

TOWN OF WARWICK
ZONING BOARD APPEALS

JULY 28, 2008

Members Present:

Mr. Jan Jansen, Chairman
Mr. Mark Malocsay, Co-Chairman
Mr. Norman Paulsen
Mrs. Diane Bramich
Mr. Charles Todd
Attorney Robert Fink

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

CHAIRMAN JANSEN: Before we get started, can I have a motion to approve the minutes of the April 28th, 2008 meeting?

MR. PAULSEN: I make a motion to approve the minutes of the April 28th, 2008 meeting.

MR. MALOCSAY: I second it.

CHAIRMAN JANSEN: Any discussion? All in favor?

MR. PAULSEN: Aye
MR. TODD: Aye
MR. JANSEN: Aye
MRS. BRAMICH: Abstain
MR. MALOCSAY: Abstain

Motion Carried.

CHAIRMAN JANSEN:
23rd, 2008 meeting?

And for the minutes of the June

MR. MALOCSAY:
minutes of the June 23rd, 2008 meeting.

I make a motion to approve the

MR. PAULSEN:

I second it.

CHAIRMAN JANSEN:

Any discussion? All in favor?

MR. PAULSEN:

Aye

MR. MALOCSAY:

Aye

CHAIRMAN JANSEN:

Aye

MRS. BRAMICH:

Abstain

MR. TODD:

Abstain

Motion Carried.

Public Hearing of PALMERINO (PAUL) SVIZZERO – for property located at 151 Jessup Road, Warwick, New York and designated on the Town tax map as Section 17 Block 1 Lot 23.1 and located in an RU District for a variance of Section 164.41A (1) (a) allowing construction of a 48 foot X 60 foot X 16 foot accessory building wherein the maximum permitted by the Code is not to exceed 1200 square feet in floor area nor be more than 48 feet in greatest median dimension. *Continued from the 6/23/08 ZBA meeting.*

CHAIRMAN JANSEN:
provide at the last meeting?

What did we ask you to

MR. SVIZZERO:
floor plan and a sketch of the elevation.

I was asked to provide a

CHAIRMAN JANSEN:
were posed was in regards to the location of the building. I understand that there is a contention by one of the neighbors that you're 3 feet over on their property with a lean-to behind the other shed. Will that be removed?

One of the questions that

MR. SVIZZERO:

Once the building is up.

CHAIRMAN JANSEN:
it further back from the front setback?

Is there any way of moving

MR. SVIZZERO:
too far back because my septic is there.

Yes, but I don't want to go

CHAIRMAN JANSEN:
commercial purposes?

Will this be used for any

MR. SVIZZERO:

Absolutely not.

MR. MALOCSAY:
Will it be beige and green?

Are the colors justified?

MR. SVIZZERO:

The roof will be silver.

MR. MALOCSAY:
barn doors (on the drawing) are very nice.

And the trim? Because the

MR. SVIZZERO: The barn doors are going to be different. They will be overhead doors. So it's (the barn) not going to be in the front part, the only thing you'll see from the road is the side of the building.

ATTORNEY FINK: A silver roof, you said?

MR. SVIZZERO: A stainless steel color, yes.

CHAIRMAN JANSEN: Have you surveyed since? Before you put this building up? I'm a little concerned that if you weren't sure where to put the shed then...

MR. SVIZZERO: I can explain that. My in-laws owned the 16 acres on that side and the 110 acres on the other side. It was family owned and no-one was concerned about where I put the shed.

MR. PAULSEN: But you don't have a survey of the property now?

MR. SVIZZERO: Yes, I do, but the shed is not on it.

MR. PAULSEN: I'm concerned that the building will be over the property line.

MR. SVIZZERO: That's impossible; I'm putting it 60 feet from the property line.

MR. PAULSEN: Okay.

ATTORNEY FINK: I have a question on the house. I can't quite read what the setback is. Can you tell me what it is?

MR. SVIZZERO: I think it's 100 plus feet.

CHAIRMAN JANSEN: Our concern still is that there needs to be a survey so that the thing is plotted in exactly where it's supposed to be.

ATTORNEY FINK: We can, if you want, we can pass it with the condition that it be located for the building inspector with the survey.

MR. SVIZZERO: I have an existing survey now, the only thing it doesn't show is the shed. The shed was built after the survey.

CHAIRMAN JANSEN:
should locate the building.

I think your surveyor

MR. SVIZZERO:

That's a big expense.

