

TOWN OF WARWICK  
ZONING BOARD OF APPEALS

APRIL 23, 2012

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Diane Bramich

Attorney Robert Fink

Norman Paulsen

Members Absent:

Kevin Shuback

CHAIRMAN JANSEN:

minutes from the meetings of February 27 and March 26, 2012 approved?

Is there a motion to have the

MS. BRAMICH:

I make a motion to approve.

MR. MALOCSAY:

I second.

CHAIRMAN JANSEN:  
favor?

Any further discussion; all in

All in favor (Four Ayes), motion carried.

**PUBLIC HEARING OF MARY BETH & VIK STOCKMAN** – for property located at 47 Ackerman Road, Warwick, New York and designated on the Town tax map as Section 31 Block 2 Lot 124 and located in an RU District for a variance of Section 164.46N allowing attachment of an existing garage to an existing single family dwelling which garage is located 26 feet from the front line where 100 feet are required and 29 feet from the rear line where 50 feet are required. **Continued from the 3/26/12 ZBA Meeting.**

CHAIRMAN JANSEN: This is a continuation from the 3/26/12 meeting. Are the Stockman's present? Did you receive a copy of the letter from the Building Dept.?

MARY BETH STOCKMAN: No.

CHAIRMAN JANSEN: I will give you this copy and you can study it while we proceed to the next item on the agenda.

After acting on agenda item # 2, this matter was ready for review.

MS. STOCKMAN: You gave us permission to use it as a family/recreation room; and John Batz told us a family member could stay in the recreation room and there would be no check of family heritage. Then John Batz retired and Wayne Stevens came in. And since Wayne Stevens came in, he said we need you to show us Engineering letters, plans, the whole deal to establish that this is a safe place to live in. We then got all the inspections, the Engineer's letters, everything. We informed our tenant, not a blood relative that he had to vacate the premises. Everything John Batz asked us to provide is in his office and everything is right and approved. We want to make this addition legal and right for us to use it. Wayne Stevens has since told us we needed to come before the ZBA for approval.

ATTORNEY FINK: That is incorrect. The only thing before this Board is a side-line variance. It is not within the jurisdiction of this Board to say the room is for family use only.

MS. STOCKMAN: So, we are just trying to do what we are supposed to do so that everything is there and it is legal. It is very nerve wracking to think something is going on and it is not really approved in the town. We have lived here for 28 years, and something that was okay with John Batz but now it is not okay with Wayne Stevens; so now we want to comply with what Wayne Stevens is requiring.

MR. MALOCSAY: I can't speak for John Batz or Wayne Stevens, the only thing, as Attorney Fink said, that is before us is the side yard set-back. Whatever it is used for is something that not really relevant before us but as John Batz and

Wayne Stevens had seen, it seems you had said it was a family/recreation room. But if someone was living there, I assume there is a bathroom and a kitchen.

MS. STOCKMAN: There is no oven in there but there is a bathroom but you are allowed to have a bathroom.

MR. MALOCSAY: Again, if John Batz had said, and he would be right, in having a garage that has a family/recreation room but not for the intent of anybody staying there. It is not a problem for someone to sleep there. Just like it would be without a bathroom or a kitchen but then again that eliminates the possibility of renting because there isn't a place to go to the bathroom. And because it is detached from the house, I wondered how the septic system would have been designed for something like that. Again, it is not relevant before this Board; the only thing we are looking at is a side-yard set-back. So if we could move forward with that.

MS. STOCKMAN: Is it a 50 foot and not a 75 foot because we were lawfully in existence before?

ATTORNEY FINK: No, it is what is now. You are not grandfathered in.

MR. MALOCSAY: When the zoning changes, all properties have to conform to that. The changes you want to make to your garage to attach it to the house have to conform to the current standards. If it was pre-existing, that would be a different story. But to make new changes now, you have to conform to the new zoning laws. We are only looking at the side-yard set-back.

MS. BRAMICH: And that is only if they attach to the main house?

