

TOWN OF WARWICK
ZONING BOARD OF APPEALS

OCTOBER 27, 2014

Members Present:

Mark Malocsay, Co-Chairman

Attorney Robert Fink

Kevin Shuback

Diane Bramich

Norman Paulsen

Members Absent:

Jan Jansen, Chairman

MR. MALOCSAY:
minutes from the meeting of September 22, 2014 approved?

Is there a motion to have the

MS. BRAMICH:
minutes.

I make a motion to accept the

MR. SHUBACK:

I second.

MR. MALOCSAY:

Any discussion; all in favor?

All in favor (5 Ayes) Motion carried.

PUBLIC HEARING OF MARK STUBER - for property located at 53 Wickham Drive, Warwick, New York and designated on the Town tax map as Section 36 Block 1 Lot 3 and located in an SM District for a variance of the Bulk Area Requirements of the Code reducing one side setback to 7 (+/-) feet where 18 feet are required for the purpose of conversion of an existing garage to living space for a single family dwelling.

MR. MALOCSAY: Mr. Stuber, come forward please and explain your application.

MR. STUBER: My name is Mark Stuber. I would like to push back the exterior of my house at the dining room and connect the existing garage.

ATTORNEY FINK: I see the Building Inspector says you have 7 feet; how do you know it is 7 feet?

MR. STUBER: I don't know exactly what it is.

MR. MALOCSAY: This is a very good question because we base the variance on 7 feet. It becomes an issue if it is actually 4 or 5 feet. Do you have a survey?

MR. STUBER: No, I do not have a survey.

MS. STUBER: My name is Adrian Stuber and we do have a survey from 1967.

MR. MALOCSAY: When a house is sold and a mortgage is granted, a survey is usually required. It does make a difference as it is existing and he is not adding anything.

MR. SHUBACK: Are you changing the garage?

MR. STUBER: I am going out the back of my house to the garage.

MS. BRAMICH: It is not shown on this map.

MR. MALOCSAY: That is not why he is coming here. He needs a variance for the side setback.

There was a discussion as to how the original paperwork states the garage is attached; how Mr. Stevens, the Building Inspector, told Mr. Stuber to proceed with his construction as the garage is attached and then how Mr. Stevens informed him the garage is not considered attached. This is why Mr. Stuber is before the ZBA seeking a variance.

MS. STUBER: We are doing this renovation because his ill mother lives with us and needs constant care.

ATTORNEY FINK: The only issue before us the 7 feet.

MR. MALOCSAY: Is there anyone here from the Public who would like to address this application? No, Public Hearing 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?

MR. MALOCSAY: No.

MR. SHUBACK: No.

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

MS. BRAMICH: No.

MR. MALOCSAY: No.

ATTORNEY FINK: Is this a substantial variance?

MR. MALOCSAY: Yes.

MR. SHUBACK: Yes.

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

MR. MALOCSAY: No.

MS. BRAMICH: No.

ATTORNEY FINK: Is this self created?

MR. PAULSEN: Yes.

MS. BRAMICH: Yes.

MR. MALOCSAY: Yes.

ATTORNEY FINK: Would someone care to type
this as Type II, provided the original footprint of the house is not changed, with no adverse
environmental impact?

MS. BRAMICH: So moved.

MR. SHUBACK: Seconded.

MR. MALOCSAY: Any discussion? All in favor?

All in favor (5 Ayes) Motion carried.

