to construct a pool 34 feet from the rear yard instead of the required 40 feet, a side yard variance of 8 feet to construct a pool 12 feet from the side yard instead of the required 20 feet and side yard variance of 1 foot to construct a pool 19 feet from the side yard instead of the required 20 feet at the property located at 125 Crane Landing, Manlius NY 13104. Tax Map #117.3-01-45.0.

Ms. Sawicky presented her application to construct a pool at the property located at 125 Crane Landing Manlius NY.

Chairman McIntosh opened the public hearing at 6:33 PM. Chairman McIntosh asked if the neighbors had been notified. Ms. Sawicky 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? Ms. Sawicky answered no.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Ms. Sawicky answered no.

- 3) Whether the requested Variance is substantial? Ms. Sawicky answered no.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Ms. Sawicky answered no.
- 5) Whether the alleged difficulty was self-created? Ms. Sawicky answered no.

Board Questions

Member Schepp discussed the criteria questions and stated that he believes the benefit could be achieved by another means, for example, a smaller pool.

Member Schepp stated that he believes that the variance will result in an undesirable change to the neighborhood because the applicant's home is not a single-family home. Member Schepp stated that this residence is filed with New York State as a condominium and there are certain rights and responsibilities associated with that.

Member Schepp asked the Attorney if this change would require a change to the declaration of a condominium that is filed with New York State.

Attorney Frateschi stated that the Zoning Board of Appeals is present to consider whether or not the applicant is entitled to a variance from the Town of Manlius Code. Attorney Frateschi stated that the Board is not present to consider whether or not the applicant is going to run afoul with a private covenant that is on file with the County.

Member Schepp stated that he respectfully disagrees with the opinion of the Attorney. Member Schepp stated that one of the criteria questions considers whether or not the variance will negatively affect the character of the neighbor. Member Schepp stated that the applicant already lives in a tight neighborhood and any changes to that lot would negatively impact the neighborhood. Member Schepp stated that the problem is most definitely self-created, and he will not under any circumstances vote in favor of this variance.

Member Ruthig stated that he was not aware that the applicant's residence was a condo and asked the applicant if she owned the land? Ms. Sawicky stated that she does own the land.

Member Ruthig asked the applicant if the rest of the residences in the neighborhood are condominiums? Ms. Sawicky stated that the rest of the homes are condominiums with a shared greenspace.

Member Ruthig asked the applicant why the home was classified as a condominium? Ms. Sawicky stated that she believed it was due to the shared greenspace.

Member Ruthig asked the applicant if she will have to get approval from the homeowner's association for the pool? Ms. Sawicky stated that the homeowner's association is not yet formed but that two homes adjacent to her property have pools.

Conversation ensued regarding how homeowner's associations function.

Chairman McIntosh asked the applicant if her pool was the same size as the other pools in her neighborhood? Ms. Sawicky stated that her pool may be a bit deeper but is the same size.

Attorney Frateschi asked the applicant if the pool she was building would be in character with the other two pools on either side of her residence? Ms. Sawicky answered yes.

Attorney Frateschi asked if the neighbors were notified? Ms. Sawicky stated yes.

Chairman McIntosh asked if the lots in the neighborhood were all the same size? Ms. Sawicky stated that her lot is the smallest in the neighborhood.

Member Schepp stated that he has researched the other pools in the neighborhood and stated that one of the pools appears to have needed a variance and did not obtain one. Member Schepp stated that the other pool is in compliance with the setback requirements.

Conversation ensued regarding the adjacent pools and their lot sizes.

Member Kelly stated that all of the lots appear to be similar in size and this variance would not negatively affect the character of the neighborhood.

Chairman McIntosh closed the public hearing at 6:51 PM.

SEQRA Review

Chairman McIntosh determined the proposed project and action contemplated is 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 answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member Ruthig made a motion, seconded by Member Kelly to grant Nick & Rainna Sawicky, 125 Crane Landing Manlius, NY a rear yard variance of 6 feet to construct a pool 34 feet from the rear yard instead of the required 40 feet, a side yard variance of 8 feet to construct a pool 12 feet from the side yard instead of the required 20 feet and side yard variance of 1 foot to construct a pool 19 feet from the side yard instead of the required 20 feet at the property located at 125 Crane Landing, Manlius NY 13104. Tax Map #117.3-01-45.0.

The Board voted as follows:

Chairman McIntosh	Aye
Member Kelly	Aye

Member Ruthig	Aye
Member Schepp	Nay

The motion was carried.

Adjournment

With there being no other business, Member Schepp made a motion, seconded by Member Ruthig, and carried unanimously, to end the meeting at 6:53 PM

Respectfully submitted,
Allison Weber, Secretary
Zoning Board of Appeals

DRAFT