MR. MALOCSAY: That's why they need the side yard set-back, yes.

MS. STOCKMAN: You had said you wanted to see pictures.

MS. BRAMICH: I thought it was going to be attached to the house?

MS. STOCKMAN: It will.

MR. PAULSEN: (Pointing to a carport) This is existing now?

MS. STOCKMAN: No.

MS BRAMICH: So the carport is what you want attached from the breezeway to the garage?

MS. STOCKMAN: Yes. That is what you will see from Ackerman Road.

CHAIRMAN JANSEN: So what is the purpose of the breezeway?

MS. STOCKMAN: It becomes part of the house and it provides us a way to get to and from the garage dry.

CHAIRMAN JANSEN: So you are asking for a 3 car carport and a breezeway.

MS. STOCKMAN: No.

CHAIRMAN JANSEN: Well, the carport is not there right now. Your application is asking for a breezeway connecting an existing garage and a single family dwelling.

MS. STOCKMAN: We will have to build a carport, which is fine for us to build a carport.

CHAIRMAN JANSEN: This makes things a little more complicated.

MR. PAULSEN: When this is connected, it becomes all one residence, so what is the difference between having someone currently living there?

ATTORNEY FINK: It is not before us.

CHAIRMAN JANSEN: Are any of the connections or breezeway before us?

There was a discussion about the locations of the breezeway, carport, garage and house.

CHAIRMAN JANSEN: So currently there is no building permit for the garage part or the breezeway part?

MS. STOCKMAN: Right. Wayne Stevens wanted us to get approval for the variance; we could get the building permit immediately.

MS. BRAMICH: If they didn't go for a Building Permit, how did they get here? They weren't declined.

ATTORNEY FINK: You have applied for a permit but you were declined.

MS. STOCKMAN: For the breezeway, that is a whole new idea.

MS. BRAMICH: What made you come? The carport is a whole new idea.

MS. STOCKMAN: Because you wanted a shorter breezeway. So we thought by putting a carport there, which we could use, would shorten the breezeway.

CHAIRMAN JANSEN: Breezeway was originally the length of the carport and the breezeway.

MS. STOCKMAN: You thought that wouldn't fit in with the neighborhood.

ATTORNEY FINK: You were referred here by the Building Inspector and it appeared that you had made an application for a building permit to connect the two. But now you have changed your mind as to what you want to do. Is there an application before the Building Department?

MS. STOCKMAN: For the carport?

MR. PAULSEN: For what you want to do.

MS. BRAMICH: You changed what you are going to do.

MS. STOCKMAN: No.

ATTORNEY FINK: You have to apply for it and then get denied.

MS. STOCKMAN: Ok, we were trying to shorten up the breezeway.

ATTORNEY FINK: You have to make an application to the Building Inspector and he, presumably, will turn it down, and at that point you can come before this Board and seek a variance.

MR. STOCKMAN: You already told us to come here.

MS. BRAMICH: That was for the breezeway.  
You have changed your plan.

ATTORNEY FINK: Here is all that we know; we have this disapproval letter from the Building Department saying it cannot act on your request for a building permit as you do not meet town code. But you are telling us that you did not make an application, or am I wrong?

MS. STOCKMAN: No, you said not to. You said come to you.

CHAIRMAN JANSEN: No, you have to get turned down before you can come here. You have to inform them about the carport.

MS. STOCKMAN: I will go and make the application.

MR. PAULSEN: Put down everything you want to do.

MS. STOCKMAN: I didn't realize I should have gone for the carport to the Building Department first. So I will do that and I will be back.

CHAIRMAN JANSEN: Your application is still open and is continued. If it changes dramatically, make sure the message gets back to Attorney Fink, in case it has to be re-advertised.