CHAIRMAN JANSEN:

No it's not.

ATTORNEY FINK:
rods found on that side.

That survey shows iron

MR. SVIZZERO:
iron rods are. I can take the Building Inspector right to them, I have a metal detector. If he wants to see that, I know exactly where they are. To hire a surveyor to come out and show me something I already know would be pointless.

I know exactly where the

CHAIRMAN JANSEN:
the Building Inspector know exactly where the property line is?

My question still is how will

MR. SVIZZERO:
rods. I will show him everything.

I will show him the iron

MR. PAULSEN:
stakes are?

Do you know where all 4

MR. SVIZZERO:

Yes.

MR. MALOCSAY:
the building itself, how close is it to the property line?

The proposed plan now for

MR. SVIZZERO:

60 feet, give or take.

MRS. BRAMICH:

Give or take?

MR. SVIZZERO:
the trees. There's another 5 feet past the trees.

It's 65 feet; I went right to

MR. MALOCSAY:
the rear yard?

That's the side yard; and

MR. SVIZZERO:
150 feet. But if they're asking me to move it back, it's a little closer, more like 100 feet. I only have to be 5 feet from the property line, right?

The rear yard is probably

MR. MALOCSAY:
you're putting up a building that's conforming. Your building is 3 times that.

You do, but that's assuming

MR. SVIZZERO: It's only 400 square feet bigger than what I'm allowed to build. I am allowed to build 2 building 1200 square feet each.

MR. MALOCSAY: This is one accessory building that is 3 times the size.

MR. SVIZZERO: Twice the size.

MR. MALOCSAY: If you were building 2 accessory buildings.

MR. SVIZZERO: If I get denied, that's what I'm going to do. I need the building, I have to function.

MR. MALOCSAY: I realize that, but the building you're *allowed* to put 5 feet from the property line can only be 1200 square feet. The building is 3 times the size of the building that we allow.

MR. SVIZZERO: I see what you're saying now. What is the variance for an oversize building?

MR. MALOCSAY: Well that's what we have to take into consideration.

MRS. BRAMICH: How can you look at anything on this piece of property without knowing where the lines are and without knowing what the dimensions are? I don't understand how you can do that.

MR. MALOCSAY: I would be very content if it were 60 feet from the side yard and a little bit back from the front.

CHAIRMAN JANSEN: It's supposed to be even with the house.

MR. SVIZZERO: I can do that.

MRS. BRAMICH: Where is the survey you have now? That's not a survey. With no survey to look at, how can you expect us to know where the lines are?

MR. SVIZZERO: I had it at the last meeting.

MR. MALOCSAY: I still say that I would be very content if it were 60 feet from the side yard and no closer than the front of the house.

CHAIRMAN JANSEN: How are we going to verify that?

MR. MALOCSAY: We don't need to verify it.

CHAIRMAN JANSEN: I want to specify again that this will not be used for commercial purposes.

MR. SVIZZERO: No. Now regarding the 60 feet, if I find my septic is there, am I allowed to move 2 feet?

MRS. BRAMICH: If you had a survey, you'd know where everything is.

MR. SVIZZERO: I have a survey.

MRS BRAMICH: All I see is a drawing. I still want to see an actual survey.

CHAIRMAN JANSEN: Any other questions about the color of the building or its roof?

MR.MALOCSAY: No.

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: Is there any other method feasible to pursue?

MR. PAULSEN: No.

ATTORNEY FINK: Is this a substantial variance?

MR. MALOCSAY: Yes.

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

MR. MALOCSAY: No.

ATTORNEY FINK: Is it self-created?

CHAIRMAN JANSEN: Yes.

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

MR. PAULSEN: I second it.

CHAIRMAN JANSEN: Any discussion? All in favor?

All in favor (Four Ayes), motion carried.

MR. PAULSEN: I make a motion to grant this variance as advertised with the following conditions: this building may not be used for commercial purposes, that it be not less than 50 feet from the side yard, that it be built to be even with the house, that if be tan in color, and that the lean-to be removed before a c/o is issued.

MR. MALOCSAY: I second it.

CHAIRMAN JANSEN: Any further discussion? All in favor?

