

**TOWN OF WARWICK  
ZONING BOARD OF APPEALS  
NOVEMBER 22, 2010**

**Members Present:**

**Mr. Jan Jansen, Chairman**

**Mr. Mark Malocsay, Co-Chairman**

**Diane Bramich**

**Norman Paulsen**

**Kevin Schuback**

**Attorney Robert Fink**

**Chairman Jansen called the meeting to order at 7:30 pm.**

**CHAIRMAN JANSEN:**  
**needed for the October 25, 2010 meeting?**

**Are there any additions or corrections**

**MR. PAULSEN:**  
**minutes from the October 25, 2010 meeting.**

**No; I make a motion to approve the**

**MR. MALOCSAY:**

**I second it.**

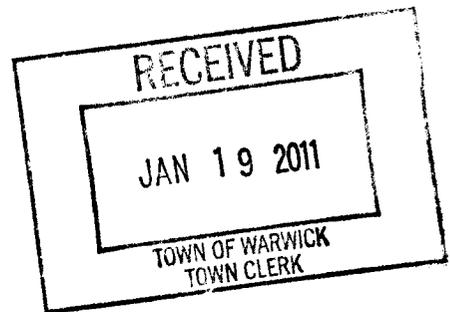
**CHAIRMAN JANSEN:**

**All in favor; any opposed?**

**All in favor; motion carried.**

Public Hearing of RICHARD BRADY – for property located at 201 Brady Road, Warwick, New York and designated on the Town tax map as Section 64 Block 1 Lot 54 and located in an MT District for a variance of Section 164.40N and 164.45.1D permitting a 2 lot subdivision where proposed Lot 2 is 2.9 acres and 5 acres are required, and Section 280-a of the Town Law permitting a residence on a private road. *Continued from the 10/25/2010 ZBA Meeting.*

**CHAIRMAN JANSEN:** We still cannot act on this application so it will be continued once again to the next meeting. *Continued to the January 2011 ZBA meeting.*



Public Hearing of THOMAS & DEIRDRE HAMLING – for property located at 83 Four Corners Road, Warwick, New York and designated on the Town tax map as Section 23 Block 1 Lot 64.1 and located in an RU District for a variance of Section 164.40 N of the Town Cod reducing 1 side setback from 42 (+/-) feet to 17 (+/-) feet for the purpose of construction of an attached garage and den to an existing single family residence. *Continued from the 10/25/10 Meeting.*

**ATTORNEY FINK:** We've received notification from your neighbor stating there has been no contact with him to resolve this issue. Have you been in touch with him?

**MR. HAMLING:** Yes, my wife has. She asked him what he wanted to do but... we're not really sure what it is that we needed to do.

**CHAIRMAN JANSEN:** Well, between the two of you, you needed to come up with some reasonable suggestions and make a decision based on a compromise between both parties. You were supposed to provide screening.

**MR. HAMLING:** I don't see how we can put any more trees in between. There's already a row of evergreens that are 20 feet tall. Then there is 30-40 foot section of his property. Then you have some 200 year old Maple trees. You can't see my house from his house! If you look at the pictures that we sent, you'll see there just isn't anything else that you could put there. My wife did speak to him and even *he* can't come up with anything. Other than a 20 foot wall, I just don't know.

**CHAIRMAN JANSEN:** Why don't two of us go out and do a site visit and see what we can come up with?

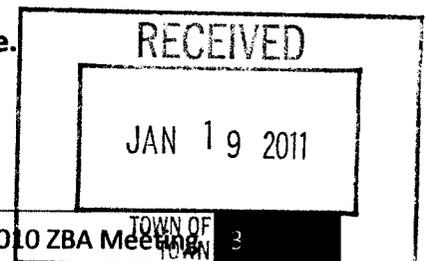
**ATTORNEY FINK:** So your position is that you don't believe that anything needs to be put there, is that correct?

**MR. HAMLING:** Yes, I don't think anything can or needs to be added.

**ATTORNEY FINK:** Why don't I write to the neighbor indicating what Mr. Hamlings position is and inform him that some members of the Board will go out and look and that a decision will be made next month and he is welcome to attend that next meeting? Is that acceptable?

**MR. HAMLING:** That's fine with me.

*Continued to the January 2011 meeting.*



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Public Hearing of RICHARD BRENNAN – for property located at 2 Marie Court, Warwick, New York and designated on the Town Tax map as section 62 Block 3 Lot 7.1 and located in an RU District for a variance of Section 164.40N and reducing front setbacks to 18.5 (+/-) feet and 10 (+/-) feet where 75 feet are required and 1 side setback to 18.5 (+/-) feet where 75 are required for the purpose of construction of an addition to an existing 1 family dwelling.

