

**TOWN OF WARWICK
ZONING BOARD OF APPEALS
OCTOBER 25, 2010**

Members Present:

Jan Jansen Chairman

Mark Malocsay Co-Chairman

Kevin Schuback

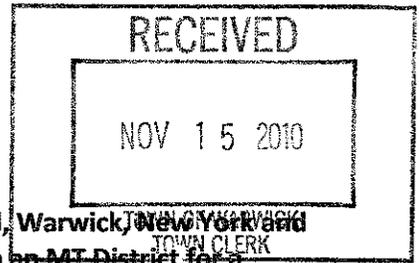
Norman Paulsen

Attorney Robert Fink

Members Absent:

Diane Bramich

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



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 164.40 N 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 9/27/2010 meeting.*

ATTORNEY FINK: Regarding the Brady application, I saw Karen earlier this week and their application is before the Planning Board so they asked if they could be continued to next month.

Continued to the November 2010 ZBA meeting.

RECEIVED

NOV 15 2010

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 Code 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 9/27/2010 meeting.*

CHAIRMAN JANSEN: They were going to submit a plan or drawing for review but I don't see them here tonight so we'll continue them to next month's meeting.

Continued to the November 2010 ZBA meeting.

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NOV 15 2010

TOWN CLERK

Public Hearing of WILLIAM SWEARER & LINDA BRINK – for property located at 115 Big Island Road, Warwick, New York and designated on the Town tax map as Section 17 Block 1 Lots 38.8 & 38.231 and located in an MT District for a variance of Section 164.46.J (16) and 164.41.A(4) allowing an accessory building housing fowl within the required front yard setback.

CHAIRMAN JANSEN:
you're before the Board.

Please identify yourselves and explain why

ATTORNEY FINK:

Now before you start, this is interesting I looked at the code and if you look in accessory uses, there are no provisions what-so-ever for fowl yet in the special conditions it specifically indicates the amount you can have. So I called the Building Department and asked if this issue has come up before and they answered that no, they take the position because in special conditions you can have so many fowl as ruled or controlled by the special conditions. So this Board in making a decision will be setting a precedent indicating that yes even though it's not specifically listed as being allowed, in the accessory uses, because it is in the specific special conditions, you construe the code as allowing it. Unless you decide otherwise.

LINDA BRINK:

My name is Linda Brink and this is William Swearer. I ended up with these birds from someone a co-worker knew in the city. At first I refused but when they asked me a second time because she told me they were going to be euthanized, I gave in. What we did was call all the animal sanctuaries in the area including Woodstock, Catskill, Watkins Glen, everybody. Nobody could take them because they've been inundated with chickens. So we did manage to place 5 of them in Virginia; we drove them down. It's really been a complicated process. We were left with the remaining ones and we actually had them in our living room for 6 months but finally I made him (Mr. Swearer) build the pens outside. They're really quite small, not large at all. We give the eggs away to the neighbors free of charge. The people on the road have been very supportive of us, they come by and show their children. No-one has ever complained. So that's where we're at and we've had no negative feedback. We can't put them in the back because of the topography. It's very steep and the water runs down; my basement gets flooded frequently. The chickens won't live forever, they will eventually pass away. When they do, then we will take the runs down and that will be it.

ATTORNEY FINK:
stone wall?

Do you know how far the coup is from the

MS. BRINK:

About 12 feet; it's not visible from the road.

CHAIRMAN JANSEN:

Is there anyone here from the public?

JAMES LUCAS:

My name is James Lucas. I just want to let you know that all the neighbors are quite fond of the birds; they find it a good resource for the community. I understand you will have to deal with this the way you have to but the neighbors like it and feel it is an asset to the neighborhood.

CHAIRMAN JANSEN:

Anyone else to address this application? No? The public hearing is closed. One of the things you mentioned is the life expectancy. How long would that be?

MS. BRINK: I would think another 5-7 years. They won't last forever and I'm not taking on any more.

CHAIRMAN JANSEN: If we granted you relief with the condition that it would be removed in 7 years, would that be satisfactory?

MS. BRINK: I would be most appreciative, yes.

MR. MALOCSAY: This really isn't about the birds, it's more about the fact that an accessory building is in the front yard.

MR. SWEARER: They're more like dog houses; they're very attractive with windows and they're painted a nice color.

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 means?

MR. PAULSEN: No because of the topography and the potential for flooding.

ATTORNEY FINK: Is it a substantial variance?

MR. SCHUBACK: No.

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. PAULSEN: Yes, I motion that this is an Unlisted Action with no environmental impact.

MR. MALOCSAY: I second it.

CHAIRMAN JANSEN: Any discussion; all in favor?

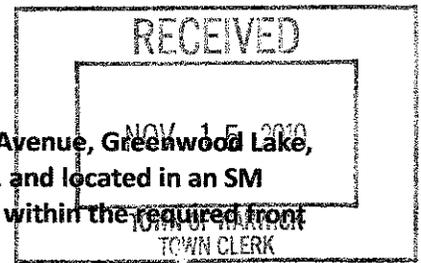
All in favor (Four Ayes), motion carried.