All in favor (Four Ayes), motion carried.
One abstain (Mrs. Bramich)

Public Hearing of RAY CARLISLE – for property owned by Myrna Carlisle and located at west side of Co. Rt. 21, Warwick, New York and designated on the Town tax map as Section 63 Block 1 Lots 8.21 & 8.22 and located in an MT District for a variance of Section 164.46J (2) permitting an existing building to be used for a kennel which is located 102 (+/-) feet from the side line where 300 feet are required. *Adjourned to the 9/22/08 meeting.*

Public Hearing of MARY TAVOLACCI – for property located at 16 Points of View, Warwick, New York and designated on the Town tax map as Section 41 Block 1 Lot 11 and located in an RU District for a variance of Section 280a of the Town Law allowing a single family dwelling on premises not located on a municipal road.
Continued to the 9/22/08 ZBA meeting.

Public Hearing of ROSEMARIE CASTILLO – for property located at 25 Cove Road, Sterling Forest, New York and designated on the Town tax map as Section 76 Block 1 Lot 59 and located in a SM District for a variance of Section 164.45D allowing enlargement of a building increasing the degree of non-conformity and Section 164.40N reducing setback to less than 100 feet from a “special area” (Greenwood Lake). *Continued from the 6/2/08 ZBA meeting.*

CHAIRMAN JANSEN: Mark, were you there the other day with John Batz?

MR. MALOCSAY: According to the tax file, the original structure was 10 feet out from the building and according to that; we had the distance of 2.7 feet. So using that, if they were to remove part of the building, to bring them back to the 2.7 feet, they would not need a variance. Now there was a discrepancy about which survey to use and the surveys varied within 1 foot of each other if I remember as far as how much it's over the property line. But if they were willing to bring it back to the 2.7 feet that the survey had with the tax map, then it would be acceptable to the Building Inspector and to us.

CHAIRMAN JANSEN: So then if they no longer need to be here, should we move to make a decision?

MR. MALOCSAY: John Batz asked for one thing to be in the record. That we determined that the property was in fact 2.7 feet, so that they wouldn't have any problems in the future regarding selling the property or other additions. That it's noted. That it's 2.7 feet from the property line.

MR. PAULSEN: How do we determine where the property line is? Do we need someone to put a stake in the ground?

MR. MALOCSAY: They have a survey now. It would be from the original structure which is on the tax map.

CHAIRMAN JANSEN: So we're noting that in the record at this point. So do we still need to vote on this application, or is this a moot point?

ATTORNEY FINK: No, we should. We can make a determination that it's a prior non-conforming and so long as it remains 2.7 feet from the side line, no variance is required.

JAMES PAWLICZEK: So, can we get something in writing?

ATTORNEY FINK: Yes, we're going to vote on it now. First of all, this is an interpretation. The interpretation of the Board is that this is a prior non-conforming lot and based upon an examination of the records of the Assessor, the house is located 2.7 feet from the line and as long as it remains 2.7 feet from the line, it's legal and no variance is necessary

CHAIRMAN JANSEN: Would someone like to make a motion?

MRS. BRAMICH: I make a motion.

MR. PAULSEN: I second it.

CHAIRMAN JANSEN: Any discussion? All in favor?

All in favor (Five Ayes), motion carried.

Public Hearing of MICHAEL J. PETERSEN – for property located at 12 Woodland Terrace, Warwick, New York and designated on the Town tax map as Section 74 Block 5 Lot 52 and located in an SM District for a variance of Section 164.40N reducing 1 side setback from 5.4 (+/-) feet to 5 (+/-) feet where 18 feet are required and both side setbacks from 13.8 (+/-) feet to 14 (+/-) feet where 45 feet are required for the purpose of alteration of an existing single family dwelling and Section 164.41.A.(1) and subdivision (b) permitting an accessory building in the front yard 1 (+/-) feet from the front line and 3 (+/-) feet from the side line where 5 feet from any lot line are required for the purpose of construction of a 12 foot X 22 foot garage.

CHAIRMAN JANSEN: Please identify yourself for the record.

KAREN EMMERICH: I am Karen Emmerich from Lemin & Getz Engineering.

MICHAEL PETERSEN: My name is Michael Petersen.

MS. EMMERICH: What Mr. Petersen would like to do is basically re-do the house. If you look at the drawing, the existing structure is shown as a dashed line and the proposed structure is shown as a solid line. We're asking for 2 side yard variances as well as a front yard variance so that an accessory building can be built in the front of the house. It's not uncommon for the area to have garages in the front. I do have photos of other homes up and down that street showing accessory buildings in the front.

CHAIRMAN JANSEN: Are you planning to go up with the house and the garage?

MS. EMMERICH: The garage will be 15, 16 feet high.