**PUBLIC HEARING OF STEVEN & ALISON MARTIN** – for property located at 365 Mt. Eve Road, Warwick, New York and designated on the Town tax map as Section 6 Block 2 Lot 65.31 and located in an RU District for a variance of Sections 164.43.A and 164.40N reducing front yard setback from 75 (+/-) feet to 65 (+/-) feet where 100 feet are required and 1 side setback from 65 (+/-) feet where 75 feet are required for the purpose of construction of a 10 foot X 22 foot covered front porch on an existing single family dwelling.

CHAIRMAN JANSEN: Please identify yourself for the record.

MR. MARTIN: I am Steven Martin.

CHAIRMAN JANSEN: Please briefly tell the Board what it is you are trying to do.

MR. MARTIN: I would like to build a covered front porch over my front door. I have to come 10 feet out because I recently had my foundation dug up and pipe laid in. I can't pour posts as the soil has not settled yet.

CHAIRMAN JANSEN: So the question is, is there any other way to do this?

MR. MARTIN: I have only one front door.

MS. BRAMICH: It is just by the front door or are you going all the way across?

MR. MARTIN showed a drawing of the house with the proposed porch. It showed the porch going halfway across the house.

CHAIRMAN JANSEN: This is the only area to do this?

MR. MARTIN: Yes.

CHAIRMAN JANSEN: Any questions? Is there anyone from the public who would like to address this application? No, public hearing is closed.

MR. MALOCSAY: Speaking about new code and the character of the neighborhood, there is now a 100 foot set-back. It used to be 50 or 75 feet and a lot of the older homes there are further away. But there are some that sit closer to the 50

feet. So it is not out of the character for that neighborhood. We are not going any further on the side yard set-back as far as what already exists.

ATTORNEY FINK: Is this going to create an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

MR. MALOCSAY: No.

ATTORNEY FINK: Can it be achieved by any other feasible method?

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Is it a substantial variance?

MR. MALOCSAY: Not really.

ATTORNEY FINK: Is this going to have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

MR. MALOCSAY: No.

ATTORNEY FINK: Is this self-created?

MR. MALOCSAY: Yes.

ATTORNEY FINK: This being deemed a Class 2 Action, we do not have to vote.

MR. MALOCSAY: Isn't it considered a single set-back? Doesn't it have a side yard set-back also?

ATTORNEY FINK: I stand corrected; we do need a motion for an unlisted action.

MR. MALOCSAY: So moved.

MS. BRAMICH: I second it.

CHAIRMAN JANSEN: Any further discussion; all in favor?

All in favor (Four Ayes) Motion carried.

MR. MALOCSAY:

I move to grant as advertised.

MS. BRAMICH:

I second it.

CHAIRMAN JANSEN:  
favor?

Any further discussion; all in

All in favor (Four Ayes) Motion carried.

MR. MARTIN:  
for a Building Permit? Tomorrow?

I have a question; can I apply

CHAIRMAN JANSEN:  
have any questions, have them give me a call.

You can go in and if they

**PUBLIC HEARING OF ROBERT & SUSAN TOSCANO** – for property located at 168 Lake Shore Road. Greenwood Lake, New York and designated on the Town tax map as Section 74 Block 5 Lot 14 and located in an SM District for a variance of Section 140.4B allowing construction of an in-ground swimming pool 6.37 (+/-) feet from both side yard lines where 15 feet from any side yard line is required.

CHAIRMAN JANSEN: Please identify yourself for the record.

MR. TOSCANO: My name is Robert Toscano.

MS. TOSCANO: My name is Susan Toscano.

MS. BRAMICH: Before we go any further, I know the Toscano's very well. For the record, if you want me to excuse myself, I will.

CHAIRMAN JANSEN: No, you are our Greenwood Lake expert. Just briefly tell us what it is you want to do.

MR. TOSCANO: We have a long stretch of property from our house to the lake, and we want to build a pool down the center of it. We went to the Planning Board. They gave us their approval and sent us to you next. I also own the property to the right; I own both properties.

MS. BRAMICH: Do you have this marked?

CHAIRMAN JANSEN: Yes we do; but I don't see where it is close to Greenwood Lake.