MR. MALOCSAY: I make a motion that this variance is granted allowing the existing accessory building housing fowl to remain within the front yard setback for not more than 7 years.

MR. PAULSEN: I second it.

CHAIRMAN JANSEN: Any discussion; all in favor?

All in favor (Four Ayes), motion carried.



Public Hearing of TOMASZ WOJTKOWSKI – for property located at 29 Bluff Avenue, Greenwood Lake, New York and designated on the Town tax map as Section 77 Block 3 Lot 21 and located in an SM District for a variance of Section 164.41.A(4) allowing an accessory building within the required front yard setback.

CHAIRMAN JANSEN: Please identify yourself and tell the Board what you need the variance for.

MR. WOJTKOWSKI: My name is Tomasz Wojtkowski and I bought the property about a month ago and there was a shed on the property but it was too close to the road. The previous owner was in violation and he didn't want to go to the trouble of obtaining a variance so he removed it. I would like to put another one up in the same spot. It can't go anywhere else because the property is too rocky and uneven.

CHAIRMAN JANSEN: What would you put in the shed?

MR. WOJTKOWSKI: Tools, I don't have a basement so I would store my tools there.

CHAIRMAN JANSEN: So it's not existing yet?

MR. WOJTKOWSKI: No, not yet I want to put one up that's 10 X 12, the same size as the previous one.

MR. MALOCSAY: I'm very familiar with the area and there really are no level areas except for the driveway.

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. MALOCSAY: No.

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

MR. MALOCSAY: No.

ATTORNEY FINK: Is this a substantial variance?

MR. SCHUBACK: 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. 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. MALOCSAY:

I make a motion to grant this variance as advertised with the condition that it be placed 25 (+/-) feet from the existing road and located no closer than the existing gravel drive.

I second it.

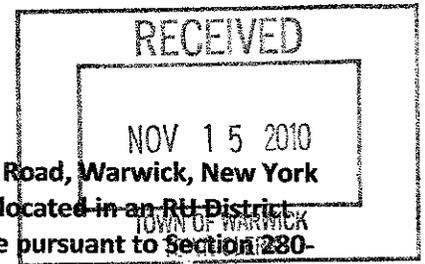
MR. PAULSEN:

I second it.

CHAIRMAN JANSEN:

Any discussion; all in favor?

All in favor (Four Ayes), motion carried.



Public Hearing of PIPA VALENTIN – for property located at 48 Iron Mountain Road, Warwick, New York and designated on the Town tax map as Section 49 Block 2 Lots 33 & 34 and located in an RU District for a variance of Section 164.53.C.(12) allowing a previously granted variance pursuant to Section 280-a of the Town Law to be extended indefinitely.

ATTORNEY FINK: Our code says that you have 2 years to begin building otherwise you lose it. In subdivisions it's a little different. 280-a's are kind of interesting. What it says is you cannot get a permit to erect a building unless you're on a street or highway giving access. And that street or highway is on an official map or plan. My first question is – does Warwick even have an official plan. I spoke with John Bollenbach and he said what we have is a book that tells what the roads are. If they didn't have an official plan then other things begin. Namely if there is a street or plan, then it's got to be on that street that's on the plan. If there isn't then it can be on a street in a subdivision approved by the Planning Board. The point is that there's really no reason once the Planning Board grant a subdivision and we grant the 280-a, that the applicant ever has to come before us again. Because before they can get a building permit, every subdivision plan is going to say what they have to do in order to get the C/O. My recommendation is that henceforth if this Board gives a 280-a and if they get Planning Board approval that we do not limit it to the 2 years. There's just no reason to do so. It should not expire if they do not begin building.

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

ATTORNEY FINK: Is it a substantial variance?

MR. SCHUBACK: No.

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

MR. SCHUBACK: I second it.

CHAIRMAN JANSEN: All in favor?

All in favor (Four Ayes), motion carried.

MR. MALOCSAY:
to be effective indefinitely.

I make a motion to grant the variance

MR. SCHUBACK:

I second it.

CHAIRMAN JANSEN:

All in favor?

All in favor (Four Ayes), motion carried.

MR. MALOCSAY:
minutes of the September 27, 2010 meeting.

I make a motion to approve the

MR. PAULSEN:

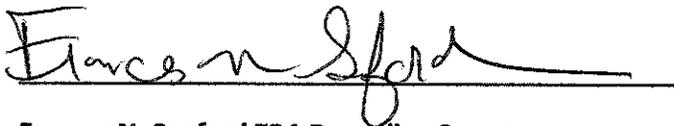
I second it.

CHAIRMAN JANSEN:

All in favor?

All in favor (Four Ayes), motion carried.

Meeting adjourned.

A handwritten signature in cursive script, reading "Frances N. Sanford", written over a horizontal line.

Frances N. Sanford ZBA Recording Secretary