

TOWN OF WARWICK  
ZONING BOARD OF APPEALS

JULY 25, 2016

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Diane Bramich

Kevin Shuback

Attorney Robert Fink

Chris Daubert

**PUBLIC HEARING OF Robert & Linda Roven** - for property located at 78 Hedges Road, Warwick, New York and designated on the Town tax map as Section 16 Block 1 Lot 30 and located in an MT District for a variance of TL 280-a(3)(b) or Section 164-40N reducing required lot width from 300 feet to 15 (+/-) feet for the purpose of providing access from lot designated S 16 B 1 L 49 on the Town tax map to Hedges Road and for a lot line change.

The recorder malfunctioned and I was not able to extract the information from this application. The discussion was very short between Chairman Jansen, Mr. Malocsay, Ms. Bramich and Attorney Fink.

The applicant has withdrawn their ZBA application.

**PUBLIC HEARING OF Sal Giello** - for property located at 41 Drew Road, Warwick, New York and designated on the Town tax map as Section 40 Block 1 Lot 31 and located in an RU District for a variance of the Bulk Area Requirements of the Code reducing 1 side setback to 28 feet where 75 feet are required for the purpose of an addition and expansion to an existing single family dwelling.

CHAIRMAN JANSEN: This application was rescheduled to this month in order to have enough Board members for a vote. It was discussed at the last meeting and there were no objections to passing it.

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

CHAIRMAN JANSEN: No.

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

MS. BRAMICH: No.

MR. MALOCSAY: No.

ATTORNEY FINK: Is this a numerically substantial variance?

MR. SHUBACK: Yes.

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

MR. DAUBERT: No.

MR. SHUBACK: No.

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Is this self-created?

CHAIRMAN JANSEN: No.

MR. MALOCSAY:

No.

MR. SHUBACK:

No.

ATTORNEY FINK:  
this as "Unlisted" with no adverse environmental impact?

Would someone care to type

MR. MALOCSAY:

So moved.

MR. DAUBERT:

Seconded

Any discussion; All in favor (5 Ayes) Motion carried.

ATTORNEY FINK:  
motion that the variance be granted as advertised?

Would someone care to

MR. MALOCSAY:

So moved.

MR. SHUBACK:

Seconded.

Any discussion; All in favor (5 Ayes) Motion carried.

**PUBLIC HEARING OF Black Bear Campground** – for property owned by Rita P. Smith as Trustee of the Rita P. Smith Living Trust and located at 197 Wheeler Road, Warwick, New York and designated on the Town tax map as Section 8 Block 2 Lot 27.14 and located in an RU District for an interpretation of whether the applicant is subject to the limited occupancy provisions of Section 164-49.2D of the Warwick Code for the existing 74 sites.

CHAIRMAN JANSEN: Please come forward and identify yourself and briefly tell us what it is you want to do.

MR. KLEISTER: My name is Chris Kleister and I am representing the owners of the Black Bear Campground. They are requesting an exemption of the new Warwick Code to the use of the original campsites to no longer than 120-day occupancy. They had an approval for a campground from 1980. An expansion, called a mobile park, is ruled by the new Code but there has been a difference of opinion as to whether the new Code is retroactive for the original sites.

MS. BRAMICH: I have always known this property as a campground.

CHAIRMAN JANSEN: I did also. The application is now open for Public Discussion; is there anyone here that would like to address this application?

MR. FRANK: My name is John Frank. My understanding is the owners agreed to the new Code covering all sites and actively participated in the formation of the new Code with the Town. The applicants never mentioned that they wanted the original sites to not be affected by the new Code.

ATTORNEY FINK: Are there any changes to the original 74 sites?

MR. FRANK: Not that I am aware of.

MR. KLEISTER: This property is a campground and never has been changed to or referred to as a mobile home park or to be used as a year-round residence.

ATTORNEY FINK: Am I to understand that the original 74 units have operated the same for 36 years and there hasn't been an issue with the Town until the new regulation?

MR. KLEISTER: No, there have numerous issues.

MR. SWEETON: Thank you, Gentlemen, I have a file this thick (Mr. Sweeton motioned with his hands) of violations. There have been more than 74 sites occupied for multiple months and years. There have been numerous violations in 1989, going forward, where the campground was supposed to be closed but was occupied. This new Code was an effort by Ms. Smith to address these issues. They never objected to this new Code. Their statement that the original 74 sites have never been changed is incorrect. There were more than 74 sites.

ATTORNEY FINK: They may have violated the code by having more sites than were permitted.

MR. SWEETON: The Town was happy to have them run the campground with 74 approved sites.

MR. FRANK: No applicant is going to believe that you are going to retroactively affect their approval; so when the issue came up they consented to it, knowing that anything new would be governed by the 120 days.

MS. GOTT: My name is Teri Gott. There are people living there all year round and there were kids going to our schools. Did they pay school taxes?

MS. BALTES: My name is Liz Balttes. A couple of years ago her brother-in-law lived there for 4 years without moving. And there were other people.

MR. FURST: My name is John Furst. I am an attorney for a neighbor who could not attend this evening. The issue here is an attempt to create a mobile home park with a year-round use. My neighbor is asking that this application stay open until the next meeting when he can attend.