MS. BRAMICH: That's because the wrong lot is circled. (She indicated where the correct property lot is located on a map.)

CHAIRMAN JANSEN: Are there any questions?

MR. MALOCSAY: I have a question about the size of the pool. How big is it?

MR. TOSCANO: It will be 37 by 17.

MS. BRAMICH: Is the area large enough so that you can put a walk around it?

MR. TOSCANO: Yes, I will have 6 feet around it and I will put a 3 foot walk around it and a new pool fence.

ATTORNEY FINK: Did you say you owned the lots on either side of your property?

MR. TOSCANO: Just the one side.

MR. PAULSEN: Suppose it went from 6 and 6 to 3 and 9, would that be a problem?

CHAIRMAN JANSEN: Would that accomplish anything?

MR. PAULSEN: It would give 6 feet more area for a chair or something.

CHAIRMAN JANSEN: I don't think they are asking to put a patio in. Did the Planning Board have any concerns?

MR. TOSCANO: No.

CHAIRMAN JANSEN: Is anyone here from the public to address this application? No, the public hearing is closed.

ATTORNEY FINK: Not yet, because we got nothing from the County so we can not go further. The public hearing is still open until the County responds or the 30 days are up.

MR. TOSCANO: What does that mean?

CHAIRMAN JANSEN: They have 30 days to comment on anything that comes before us, particularly because of the lake.

ATTORNEY FINK: We can't act on this until they give us their determination.

CHAIRMAN JANSEN: Can we do a conditional?

ATTORNEY FINK: No.

MS. BRAMICH: We should hear by the end of May.

MR. MALOCSAY: In respects the variance, the build-out of the property, we don't see that too often but it does happen with the smaller lots.

ATTORNEY FINK: Was it built out?

MR. MALOCSAY: No.

ATTORNEY FINK: Meaning the coverage?

MR. MALOCSAY: Yes, by the time the pool goes in with the sidewalks, house and driveway. I thought the Planning Board probably would have.

ATTORNEY FINK: I am sure the Planning Board would have.

MR. MALOCSAY: Just so the Toscano's don't have to come back here.

MR. TOSCANO: I don't have to put the sidewalks on the side; I can put the lawn up to a cap.

MR. PAULSEN: What is the percentage?

MR. MALOCSAY: I am not sure.

ATTORNEY FINK: I am checking the file to see if the Planning Board addressed that.

There was a discussion about what Post Office Certified form should be turned in from the applicants.

ATTORNEY FINK: 30 percent. It doesn't appear that they have any issue.

MR. MALOCSAY: Ok.

CHAIRMAN JANSEN: The public hearing is still open; there is really nothing we can do right now to pass this. We will have the County's answer before the next meeting.

MS. TOSCANO: Can we start our project?

CHAIRMAN JANSEN: Not without the County's comments. This is continued to the next meeting.

**PUBLIC HEARING OF DAVID DUDLO** – for property located at 17 Novinski Lane, Pine Island, New York and designated on the Town tax map as Section 1 Block 1 Lot 25 and located in an SL District for a variance of Section 164.41A(1)(a) allowing an addition (45 feet X 50 feet) to an existing accessory structure (20 feet X 50 feet) resulting in an accessory structure that is 100 feet X 65 feet with an area of 6,500 square feet and a median dimension of 80 (+/-) feet where such a building may not exceed 1,200 square feet or have a median dimension greater than 48 feet.

CHAIRMAN JANSEN: Please state your name and briefly tell the Board what it is you are trying to do.

ATTORNEY FINK: The measurements are wrong; it should be 50 X 65 feet. And the area is 3250 sq feet and a median dimension of 80 (+/-) feet.

CHAIRMAN JANSEN: That should make it easier to grant a variance. Please identify yourself for the record and briefly tell us what it is you are trying to do.

MR. DUDLO: My name is David Dudlo. I want to put an addition onto my existing garage which is 20 X 50. I want to go to the right side of it, basically 45 feet and the same length, 50 feet and attach it.

