

TOWN OF WARWICK
ZONING BOARD OF APPEALS
NOVEMBER 26, 2018

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Diane Bramich

Kevin Shuback

Chris Daubert

Attorney Robert Fink

PUBLIC HEARING CONTINUATION OF Warwick Pet Lodge (Cathy Bauman) - for the revised site plan 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 251 (+/-) feet where 300 feet are required for the purpose of a proposed dog kennel and grooming business. **Continued from the October 29, 2018 ZBA Meeting.**

ATTORNEY FINK: The board has reviewed all submitted documentation and will move to make the appropriate motion. There are 2 things to keep in mind the action is 2 setback variances. Should they be granted? That doesn't mean there's going to be a kennel there because the Planning Board could deny it.

Will the proposed action create a material conflict with the adopted land use or zoning regulation? It's either: No or Moderate.

[The consensus: No.]

Will the proposed action result in a change in the use or intensity of use of the land?

[The consensus: No.]

Will the proposed action impair the character or quality of the existing community?

[The consensus: No or Small.]

Will the proposed action have an impact on the environmental characteristics that cause the establishment of a critical environmental area?

[The consensus: No.]

Will the proposed action result in an adverse change in the existing level of traffic or effect existing infrastructure or mass transit or walkways?

[The consensus: No.]

Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

[The consensus: No.]

Will the proposed action impact existing public or private water supplies or waste water treatment?

[The consensus: No.]

Will the proposed action impair the character, quality and importance of historic, architectural or esthetic resources?

[The consensus: No.]

Will the proposed action result in an adverse change in natural resources (i.e. wetlands, water bodies, ground water, air quality, flora, etc.)?

[The consensus: No.]

Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?

[The consensus: No.]

Will the proposed action create a hazard in the environmental resources or human health?

[The consensus: No.]

Check the box if you determine, based upon the information and analysis in any supporting documentation, the proposed action may result in potential adverse environmental impact.

Or check the box if you determine, based upon the information and analysis in any supporting documentation, the proposed action will not result in potential adverse environmental impact.

Would someone care to make a motion typing this as “Unlisted” with no adverse environmental impact?

MS. BRAMICH: So moved.

MR. MALOCSAY: Seconded.

CHAIRMAN JANSEN: All in favor? [5 ayes]
Motion carried.

ATTORNEY FINK: Before we get into this I just want to go over the criteria for site plan approval special use permit by the Planning Board so you have some idea of what the role of the Planning Board is in this and to what our standards are held to as well. In order to get the special use permit they have to show that the special conditions (especially 164-46J being the setbacks) and elsewhere in this chapter are satisfied. The Planning Board may require modifications to development proposals, submission of alternative design and layout proposals, and may attach reasonable conditions and safeguards to eliminate or minimize potential impacts as a precondition of its approval. Before making a decision on whether to approve, approve with modifications, or disapprove a special use permit, the Planning Board shall give specific consideration to the following: traffic, parking, landscaping and screening, character and appearance, historic and natural resources, nuisances, additional safeguards and conditions, environmental consideration, and in/or adjacent to a residence district. If this board were to grant the 2 variances, I believe that virtually 99.99% of the concerns of the neighbors would be addressed by the Planning Board and in fact the Planning Board would not have to grant the permit. Now, what are we talking about here? We’re talking about 2 variances. We’re talking about a variance of 39% for 1 lot line, that’s 182 feet where 300 feet are required. The

second is a 16% variance, that's 251 feet where 300 feet are required. Before we consider what we have to look at in order to grant the variance, I ask you, do you want to consider the 2 setback variances separately or as one? My suggestion would be separately because one is much larger than the other and the circumstances are different also. We have an operating farm on one lot line and a residence on the other. Would the board like to look at them separately?

CHAIRMAN JANSEN: Separate or together? [3 ayes, 2 nays]
Separate it is.