**CHAIRMAN JANSEN:** Please state your name and briefly describe to the Board what you'd like to do.

**RICHARD BRENNAN:** My name is Richard Brennan and I reside at 2 Marie Court. We would like to construct an addition to accommodate our growing family and would like to do that with the least amount of negative impact on the neighborhood and on the lot itself. It is a very odd shaped lot. It was five small lots converted into one; it is L shaped. No matter what direction we go in, we can't meet those required setbacks.

**ATTORNEY FINK:** So what is it you're constructing? A front porch and what else?

**MR. BRENNAN:** We want to remove this room and add a garage here attached to the house with bedrooms upstairs.

**ATTORNEY FINK:** Is this going to be all garage with a room above it?

**MR. BRENNAN:** There'll be a room above but my main concern was the foot print.

**ATTORNEY FINK:** Do you know the dimensions?

**MR. BRENNAN:** We were hoping to make it 18 X 29 which is the depth of the house.

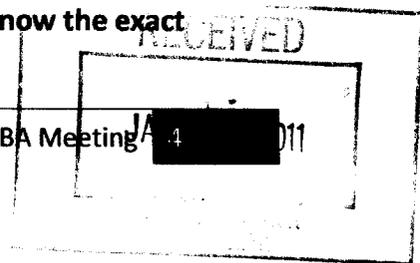
**ATTORNEY FINK:** And this is the porch; how far out were you going to go with that?

**MR. BRENNAN:** Probably 6 feet.

**CHAIRMAN JANSEN:** Any other questions from the Board? Is there anyone here from the public to address this application? No?

**MRS. BRAMICH:** I would like to know the exact dimensions. It's difficult to give a variance without exact dimensions.

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**CHAIRMAN JANSEN:** He could come back to us with exact dimensions.

**ATTORNEY FINK:** The problem is that without knowing the exact dimensions, if the Board grants the variance, it may not be enough for what you need. So then you'll need to make another application. So maybe you want to be exact because the Building Inspector is going to check. Also we don't know how close you are to your line.

**MR. BRENNAN:** It's about 8 ½ feet.

**ATTORNEY FINK:** How can you tell that though? I scaled it off and I found it to be 18 ½ feet from one line where your porch is and about 10 feet from the line where the garage addition is. But I don't know how accurate that is.

**MR. BRENNAN:** I'm not sure I understand.

**MR. PAULSEN:** You have to establish where your property line is accurately. Do you have any stakes out there? Whatever you request is going to establish where you're allowed to go.

**CHAIRMAN JANSEN:** Technically, you're too close to all lines as it is. The question is – how much of a variance do you need to do this?

**MR. MALOCSAY:** Do you have a survey?

**MR. BRENNAN:** This is all I was given when I bought the house.

**CHAIRMAN JANSEN:** We need to know exactly what you own so that we know exactly how far the distance is to where the road is. Is that acceptable to the Board? The applicant will return at the next meeting with exact measurements and a Board member will go to the site and take a look at the proposed addition? Okay, this will be continued at next months' meeting. *Continued to the next ZBA meeting.*

Public Hearing of ARLENE BEDROSS – for property located at 201 Pine Island Turnpike, Warwick, New York, and designated on the Town tax map as Section 29 Block 1 Lot 42.2 and located in an RU District for a variance of Section 164.46J, Special Conditions 16 & 101, allowing 2 horses on a lot with 1.5 acres where 4 acres are required, a housing shed 60 (+/-) feet from the lot line where 150 feet are required and a penning area 15 (+/-) feet from the lot line where 50 feet are required.

**CHAIRMAN JANSEN:** Please identify yourself for the record and briefly describe to the Board why you're here.

**ARLENE BEDROSS:** My name is Arlene Bedross and I have 2 horses on my property that have been there for 2 years. I've relocated from Bellvale Lakes Road and these are two older horses I couldn't get rid of. Basically they've been with us for a very long time. They're very well cared for and out of sight of everyone. I understand that they're not on enough acreage. My property backs up to 12 acres of open land that will never be developed. They have adequate shelter water and food.

**CHAIRMAN JANSEN:** Are there any questions before I open it up to the public?

**MRS. BRAMICH:** What do you mean when you say the land behind you will never be developed?

**MS. BEDROSS:** It was part of the Warwick Lake Development. They had to give a certain amount of land to the Town as part of the Open Space program.

