

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

Members Present:

Mr. Jan Jansen, Chairman

Mr. Mark Malocsay, Co-Chairman

Mr. Norm Paulsen

Attorney Robert Fink

Members Absent:

Diane Bramich

Chairman Jansen called the meeting to order at 7:30 P.M.

MR. MALOCSAY:
minutes of the January 25, 2010 meeting.

I make a motion to approve the

MR. PAULSEN:

I second it.

CHAIRMAN JANSEN:

Any discussion; all in favor?

All in favor; motion carried.

Public Hearing of ROBERT M. ROSSMANN – for property located at 15 Indian Trail N., Greenwood Lake, New York and designated on the Town tax map as Section 72 Block 2 Lot 60.2 and located in a SM District for a variance of Section 164-41A (1) permitting construction of a 22 foot X 34 foot detached garage 15 feet from the front line where 30 feet are required. *Continued from the 1/25/10 ZBA meeting.*

ATTORNEY FINK: We did get a response back from the County. Also Mr. Batz went out and determined that there will be no impact on the septic system. We did receive a letter from the Greenwood Lake Commission wanting other things to be done however, putting up the garage will have no bearing whatsoever on the septic system so I don't think this Board has the right jurisdiction to be telling the Applicant that he should be doing the other things that they're suggesting. It has no relevance to the application.

CHAIRMAN JANSEN: The public hearing is still open; is there anyone here to address this application? If not, the public hearing is now 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.

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

MR. PAULSEN: No, because of the topography and the septic.

ATTORNEY FINK: Is this a substantial variance?

MR. MALOCSAY: Yes.

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

MR. MALOCSAY: No.

ATTORNEY FINK: Is it self created?

MR. MALOCSAY: Yes.

ATTORNEY FINK: You've owned this property for how long?

MR. ROSSMANN: About 6 years.

MR. MALOCSAY:
Unlisted Action with no environmental impact.

I make a motion that this is an

MR. PAULSEN:

I second it.

CHAIRMAN JANSEN:

Any discussion; all in favor?

All in favor (Three Ayes), motion carried.

MR. MALOCSAY:
variance as advertised.

I make a motion to grant this

CHAIRMAN JANSEN:

Any discussion; all in favor?

All in favor (Three Ayes), motion carried.

Public Hearing of WILLIAM LYNCH – for property located at 368 Mount Eve Road, Goshen, New York and designated on the Town tax map as Section 6 Block 4 Lot 26.2 and located in an MT District for a variance of Section 164-40M permitting an apartment above a garage.
Continued from the 1/25/10 ZBA meeting.

CHAIRMAN JANSEN: Please let it be noted that the Applicant has formally withdrawn his application as of February 19th, 2010.

Public Hearing of DONALD FISK –for property located at 61 Shore Avenue, Warwick, New York and designated on the Town tax map as Section 77 Block 1 Lot 23 and located in an SM District for a variance of Section 164.40N reducing front setback from 15 feet to 11 feet where 30 feet are required for the purpose of expansion of an existing single family dwelling.

CHAIRMAN JANSEN: Did you speak with Connie today?

DAVID GETZ: Yes I did and she informed me that a decision would not be able to be made tonight, but if we wanted to, we could at least be heard.

CHAIRMAN JANSEN: I thought she told you not to appear tonight because the Homeowners Association wanted to be present and represented by an attorney. We advised them that we would hold this over to next month.

MR. MALOCSAY: Let's hear what they have to say and we'll wait to make any decisions until next month.

ATTORNEY FINK: Did you receive a copy of this letter from the Forest Park Association of Greenwood Lake?

MR. GETZ: Yes, we did. Do you want a brief description of the project?

ATTORNEY FINK: Yes.

