

TOWN OF WARWICK
ZONING BOARD OF APPEALS
JULY 26TH 2010

Members Present:

Mr. Jan Jansen, Chairman

Mr. Mark Malocsay, Co-Chairman

Mr. Norman Paulsen

Mrs. Diane Bramich

Mr. Kevin Shuback

Attorney Robert Fink

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

CHAIRMAN JANSEN: Due to the fact that Mr. Charles Todd has resigned from the Board we are unable to approve the minutes from the April 26th 2010 meeting as we would not have a majority to vote. I'd like everyone to welcome our newest member, Mr. Kevin Shuback. We're very happy to have him here. Are there any changes or additions needed in order to approve the June 28th 2010 minutes?

MRS. BRAMICH: No; I motion to approve the minutes from the June 28th meeting.

MR. MALOCSAY: I second it.

CHAIRMAN JANSEN: Any discussion; all in favor?

All in favor (Four Ayes), 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 164.45.1 D permitting a 2 lot subdivision where proposed Lot 2 is 2.9 acres and 5 acres are required, and Section 280a of the Town Law permitting a residence on a private road. *Continued from the June 28, 2010 ZBA meeting.*

ATTORNEY FINK: I obtained the documents from the Town Clerk as the transfer rights and it appeared to me as though there are several entities that had to consent to them using that piece of property; I spoke to Mr. Bollenbach and he agreed. I've been in contact with the applicant and their surveyor, they're aware and they'll be in touch.

MR. MALOCSAY: I have some questions. Is there a problem with the application because the property is located in the agricultural overlay or because it was in the Ag district? I'm referring specifically to what was in the code that allowed subdivision happened in the first place at 3 acres.

ATTORNEY FINK: The Ag overlay. 164.45.1 D refers to existing lots in Agricultural Protection Overlay Districts. So that's the basis of the application. It's kind backing into it. So presumably you would have to have a presently complying lot and then you could if you had enough area, subdivide off lot # 2 but it would have to satisfy the previous zoning district; but he's going backwards.

CHAIRMAN JANSEN: Alright, providing we have a meeting next month, this will be continued at that time. *Continued to the August 2010 ZBA meeting.*

Public Hearing of HARRY W. & PATRICIA SLAGLE – for property located at Old Ridge and Burton Lane, Warwick, New York and designated on the Town tax map as Section 18 Block 1 Lot 40 and located in an RU District for a variance of Section 164.41.A. (1)(4) permitting construction of a 24 foot X 24 foot detached garage within the front yard setback (9 and 7/8 feet where 75 feet are required) *Continued from the 6/28/10 ZBA meeting.*

ATTORNEY FINK: When we left off last month, your neighbor had given us quite a bit of material, but the bottom line is, Mr. Littman is here on behalf of Mr. and Mrs. Carmiole. There's no question in my mind that the Right of Way as described does not go over the applicants land. If you look at the tax map the applicants lot is #40, lot #41 owns a piece of the road which is 20 feet , #42 owns a piece, they're both flag lots, so it's 15, 15 and 20. So there's no issue with that, there's only the placement of the garage.

CHAIRMAN JANSEN: The public hearing is still open, would you like to address the Board?

ATTORNEY LITTMAN: Mr. and Mrs. Carmiole are not opposed to granting the variance for the garage. Their concern is primarily the integrity of the travel way which is maintained by the same four property owners which includes the applicant. If you look at the survey prepared by John McGloin for Megesysi, you'll see an overlay over the easement. The closest place it comes to the lot line of the applicant is right where the driveway is. My client is concerned that care be taken when locating the garage that it is set back precisely from that lot line and not some line further out within the Right of Way. If the line could be established by somebody with stakes, or pins or something, so that no mistake is made then my clients concerns would be extinguished. The other concern is simply placement of the garage on the line. The plan that I have shows the garage being placed within 9 7/8ths of the property line. I can't tell.

MR. PAULSEN: Isn't that a Building Inspection issue?

MR. LITTMAN: It is a Building Inspection issue but I'm looking at the location of the structure. I don't know by looking at this drawing if that is the lot line; if it is then fine. There are a couple of things that could be done to minimize the variance. The building could be rotated. Or they could slide the structure back and put the doors on facing the road and that would put it even further away from the road. One thing is clear about your responsibility as the Board; to give the least variance that would satisfy the need.

MRS. SLAGLE: I have a real problem with a neighbor who's 2 houses away, trying to tell us where we can and can't put our garage. There are things I'd like to tell him, but I don't. We made the decision to come before you (the Board) after careful consideration. In 1993 we made the house 2 story, 2 family and at that time, you have the paperwork from Mr. Lehman, and at that time he set all of the drains and septic system needed to do that. That's why we can't build the garage on the other piece of property. We have almost 6 acres of property but I don't think anyone in their right mind

would build a garage a ½ acre away from the house especially since my husband has health issues. We can bring the garage in somewhat, that would be fine with us.

CHAIRMAN JANSEN: Can you rotate it so that it's equal distance from the line?

MRS. SLAGLE: We haven't even done it yet! We're here to get a variance so...

CHAIRMAN JANSEN: That's alright, we're just asking the question.

MRS. SLAGLE: I'm sure we probably could do something like that. In fact we're considering changing our driveway because we want nothing more to do with this road anymore.

ATTORNEY FINK: In order to do that you'd have to get permission from the Town.

MRS. SLAGLE: I thought the last time we were here you told us all we had to do was notify the Post Office?

ATTORNEY FINK: That's another issue, the Post Office gives you the address but before you can put an entrance on a Town road, you'd have to....

MRS. SLAGLE: That would make it even better for us but I would still like it to look nice with the house.

MR. MALOCSAY: I just want everyone to keep in mind that while it is a substantial variance, it is a corner lot which means it has two front yards. That is always really difficult to meet those two setbacks.

CHAIRMAN JANSEN: So, you're willing to switch the angle of that to make it fit better?

MRS. SLAGLE: Absolutely.

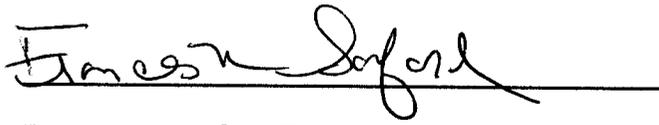
ATTORNEY FINK: My suggestion is that you have Bob go out there and physically put the pins down to see whether that's something you can live with.

CHAIRMAN JANSEN: Okay, we'll continue this at the next meeting.

MR. MALOCSAY: Motion to adjourn.

MRS. BRAMICH: I second it.

All in favor; motion carried.

A handwritten signature in black ink, appearing to read "Frances N. Sanford", is written over a solid horizontal line.

Frances N. Sanford ZBA Recording Secretary