CHAIRMAN JANSEN: I know Mr. Dudlo is in an agricultural area, so there are lots of other barns in that vicinity. Do you have any questions? No, then I will open this up for public discussion. Is there anyone here from the public to address this application? No, public hearing is closed.

MR. MALOCSAY: So the building is 20 X 50, is the building there now and you are going to add on to make it 65 X 50?

MR. DUDLO: Yes.

MR. MALOCSAY: The first question we always ask is why do you need something that big?

MR. DUDLO: I have some trucks and equipment that I would like to store inside.

MR. MALOCSAY: Is it for an agricultural practice?

MR. DUDLO: No, I own a landscape business. Rather than put up 2 more buildings with 1200 sq footage that is allowed by town code, I would rather go with one larger one.

CHAIRMAN JANSEN: Any other questions?

ATTORNEY FINK: Is this going to create an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

MR. MALOCSAY: No.

ATTORNEY FINK: Can this be achieved by any other means?

CHAIRMAN JANSEN: He can put up three separate buildings but that doesn't make sense.

ATTORNEY FINK: Is it a substantial variance?

CHAIRMAN JANSEN: Yes.

ATTORNEY FINK: Is this going to have an adverse effect or impact on the physical or environmental conditions in the neighborhood?

MS. BRAMICH: No.

ATTORNEY FINK: Is this self-created?

MR. MALOCSAY: Yes. I motion this is an Unlisted Action with no environmental impact.

MR. PAULSEN: I second it.

CHAIRMAN JANSEN: Any further discussion; all in favor?

All in favor (Four Ayes) Motion carried.

MS. BRAMICH: I make a motion to grant this variance as advertised.

MR. MALOCSAY:

I second it.

CHAIRMAN JANSEN:

Any discussion; all in favor?

All in favor (Four Ayes) Motion carried.

**PUBLIC HEARING OF EMANUELE B. INTORRELLA** - for property located at 34 West Cove Road, Sterling Forest, New York and designated on the Town tax map as Section 76 Block 1 Lot 5.2 and located in an SM District for a variance of Section 164.41.A(1)(b) and Section 164.43.A permitting construction of an accessory building 6 (+/-) feet from the front setback where 55 feet are required and 2(+/-) feet from the side setback where 5 feet are required.

CHAIRMAN JANSEN: Please identify yourself for the record and give us a brief description of why you need to do this.

MR. INTORRELLA: My name is Emanuele Intorrella. Our house is on a slab with no basement and we have a very small attic. There is one small existing shed but I need more room for a four wheeler and a trailer.

CHAIRMAN JANSEN: Is this an existing shed?

MR. INTORRELLA: There is an existing, small shed but I want to add a new one.

ATTORNEY FINK: There is another one shown on the map; which one is that one?

MR. INTORRELLA: I came here last year to get approval on that one; it is still pending.

ATTORNEY FINK: Which is still pending?

MR. INTORRELLA: It is a 10 X 12 shed; I got approval but have not built it yet. But I need to build a bigger one.

MR. MALOCSAY: Bob? Are private roads still considered?

ATTORNEY FINK: Yes, if you look at the definition.

MR. INTORRELLA: So the distance I want to put is six feet from the front road property line and two feet from the side line.

There was a discussion as to what sheds were already built, what sheds were approved to be built but have not yet been built and the new shed that he is applying for a variance to build.

MR. PAULSEN: Does it matter? How many sheds are allowed?

ATTORNEY FINK: No.

CHAIRMAN JANSEN: property; it is near the road? It is not near anyone's

MR. PAULSEN: The nearest owner is Tanis.

CHAIRMAN JANSEN: Yes, that is on the other side.

MS. BRAMICH: change the character of the neighborhood. It is definitely not going to

ATTORNEY FINK: There are two issues here.  
The first being having been responded to and the second, your application did not include anything I saw with regard to the size.