MR. GETZ: Mr. Fisk and his family have owned the property on Shore Avenue for 50+ years. There's a small seasonal cottage on the property now and the plan is to upgrade the site to replace the septic and to drill a well and to have a slight increase to the building size. The dark brown is the existing footprint and the proposal would have it bump out a little towards the road and to the sides. Over the last few months we've been referred by the Planning Board to the Orange County Department of Health because this is right on the lake. So we're too close to the lake, too close to some neighboring wells and in order to meet standard codes for the septic system, it's very limited site area. We've spent a few months back and forth with the Health Department and now we have a design that they've approved in concept, but for in order for us to build it, we need site plan approval from the Planning Board because it's within 100 feet of the lake. The proposed building expansion will need a front setback. The current setback is 15 feet from the property line and the expansion will bring it to 11 feet. The expansion is not to increase the number of bedrooms.

DONALD FISK: This expansion is basically to satisfy my daughter. There is no potable water.

JANE PIERCE: It's glorified camping. We're just trying to bring it up to the year 2000.

ATTORNEY FINK: We're just interested in the expansion. The only issue is the front setback.

MR. GETZ: Explain why it needs to be closer to the road.

MR. FISK: I was originally thinking I would buy a pre-fab. But you can't get a 20 foot wide pre-fab; you can only get it 24 feet wide. We have a little kitchen on the side which is very small. There's a bathroom, also very small. And so I figured I might as well fix it up to make it livable.

ATTORNEY FINK: Specifically, why would it be impractical for you to maintain the same line rather than move it.

MR. FISK: Well, one thing is that the septic system is inadequate. I don't have a shower, I would need a hot water heater; I would need space for that.

ATTORNEY FINK: Specifically, explain to the Board why you couldn't move that line back and maybe gain the space somewhere else.

MR. GETZ: If you tried to push this front wall back, you would lose the ability to create these two rooms.

ATTORNEY FINK: When you come in next month, bring in a floor plan and just explain why it's impractical. Describe to the Board if this plan is within the character of the neighborhood.

MR. GETZ: We'll do some research. Also directly across from Shore Avenue is land that's going to remain as an open piece of property so there's no house across from the proposed expansion site.

CHAIRMAN JANSEN: Is there anyone here from the public to address this application? No? The public hearing is still open.

ATTORNEY FINK: You might also want to address next month the issues with the parking.

MR. FISK: Should I bring my own attorney?

ATTORNEY FINK: Well, if they're going to bring an attorney that's going to argue that you shouldn't be granted the variance because of some of these concerns, then it's my opinion that this Board is not going to look at whether or not you should be maintaining the road, however, to the extent that this improvement would somehow have another effect on parking or something like that...

MR. GETZ:

We're ready to address that.

MS. PIERCE:

Actually this extra strip is bushes right now. We're not taking parking away. Our parking area is more than adequate.

CHAIRMAN JANSEN:

Thank you.

Continued to the March 22nd 2010 meeting.

Public Hearing of GARY MORGIEWICZ –for property located at 216 Pine Island Turnpike, Warwick, New York and designated on the Town tax map as Section 29 Block 1 Lot 49.2 and located in an RU District for a variance of Section 164-41.C.(4)(f) permitting an existing 6 foot fence in the front yard setback where only 4 feet are permitted. *Continued from the 1/25/10 ZBA meeting.*

CHAIRMAN JANSEN: Did you have a chance to look at screening?

MR. MORGIEWICZ: Do you mean trees, bushes? I'm not really sure what kind of plants will grow in that much shade. I have to find out more about that.

CHAIRMAN JANSEN: Do you have anything to add to that?

MR. MALOCSAY: Other than the fact that he needs it, no. We want some screening just to break it up. What does the fence look like?

MR. MORGIEWICZ: It's called dog-ear fence. Its 6 feet tall. Solid pressure treated wood.

ATTORNEY FINK: We don't have to vote tonight, if the fence is already up. If we just have the applicant write a letter describing the kind of shrubs he's going to install, that will be acceptable.

MR. MORGIEWICZ: I can do some research on it.

CHAIRMAN JANSEN: The Cooperative Extension has a list of plants that are resistant to deer.

MR. MORGIEWICZ: Alright, I'll submit a letter before the next meeting.

Continued to the March 2010 ZBA meeting.