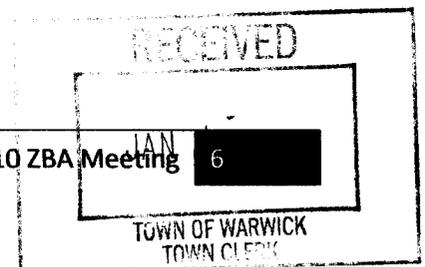
**CHAIRMAN JANSEN:** Is there anyone here from the public that would like to address this application?

**JOHN FALAHEE:** My name is John Falahee and I object to this. This is no place to have 2 horses on 1.5 acres. This is my son Dan Falahee; he can explain it better than I can.

**DAN FALAHEE:** Right now the horses' fence is running half way through a stream. The water from that stream runs through our property and goes into our well where we get our drinking water from. Half of their area is not a proper field; its rocks and water. In order to erect the fence, they cut about 50 feet worth of trees on our side of the property. It's just not a proper place for horses.

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**MR. FALAHEE:** Nobody likes to have to complain about their neighbor but they encroached on our property, taking down trees, and when I approached her to try and resolve this, she said "do what you want" and walked away.

**MS. BEDROSS:** May I please say something? When he approached me, I was in my swimming pool. I was very uncomfortable so I would not speak with him at that moment. His real gripe is the trees and the water. The horses don't run around, they're not loud. I'm sorry about the trees and I will fix the fence. I don't know what else there is to say. I don't bother them and I keep to myself.

**MR. FALAHEE:** This is really about two horses stuck on a crummy piece of property.

**CHAIRMAN JANSEN:** How old are the horses?

**MS. BEDROSS:** One is 18 and the other is 22. The thing is I have no other place to put them.

**CHAIRMAN JANSEN:** Any other questions?

**MR. MALOSCAY:** Have you tried to lease some of the 12 acres behind your property?

**MS. BEDROSS:** I've thought about it but had no idea how to go about it.

**MR. MALOCSAY:** If you had the additional land, your paddock fence could go up to the property line and your paddock would have to be 1 acre in size. Speak to someone in the Building Department or the Assessor's office to find out who owns it and go from there. If you could do that, then maybe we could adjust the variances from there.

**CHAIRMAN JANSEN:** So you could fence them out of the stream?

**MS. BEDROSS:** Absolutely.

**CHAIRMAN JANSEN:** Alright then we will continue this to the next meeting.

*Continued to the next ZBA meeting.*

Public Hearing of FRANK DZIERZEK - for property located at 27 Glenmere Homestead Road, Florida, New York and designated on the Town Tax map as Section 20 Block 1 Lot 7.1 and located in an SM District for a variance of Section 164.40N reducing front setback to 21 (+/-) feet where 30 are required for the purpose of construction of an addition to an existing 1 family dwelling.

**CHAIRMAN JANSEN:** Please state your name and tell us what you'd like to do.

**FRANK DZIERZEK:** My name is Frank Dzierzek and my property has a dwelling on it already, it's like a summer bungalow and I need a variance because I want to put a front porch on it and in the back I'm going out about 7 feet.

**MRS. BRAMICH:** You're adding to the rear of the building?

**MR. DZIERZEK:** Yes but it will not be any closer to the road.

**ATTORNEY FINK:** You have 200 feet of road frontage, but less than 250, minimum side yard is 50 and the total of both is 100 so that's actually more of a requirement than the Zoning requires. The District Zoning would control.

**MR. MALOCSAY:** This is not unusual at all for that area.

**CHAIRMAN JANSEN:** Is there anyone here from the public that would like to address this application? No? The Public Hearing is closed.

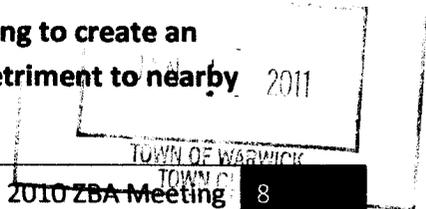
**ATTORNEY FINK:** How far beyond the existing dwelling is the porch going to be?