MR. PETERSEN: The garage will be standard height, we'll keep it as low as possible.

CHAIRMAN JANSEN: And will you go up with the house?

MR. PETERSEN: The pitch of the roof will be slightly steeper and the house is presently a two story and it will remain a two story.

CHAIRMAN JANSEN: Let's open this up to the public. Is there anyone here from the public? Please approach and state your name.

ED ULLRICH: My name is Ed Ullrich and I'm here regarding the property at 10 Williams Terrace.

ATTORNEY FINK: As you're standing on the road, is that to the right or the left?

MR. ULLRICH: To the left.

ATTORNEY FINK: You have that garage on the road?

MR. ULLRICH: Yes. My issue is with how close the accessory building will be to the existing garage. I feel that 3feet is too close. The setback is supposed to be 5 feet. If I should need to do any work or maintenance on the garage it would be difficult.

MRS. BRAMICH: In order to work on your garage, you would have to be on his property and vice versa.

MR. PAULSEN: What about a common roof or a common wall?

CHAIRMAN JANSEN: That's not a bad idea.

MR. ULLRICH: I would consider it.

MR. PETERSEN: I'm opposed to that.

CHAIRMAN JANSEN: Since we have some time until the September meeting, why don't you guys get together and see what you can come up with?

MS. EMMERICH: I'd prefer to have the variances first.

ATTORNEY FINK: Go before the Planning Board first and let them tell us what they'd like to see.

MR. MALOCSAY: I'm kind of against the common wall because of the possibility of fire.

CHAIRMAN JANSEN:
determine that.

The Planning Board will

MR. MALOCSAY:
possibility is to not allow a garage at all. Another thing is the turn around area – I’m assuming you turn around in the street when you back out of the garage.

It’s a *proposed* garage; one

MS. EMMERICH:
dead end street.

Yes, but it’s essentially a

MR. MALOCSAY:
when these places were built, that was fine, but now garages require at least a 35 foot turnaround area and the road itself isn’t even that.

I realize that, and years ago

MRS. BRAMICH:
on any of those houses there.

Mark, you’ll never get that

MR. MALOCSAY:
have a garage at all.

My point again is not to

MRS. BRAMICH:
out onto the road, there’s no choice, no alternative.

You’re still going to back

MR. MALOCSAY:
Board. It’s an accessory that you’ll have a really, really hard time fitting. The house itself, where we have the 5.4 foot distance to the property line, I’m assuming that there is a roof over it?

That’s an option for the

MS. EMMERICH:
entry way, like a little mud room.

Yes, it’s like a bumped out

MR. MALOCSAY:
going to be removed to do the construction?

How much of the house is

MR. PETERSEN:
down”. The existing foundation is too unstable and not strong enough to be built on.

All of it, it’s a “knock-

MR. MALOCSAY:
the new house?

What are the dimensions of

MR. PETERSEN:

Approximately 23 X 45.

MR. MALOCSAY:
percentage?

Are we over the

MS. EMMERICH: No we're not, it's at 29 and 30 is the limit.

MR. MALOCSAY: Bob, with the house completely removed, pre-existing, non-conforming?

ATTORNEY FINK: You're not allowed to do that without a variance; you're allowed to maintain it but not to raze it and then rebuild it according to the code, unless you get a variance.

MRS. BRAMICH: We did this with a house on Jersey Avenue that burned down. The owner rebuilt a two-story house there and it was narrower than this.

MR. MALOCSAY: On a lot this size, a 24 X 36 structure would fit and be more conforming than what is there now. So why the size?

MR. PETERSEN: There a number of "bump outs", one to accommodate an interior staircase and another is the entryway push out. The first floor is the original bungalow and when we bought it we put on a second floor which cantilevers out and over the first floor. Also there's a small foyer area.

CHAIRMAN JANSEN: Any other questions?

MR. MALOCSAY: No, but I'm still opposed to the garage.

CHAIRMAN JANSEN: Let's take a poll – Diane?

MRS. BRAMICH: I'm ok.
MR. PAULSEN: Me too.
MR. TODD: I'm ok with it.

CHAIRMAN JANSEN: Alright, this will be continued to the September 22, 2008 meeting. Can I have a motion to adjourn?

MRS. BRAMICH: I make a motion.

MR. MALOCSAY: I second it.

CHAIRMAN JANSEN: All in favor?

All in favor (Five Ayes), motion carried.

Frances N. Sanford ZBA Recording Secretary