Public Hearing of BRUCE HARDY – for property located at 169 Jersey Avenue, Warwick, New York and designated on the Town tax map as Section 74 Block 9 Lot 41 and located in an SM District for an interpretation that an existing 7th apartment constitutes a legal pre-existing non-conforming use or, in the alternative, a variance of Section 164.40M, and Section 164.40N for a use variance permitting an existing 7th apartment on a lot with an area of 36,000 (+/-) square feet where 152,460 square feet would be required for 7 apartments, and a variance of Special Condition # 112 allowing the apartments to be serviced by septic and well where provision for community sewer and water is required. *Continued from the 1/25/2010 ZBA meeting.*

ATTORNEY FINK: On this particular application, I was in touch with the assessor and he really wasn't able to verify much. Based on his records, there were an unspecified number of apartments in 1963, and at some point it became 7 apartments, but as far as he knows, in his records, 7 apartments go back only to 1989. So his records don't show anything between 1963 and 1989.

MR. HARDY: There's no record that Frank Mariano owned it?

ATTORNEY FINK: Well, I'm getting to Mr. Mariano. The person you brought in, Ms. Arietta, she said she moved to the apartments in the late 60's early 70's there were only 5, and then there were 6 and then 7. She said Mariano was the owner when she came in. But Mariano didn't get title until 1981. So there is a little bit of a variance from her saying that there were 7 apartments there.

MR. HARDY: The way Anita explained it to me, is that Mariano lived upstairs in the big apartment, and rented the 5 apartments below. When his mother passed away, she was living in the unit just off his so he was the one who divided off and rented that. He was in the big place by himself. That made the 6th apartment. Then when he sold and moved to Florida and the place was sold, there were 7 units to be rented. But she said that he was the one that divided the big place upstairs.

MR. PAULSEN: My point is that if it hasn't caused a problem in 30 years then it won't in the next 30 either.

ATTORNEY FINK: And we don't have any definite proof that it was put in illegally.

MR. MALOCSAY: After 1973, our records are pretty accurate and one of the last major zoning changes went in at that time. If it happened after 1973, there would be a record of a building permit. So my point is that it had to have occurred before then.

ATTORNEY FINK: This is not really a variance, but more of an interpretation as to whether or not the evidence is sufficient to show that this is a legal prior existing non-conforming use, based upon what's been presented, records and testimony.

MR. MALOCSAY: I make a motion that based on the evidence presented; it is the interpretation of the Board that this is a legal prior existing non-conforming use.

MR. PAULSEN: I second it.

CHAIRMAN JANSEN: Any discussion; all in favor?

All in favor (Three Ayes), motion carried.

Public Hearing of JOHN JORDAN & CASSIE LEWIS – for property located at 101 Iron Mountain Road, Warwick, New York and designated on the Town tax map as Section 63Block 1 Lot 13.11 and located in an MT District for a variance of Section 164-40N permitting a 14 foot 8 inch X 15 foot addition to an existing single family dwelling resulting in a 61 (+/-) foot side setback where 75 feet are required. *Continued from the 1/25/10 ZBA meeting.*

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?
MR. MALOCSAY:	No.
ATTORNEY FINK:	Is it a substantial variance?
MR. MALOCSAY:	No.
ATTORNEY FINK:	Is it going to have an adverse effect or impact on the physical or environmental conditions in the neighborhood?
MR. PAULSEN:	No.
ATTORNEY FINK:	Is it self created?
MR. PAULSEN:	Yes. I make a motion that this is an Unlisted Action with no environmental impact.
MR. MALOCSAY:	I second it.
CHAIRMAN JANSEN:	Any discussion; all in favor?
	All in favor (Three Ayes), motion carried.
MR. MALOCSAY:	I make a motion to grant this variance as advertised.
MR. PAULSEN:	I second it.
CHAIRMAN JANSEN:	All in favor?
	All in favor (Three Ayes), motion carried.
MR. PAULSEN:	I motion to adjourn.

MR. MALOCSAY:

I second it.

All in favor (Three Ayes), motion carried.

Frances N. Sanford ZBA Recording Secretary