**MR. DZIERZEK:** It will be 6 feet. The overhang is now 5 feet plus.

**ATTORNEY FINK:** Are you able to buy any additional land?

**MR. DZIERZEK:** No.

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



<b>MR. MALOCSAY:</b>	<b>No and it's actually quite typical.</b>
<b>ATTORNEY FINK:</b> <b>feasible method?</b>	<b>Can this be achieved by any other</b>
<b>MRS. BRAMICH:</b>	<b>No.</b>
<b>ATTORNEY FINK:</b>	<b>Is this a substantial variance?</b>
<b>MR. MALOCSAY:</b>	<b>Yes.</b>
<b>ATTORNEY FINK:</b> <b>effect or impact on the physical or environmental conditions in the neighborhood?</b>	<b>Is this going to have an adverse</b>
<b>MR. MALOCSAY:</b>	<b>No.</b>
<b>ATTORNEY FINK:</b>	<b>Is it self-created?</b>
<b>MR. PAULSEN:</b>	<b>Yes.</b>
<b>MRS. BRAMICH:</b> <b>Unlisted Action with no environmental impact.</b>	<b>I make a motion that this is an</b>
<b>MR. MALOCSAY:</b>	<b>I second it.</b>
<b>CHAIRMAN JANSEN:</b>  <b>All in favor (Five Ayes), motion carried.</b>	<b>Any discussion; all in favor?</b>
<b>MR. MALOCSAY:</b> <b>variance as advertised.</b>	<b>I make a motion to grant this</b>
<b>MRS. BRAMICH:</b>	<b>I second it.</b>
<b>CHAIRMAN JANSEN:</b>  <b>All in favor (Five Ayes), motion carried.</b>	<b>All in favor?</b>

Public Hearing of DOUGLAS & DAWN ITJEN-for property located at Cascade Road and Cherry Hill Road Warwick New York designated on the Town tax map as Section 64 Block 3 Lots 4 and 5 located in a CO District for a variance of Section 164.53B 12 extending a previously granted TL-280a variance or in the alternative granting a TL-280a variance to permit construction of a dwelling on a lot left fronting on a public road.

**CHAIRMAN JANSEN:** Please identify yourself and tell us what you want to do.

**JOHN MCGLOIN:** I'm John McGloin.

**ATTORNEY FINK:** The criterion here is simply, has there been a change that would justify not granting or extending the variance? So rather than going into all the rest of it; is there anything different from the decision that was rendered back in 2006?

**MR. MCGLOIN:** No just the Planning Board requirements for improving the road.

**MRS. BRAMMICH:** Can we go ahead and extend it?

**ATTORNEY FINK:** This is very similar to what we did the last time only last time the Planning Board had granted the variance and provided for all the requirements of the road. In this particular instance, it was extended to the Planning Board will then, assuming it's filed and granted, will provide for all of the improvements to the road. So my suggestion would be that if there's no change that it be granted.

**CHAIRMAN JANSEN:** Is there anyone here from the public that would like to address this application? No? The public hearing is closed.

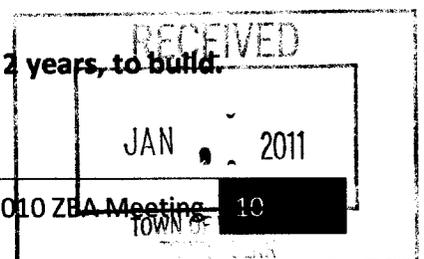
**MR. MALOCSAY:** So, no changes since....

**MR. MCGLOIN:** No the only thing that has changed is the Planning Board requirements for improving the road. The want it paved up to where the proposed driveway is and they want a drain put in down by Cascade Road where Cherry Hill Road comes down. That's all, just construction requirements by the Planning Board. We're really close to getting approval there, that's why we're here.

**MR. MALOCSAY:** How long ago did we give the original variance?

**ATTORNEY FINK:** By code its 2 years, to build.

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**MR. MALOCSAY:** I just wanted to make sure that it wasn't so long ago that in the interim there was a Zone change.

**ATTORNEY FINK:** But that would have nothing to do with the 280a; it might have something to do with if we granted a variance for lot area size or setbacks. Is this going to create an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

**MRS. BRAMICH:** No.

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

**MR. MALOCSAY:** No.

**ATTORNEY FINK:** Is the requested variance substantial?

**CHAIRMAN JANSEN:** No.

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

**MRS. BRAMICH:** No.

**ATTORNEY FINK:** Is it self-created?

**MR. MALOCSAY:** Yes.

**ATTORNEY FINK:** Has there been any change that would affect the granting of the 280a variance?

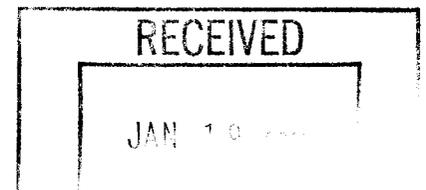
**MR. MALOCSAY:** No; I make a motion that this is an Unlisted Action with no environmental impact.

**MR. SHUBACK:** I second it.

**CHAIRMAN JANSEN:** All in favor?

All in favor (Five Ayes), motion carried.

