

TOWN OF WARWICK  
ZONING BOARD OF APPEALS  
FEBRUARY 26, 2018

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Diane Bramich

Kevin Shuback

Chris Daubert

Attorney Robert Fink

**PUBLIC HEARING OF Warwick Pet Lodge** - for property located at 54 Jessup Road, Warwick, New York and designated on the Town tax map as Section 29 Block 1 Lot 14.22 and located in an RU District for a variance of the Bulk Area requirements of the Code allowing one side setback of 182 (+/-) feet and the second side setback of 289.7 (+/-) feet where 300 feet are required for the purpose of construction of a 6,000 square foot dog kennel with a proposed 1,000 square foot apartment.

**Postponed to the March 26, 2018 ZBA Meeting.**

**PUBLIC HEARING OF Kevin Kelly** - for property located at 1501 Route 17A, Warwick, New York and designated on the Town tax map as Section 56 Block 4 Lots 9 & 12.21 and located in an RU District for a legal interpretation of Section 164.45C(3) of the Code and variance of the Bulk Area Requirements of the Code reducing front setback to 18.5 feet where 75 feet are required for the purpose of re-construction of a house on the existing foundation that was destroyed by fire more than 1 year ago.

CHAIRMAN JANSEN: Please identify yourself for the record. Briefly tell the board what it is you would like to do.

MR. KELLY: I am Kevin Kelly. I would like to construct a single family house at the same location as where the existing house was on a new foundation, not the existing foundation, utilizing the existing well and septic system. The house would be 1500 square feet, 1 ½ stories, and architecturally consistent with that area.

ATTORNEY FINK: Again, with regard to this lot, it's an existing small lot. So it does conform with the small lot standards as far as the frontage and the sides but not the front.

MS. BRAMICH: This is not what he just said.

CHAIRMAN JANSEN: He's putting it on the same footprint.

MR. SHUBACK: He's redoing the foundation using the same footprint.

MR. KELLY: The existing foundation is stone and I don't wish to reuse it.

MR. SHUBACK: You would rather build a new one using the same footprint.

MR. KELLY: Correct.

ATTORNEY FINK: The question is why can't you move it back?

MR. KELLY: I can move it back. I was told by the Building Department that I had to meet 2 front yard setbacks, and the 2 front yard setbacks that I was required to meet were Route 17A and Mill Pond Lane. Then I believe that by meeting those 2 setbacks the building became about 15 feet wide and wouldn't meet the side yard setback.

ATTORNEY FINK: The one setback that is more extreme is on Route 17A being only 18 feet from the roadway. Although the County has always come back saying

they have no interest.

CHAIRMAN JANSEN: The only thing is if he moves it back, this is another lot. So he doesn't have much room there.

MS. BRAMICH: Do you own Lot 9 also?

MR. KELLY: Yes, Lot 9 and Lot 12.21.

MS. BRAMICH: So you could move it back? You are redoing the foundation.

MR. KELLY: I could possibly move it back.

ATTORNEY FINK: Do you know where the septic system is?

MR. KELLY: Back here behind the original foundation. I don't know its exact location or size. I would need to explore that further.

MR. DAUBERT: The tank could be right there too.

CHAIRMAN JANSEN: So with the rest of that lot is it suitable (assuming you run into problems with the septic and not being able to move the house back) to put in a septic system?

MR. KELLY: I would say it's possibly. Again, I would need to look into it further.

CHAIRMAN JANSEN: He would be subject to an inspection of that anyway.

ATTORNEY FINK: Correct. When did this place burn down? Do you know?

MR. KELLY: I believe 5 years ago.

ATTORNEY FINK: My recommendation would be to have him locate it and to see whether or not he can use it. He might be able to move it back to a certain degree. Obviously it would be favorable for him to not have to put in a new system if he doesn't need to.

CHAIRMAN JANSEN: Would it be a problem if you located the house elsewhere on the property?

MR. KELLY: It's not a problem. It's just from an economic standpoint it would be easier to put it back where it was. There is already a hole there so the excavation is reduced.

CHAIRMAN JANSEN: Again, you would need to get the septic system checked out. If it's an old system, it may not conform. Then that would give you a much better location for both the house and a new septic system. But if the system has not failed, it wouldn't be in your best interest to move the house back.

MR. MALOCSAY: There are 2 parts to it right away. First, can we vote tonight? Did the County come back?

ATTORNEY FINK: Yes.

MR. MALOCSAY: OK. Second, if we approve as advertised, knowing it can't be any closer but it may possibly be further away, then great. We just know it can't be any closer than 18.5 feet. If the septic system hasn't failed and he is building the same size house with the same amount of bedrooms, he would not be required put a new system in.

ATTORNEY FINK: The way it should be written would be not less than 18.5 feet.

MR. MALOCSAY: Yes, I'm fine with it being written like that. This way Mr. Kelly can move forward.

MS. BRAMICH: Also, let's point out that on this diagram there is a porch pictured on the front of the house. The measurement would be taken from this porch and not the house. You may not be able to build this porch without moving the house back as the porch has to be no less than 18.5 feet off Route 17A.

MR. KELLY: Nothing has been finalized. So this will be considered as part of the final planning. It's not mandatory that I add a porch.

ATTORNEY FINK: As we said earlier, there are 2 front setbacks. The decision that the board votes on tonight would include not only the 18.5 feet from Route 17A, but no less than 35.3 feet from Mill Pond Lane.

CHAIRMAN JANSEN: The Public Hearing is now open. Would anyone from the Public like to address this application? No, let's close the Public Hearing.

ATTORNEY FINK: Will the proposed variance cause an undesirable change to the character of the neighborhood or be a detriment to nearby properties?

MS. BRAMICH:	No.
MR. MALOCSAY:	No.
ATTORNEY FINK: achieved by any other feasible method?	Can the benefit sought by the applicant be
MS. BRAMICH:	Yes, by moving it back.
MR. MALOCSAY:	Yes.
ATTORNEY FINK:	Is it a substantial variance?
MR. SHUBACK:	Yes.
MS. BRAMICH:	Yes.
MR. MALOCSAY:	Yes.
ATTORNEY FINK: physical or environmental conditions?	Will this have an adverse effect or impact on
MR. MALOCSAY:	No.
MS. BRAMICH:	No.
ATTORNEY FINK:	Is the alleged difficulty self-created?
MR. SHUBACK:	Yes.
MS. BRAMICH:	Yes.
MR. MALOCSAY:	Yes.
ATTORNEY FINK: with no adverse environmental impact?	Would someone care to type this as "Unlisted"
MS. BRAMICH:	So moved.
MR. MALOCSAY:	Seconded.
CHAIRMAN JANSEN:	All in favor? (5 ayes) Motion carried.

ATTORNEY FINK: Does anyone care to move that the variance be granted as advertised with the additional provision of the setback from Mill Pond?

MR. MALOCSAY: So moved.

MR. DAUBERT: Seconded.

CHAIRMAN JANSEN: All in favor? (5 ayes) Motion carried.

**OTHER CONSIDERATIONS:**

CHAIRMAN JANSEN:  
January 22, 2017 meeting.

Motion to approve the ZBA Minutes from the

MR. SHUBACK:

So moved.

MR. MALOCSAY:

Seconded.

CHAIRMAN JANSEN:

All in favor? (5 ayes) Motion carried.  
Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]