PUBLIC HEARING OF SHARI AND DAN FORST - for property located at 37 Grandview Place, Florida, New York and designated on the Town tax map as Section 20 Block 2 Lot 17.1 and located in an RU District for variances from Sections 164.40.N(p), 164.46(J)(2) (16) and (102) for the following variances (required/existing): lot area 10 acres / 2.6 (+/-) acres for an existing building – lot depth 200 feet / 120 (+/-) feet; front setback 100 feet / 54.4 feet; yard adjacent to special areas 100 feet / 54.4 feet; front and 52.5 feet rear; to allow a kennel within 300 feet of a lot line – requested 54.4 feet front and 52.5 feet rear; 135.1 feet side; a variance which allows no more than 1 bitch and 2 other dogs to allow 3 personal dogs and 3 kennel dogs; a variance from the requirement that no animals or fowl be housed within 100 feet of a lot line – allowing 54.4 feet front, 52.5 feet rear, and a variance from the requirement of 30 foot separation between buildings to 19 feet.

MR. MALOCSAY: Please explain why you need this variance.

MS. EMMERICH: My name is Karen Emmerich. I am with Lehman and Getz Engineering. My clients are Board certified Canine Behaviorists. This variance is needed to run a business of training dogs at their home.

MR. FORST: We diagnose and modify behaviors in dogs so they are better pets.

MS. FORST: Our training is such that only a couple of dogs can be treated at the same time.

MS. EMMERICH: The shape of the lot requires a variance to house the kennel as per town requirements.

MR. MALOCSAY: I didn't think the Planning Board could interpret the code to come up with this as a kennel. We are here to give the relief you need, providing certain things are in place, like calling it a kennel is, these variances are pretty substantial. But if it were something else, which this Board can take a look at, can you shed some light on this?

MS. EMMERICH: The Planning Board felt that because dogs were kept overnight, that is the reason it was called a kennel. We are under the impression that it should be considered a "home occupation".

MR. MALOCSAY: Is there anyone from the Public that would like to address this application?

MR. MABEY: My name is John Mabey and I have lived next to these guys for over 15 years. There has never been an issue with their business.

MR. FORST: We wish to upgrade with video equipment, a sound proof area and make it more professional.

MR. MABEY: This will not create an undesirable change in the neighborhood. All the lots are close together.

MS. EMMERICH: This is one of the largest lots in the neighborhood.

MR. PAULSEN: How many dogs would you house at your facility?

MR. FORST: Three dogs, ours, would be in the house and 3 dogs in the building, 6 total.

MS. EMMERICH: That is part of the issue with the Planning Board; their having their own dogs as well as clients' dogs.

MR. SHUBACK: What are we waiting on the County for?

ATTORNEY FINK: Because it is within 500 feet; they have 30 days to respond and they have not responded yet.

MS. Emmerich submitted to the ZBA a drawing showing all the neighboring properties and how most of them have submitted letters of approval for this variance.

MR. MABEY: Also the road, Hillside Terrace, shown on the maps is not really there; it is a "paper" road.

MS. EMMERICH: Just for the record, the Planning Board has heard from the County and they have no issue with this variance.

ATTORNEY FINK: Our hands are tied until we actually hear from the Board. We will have to continue this application to the next meeting.

MR. MALOCSAY:
Discussion open.

We will leave the Public

PUBLIC HEARING OF SAYED M. SHAH - for property located at 827 County Rt 1, Pine Island, New York and designated on the Town tax map as Section 3 Block 1 Lot 44 and located in an LB District for a variance of Section 164.53(B)(12) extending a variance granted on 10/22/12 for conversion of a 1 family home to a 2 family dwelling and a variance of Section 164.41A.(1) allowing an existing garage 1.1 feet from the front line where 50 feet are required.

MR. DEHANN: My name is Chris DeHaan and we would like to renew our variance and get a setback variance on the garage. This building was originally an onion factory and was converted into a multifamily dwelling. However, over the course of different owners, it was converted back into a 1 family home with multi businesses attached and an apartment.

ATTORNEY FINK: We can waive the reading of the application. We are really only considering the garage, which has been there. The renewal of the original application is automatic. We have not heard from the County and cannot make our decision today.

MR. MALOCSAY: The Public Discussion is now open; anyone here to address this application? No, it will remain open until we hear from the County. This application is continued until our next meeting.

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