MR. INTORRELLA: I included it; I do not know  
why it is not in there.

CHAIRMAN JANSEN: So how close is this going to  
be to the lake? You can't have more than 15 feet.

MS. BRAMICH: No.

MR. PAULSEN: It is about 40 feet from the  
lake.

MS. BRAMICH: He has a corner there.

MR. PAULSEN: How close can you build to  
the lake?

ATTORNEY FINK: 22 feet but if you scale this  
out; but the scale on the drawing is not to scale.

CHAIRMAN JANSEN: So it is how far off this line?

MR. INTORRELLA: It is 6 feet off the property line.

CHAIRMAN JANSEN: So 6 feet and how wide?

ATTORNEY FINK: 11 feet.

CHAIRMAN JANSEN: That's 17 feet total; that leaves 13 feet to the lake.

MS. BRAMICH: His property line does not butt right on the water.

CHAIRMAN JANSEN: The lot shows that it goes right to the lake. Diane, do you feel that it impacts the character of the neighborhood?

MS. BRAMICH: Definitely not.

CHAIRMAN JANSEN: Is there anyone here from the public to address this application? Public hearing is open; no one here? Public hearing is closed.

ATTORNEY FINK: No, the hearing can't be closed.

CHAIRMAN JANSEN: We have not heard from the County; so we can not finalize this application. We will make our decision at the next meeting; the Tuesday after Memorial Day.

**JOHN KEHOE & DENISE MEININGER KEHOE** - for property located at 27 West Cove Road, Sterling Forest, New York and designated on the Town tax map as Section 76 Block 1 Lot 41 and located in an SM District for a variance of Section 164.40N and Section 164.41.C.(4)(i) permitting interior construction and addition of an additional story on an existing single family dwelling with a minimum lot area of 0.179 acres where 0.5 acres are required, lot depth of 90 feet and 104 feet where 100 feet are required, lot width of 80.5 feet and 81 feet where 100 feet are required, rear setback of 2.1 feet where 20 feet are required and rear setback for a deck of 2.1 feet where 5 feet are required.

CHAIRMAN JANSEN: Please state your name and explain to the Board what you are trying to do.

MS. BRAMICH: This is one of the older homes on West Cove Road.

MR. KEHOE: My name is John Kehoe.

MS. MEININGER KEHOE: My name is Denise Meininger Kehoe. Would you like to see pictures?

CHAIRMAN JANSEN: We have seen the pictures.

MR. KEHOE: We are trying to build a front door.

CHAIRMAN JANSEN: Are you going to fix the rest of it also?

MS. MEININGER KEHOE: There is no front entrance and we would like to make a front entryway on the front of the house.

MS. BRAMICH: So where the garage doors are, is where you want to make a front entrance?

MR. KEHOE: Right.

CHAIRMAN JANSEN: Are you coming out at all or are you using the existing area?

MR. KEHOE: Where this garage is, we are going 2 feet over this way and on the back of the garage, there is 12 feet in between, we are adding 6 feet. So it is 2 feet X 6 feet to square it off.

MS. MEININGER KEHOE: The house has no character and guests park in front because they think it is the garage.

CHAIRMAN JANSEN: We have not heard back from the County.

MR. KEHOE: So we will hear at the meeting next month?

CHAIRMAN JANSEN: I would like to get most of this complete before we go.

MS. BRAMICH: If they fix this up the way they say they are and change the garage door; it will definitely enhance the neighborhood.

CHAIRMAN JANSEN: Are there any more questions? I can't close the public hearing until we hear from the County. This is continued until the next meeting. And then you can choose to attend or not.

MS. MEININGER KEHOE: I want to hear if it's approved or not.

MR. MALOCSAY: Motion for adjournment.

MS. BRAMICH: I second it.

CHAIRMAN JANSEN: Meeting adjourned. The next month's meeting will be on Tuesday, May 29<sup>th</sup>.

Pamela J. Carroll ZBA Recording Secretary