There was further discussion by the Public: Sue Wheeler, Terry Cartilage, Firkerta Burns, as to whether the sites were occupied year round by residents with school aged children who attended Warwick schools without paying Warwick taxes.

CHAIRMAN JANSEN: The Public Hearing will remain open and this application is continued to the next meeting.

**PUBLIC HEARING OF Brian DeMarmels** – for property located at 31 Foley Road, Warwick, New York and designated on the Town tax map as Section 42 Block 1 Lot 6 and located in an RU District for a variance of section 164-41.C(4)(f) to allow a 6-foot fence in the front yard setback and the Bulk Area Requirements of the Code to permit a 2 lot subdivision. The following area variances are applied for (required by Code / proposed): Proposed Lot 1: Lot Area - 4 acres / 1.5 acres; Lot Width – 250 feet / 123 (+/-) feet; Front Setback – 75 feet / 45.8 feet; 1 Side Setback – 75 feet / 25 (+/-) feet; Both Side Setbacks – 150 feet / 102 (+/-) feet. Proposed Lot 2: Lot Width – 250 feet / 210 (+/-) feet;

CHAIRMAN JANSEN: Please come forward and identify yourself for the record and tell us briefly what it is you would like to do.

MS. EMMERICH: My name is Karen Emmerich and I work for Lehman & Getz Engineering. I am representing the applicant. He would like variances to erect a 6-foot fence and a 2 lot subdivision.

CHAIRMAN JANSEN: This application is open to the Public; is there anyone here that would like to address this?

MR. SORRENTI: Yes, I possess a survey that shows conflicting property lines. He is encroaching onto my property.

There was a discussion regarding the presentation of two different surveys of the property lines. Mr. Angelo Sorrenti, whose property adjoins Mr. DeMarmels, presented a survey which shows the encroachment of Mr. DeMarmels' lot onto his.

CHAIRMAN JANSEN: Is there anyone else?

MR. TARABOUR: My name is Stuart Tarabour and I take exception to his request to subdivide his property. I made a same request to the town for my property and was denied. I don't think he should be able to do it.

CHAIRMAN JANSEN: This application will be continued until a new survey can be completed by Mr. Angelo Sorrenti.

**PUBLIC HEARING OF John & Dawn Rader** – for property located at 268 Nelson Road, Warwick, New York and designated on the Town tax map as Section 58 Block 2 Lot 7 and located in an MT District for a variance of Section 164.45.1 of the Code reducing rear setback from 45 (+/-) feet to 23 (+/-) feet where 25 feet are required for an addition to a single family dwelling and rear setback to 3.8 (+/-) feet and total side setbacks to 43 (+/-) feet where 50 feet are required for construction of an attached garage.

CHAIRMAN JANSEN: Please come forward and identify yourself for the record.

MS. RADER: My name is Dawn Rader.

MR. RADER: My name is John Rader. We would like to build a small addition to back of our house.

CHAIRMAN JANSEN: This application is now open for Public Discussion; anyone here? No, Public Discussion is closed.

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

MS. BRAMICH: No.

MR. MALOCSAY: No.

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

MS. BRAMICH: No.

ATTORNEY FINK: Is this a numerically substantial variance?

MR. MALOCSAY: No.

CHAIRMAN JANSEN: No.

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

MR. MALOCSAY: No.

MS. BRAMICH: No.

ATTORNEY FINK: Is this self-created?

MS. BRAMICH: Yes.

CHAIRMAN JANSEN: Yes.

ATTORNEY FINK:  
with no adverse environmental impact: Would some care to type this as “Unlisted”

MS. BRAMICH: So moved.

MR. MALOCSAY: Seconded.

CHAIRMAN JANSEN: Any discussion, all in favor?

All in favor (5 Ayes) Motion carried.

ATTORNEY FINK: Would someone care to motion that the  
variance be granted as advertised?

MR. MALOCSAY: So moved.

MS. BRAMICH: Seconded.

CHAIRMAN JANSEN: Any discussion; all in favor?

All in favor (5 Ayes) Motion carried.

**PUBLIC HEARING OF Kimberly Somers** - for property located at 30 Amity Road, Warwick, New York and designated on the Town tax map as Section 27 Block 1 Lot 72.22 and located in an RU District for a variance of Section 164.46J-16 & 101 to house chickens and goats in a structure 70 (+/-) feet from the lot line where 150 feet are required.

CHAIRMAN JANSEN: Please come forward and identify yourself and briefly tell us what you would like to do.

ATTORNEY FINK: I would like the Board to concentrate on the use of the building.

MS. SOMERS: I was under the impression, from the previous owner and the realtor that sold me the house, that housing chickens and goats would be permitted. That is why I purchased the property.

ATTORNEY FINK: Can the building be relocated to the other side of the property?

MS. SOMERS: No, it will be too close to the property line there.

ATTORNEY FINK: I think the Board needs to find out more information from the Town Inspector regarding the use of this building.

CHAIRMAN JANSEN: The Public Discussion is now open; anyone here to discuss this application? No, the Public Discussion will remain open until the next meeting. This application will be continued at the next meeting.

Meeting adjourned. Submitted by Pamela J. Carroll ZBA Recording Secretary.