**MRS. BRAMICH:** I make a motion to grant this variance with the additional proviso that if within the 2 year period that subdivision is granted and filed, that there be no limitation period for this 280a variance to expire.



**MR. MALOCSAY:**

**I second it.**

**CHAIRMAN JANSEN:**

**All in favor; any discussion?**

**All in favor (Five Ayes), motion carried.**

Public Hearing of EDWARD CARMACK – for property located at 5 Cascade Road, Warwick New York designated on the Town tax map as Section 55 Block 1 Lot 66 located in a CO District for a variance of Section 164.40N reducing a front setback from 100 feet to 37 feet and one side setback from 75 feet to 10 feet for the purpose of constructing an addition to an existing one family dwelling.

**CHAIRMAN JANSEN:** Please state your name and tell the Board what you'd like to do.

**EDWARD CARMACK:** My name is Edward Carmack and I'd like to build an addition to close off an existing deck; a one floor addition.

**MRS. BRAMICH:** How big is the deck?

**MR. CARMACK:** The deck is 12 feet X 24 feet.

**CHAIRMAN JANSEN:** So you're just going to make that part of the house?

**MR. CARMACK:** Yes, we're going to use the existing footings.

**MR. MALOCSAY:** Did the County answer us on this?

**ATTORNEY FINK:** The answer to that is yes, if it requires it, however, everything was answered no. Are you within 500 feet of a State or County Parkway or Road?

**MR. CARMACK:** I don't think so, no.

**MRS. BRAMICH:** Where is the county road?

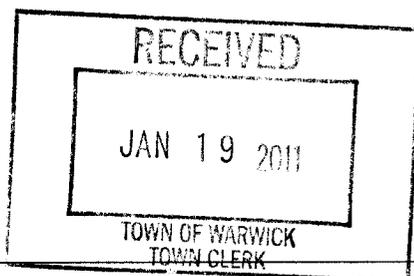
**MR. MALOCSAY:** 17A.

**MRS. BRAMICH:** 17A isn't a county road.

**MR. MALOCSAY:** It's a state road.

**ATTORNEY FINK:** It's a state road.

**MR. MALOCSAY:** The other issue is the Long House creek.



**MRS. BRAMICH:** Well it looks like the creek is within – from the corner of the dwelling to the back of the property is 74.5 and it runs right through the Long House Creek.

**ATTORNEY FINK:** Well let's talk about the creek. The creek's not a recreation area, right? "Right of Way of an existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines..." This is the requirement for a Municipal Law. I don't think that applies.

**MR. CARMACK:** I'm not sure about all of this; we have prior approval through the previous owner. His name was Richard Valentino. I had the variance from him; he gave it to me when we bought the house. It was approved in 2005. Nothing will impact anything; we're not even digging into the soil. My house is very small. We have two children and one on the way. We really need this.

**MR. PAULSEN:** What impact is putting a small addition on his house going to have on the creek?

**MR. SHUBACK:** Especially since he's not digging into the soil?

**MRS. BRAMICH:** It's all the way on the other side of it.

**CHAIRMAN JANSEN:** Is there anyone here from the public to address this application? No? The 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. PAULSEN:** No.

**ATTORNEY FINK:** Can this be achieved by any other method?

**MR. MALOCSAY:** No, the cost would be impractical.

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

**MRS. BRAMICH:** No.

**ATTORNEY FINK:**

**Is this a substantial variance?**

**MR. MALOCSAY:**

**Yes.**

**ATTORNEY FINK:**

**Is it self-created?**

**MRS. BRAMICH:**

**Yes.**

**MR. MALOCSAY:**

**I make a motion that this is an**

**Unlisted Action with no environmental impact.**

**MR. SHUBACK:**

**I second it.**

**CHAIRMAN JANSEN:**

**All in favor; any opposed?**

**All in favor (Five Ayes), motion carried.**

**MRS. BRAMICH:**

**I make a motion to grant this**

**variance as advertised.**

**MR. MALOCSAY:**

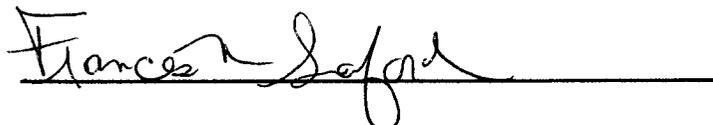
**I second it.**

**CHAIRMAN JANSEN:**

**All in favor; any discussion?**

**All in favor (Five Ayes), motion carried.**

**Meeting adjourned.**



**Frances N. Sanford ZBA Recording Secretary**