ATTORNEY FINK: Which should we do first, the larger one? OK. As we stated the applicant is looking for 2 variances. We'll consider the first variance which is a 39% variance for one lot line. It is 182 feet and 300 feet are required. As the board knows, in considering the variances requested the overriding provision in the Town Laws, the ZBA has to take into consideration the benefit to the applicant if the variances are granted is weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such granting. The board can address each of the issues and get a consensus of each. A negative consensus to any 1 or more would not automatically result in a denial of the variance.

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

MR. SHUBACK: Yes.

MR. MALOCSAY: Yes.

ATTORNEY FINK: Can the benefit sought by the applicant be achieved by any other feasible method?

CHAIRMAN JANSEN: No.

MR. MALOCSAY: No.

ATTORNEY FINK: Is it a substantial variance?

MR. DAUBERT: Yes.

MS. BRAMICH: Yes.

ATTORNEY FINK: Will this have an adverse effect or impact on physical or environmental conditions? Keeping in mind we went through the SCAF. Also that sort of thing would be addressed by the Planning Board.

MR. MALOCSAY:	No.
MR. SHUBACK:	No.
ATTORNEY FINK:	Is the alleged difficulty self-created?
MR. SHUBACK:	Yes.
MR. DAUBERT:	Yes.
ATTORNEY FINK:	Does anyone care to move that this variance be granted?
	[5 nays] Motion denied.
ATTORNEY FINK:	Now we'll move to the smaller variance. The applicant is looking for a 16% variance, that's 251 feet where 300 feet are required.
	Will the proposed variance create an undesirable change to the character of the neighborhood or be a detriment to nearby properties?
MS. BRAMICH:	No.
MR. MALOCSAY:	No.
ATTORNEY FINK:	Can the benefit sought by the applicant be achieved by any other feasible method?
CHAIRMAN JANSEN:	No.
MR. SHUBACK:	No.
ATTORNEY FINK:	Is it a substantial variance?
MR. DAUBERT:	No.
MR. SHUBACK:	No.
ATTORNEY FINK:	Will this have an adverse effect or impact on physical or environmental conditions?
MR. MALOCSAY:	No.

MS. BRAMICH:

No.

ATTORNEY FINK:

Is the alleged difficulty self-created?

MR. SHUBACK:

Yes.

MS. BRAMICH:

Yes.

ATTORNEY FINK:
granted?

Does anyone care to move that this variance be

[2 ayes, 3 nays]

Motion denied.

PUBLIC HEARING OF View Wireless Infrastructure Fund LP and Orange County Poughkeepsie Limited Partnership - dba Verizon Wireless for property owned by Pine Island Warehousing & Storage LLC and located at 39 Transport Lane, Warwick, New York and designated on the Town tax map as Section 3 Lot 2 Block 2.222 and located in an AI District for variances of Sections 164.77(C)(1) – maximum height – an increase from permitted height of 120 feet to 164 feet; 164.77(C)(2)(c) – setbacks - a decrease from the required 164 feet to 138 feet and 145 feet; 164.79(C)(3) – foundation - delaying the submission from a professional engineer until a time concurrent with the building permit application, and 164.80(C)(8) omitting the requirement of a landscaping plan, for the purpose of construction of a wireless communications facility.

As per letter, dated November 15, 2018 – Applicant has placed application on “HOLD.”

PUBLIC HEARING OF Justin Norrow - for property owned by Jacquelyn Lee Planker and located at 95 Glenmere Homesites Road, Warwick, New York and designated on the Town tax map as Section 20 Lot 3 Block 28 and located in an SL District for a variance of the Bulk Area Requirements of the Code permitting an existing shed 40 (+/-) feet from the front line where 50 feet are required.

CHAIRMAN JANSEN: Please come up and identify yourself for the record and briefly tell us what you want to do.

MR. NORROW: I'm Justin Norrow. I am trying to put up a shed on my property at the end of the driveway. The reason I can't put it back any farther than that is a septic tank was put in last year and there's no way to drive the shed over the septic tank. The property there is very shallow and could crack the septic tank. There was an existing shed at another location on the property which had a tree fall on it before I moved there. This new shed can't go in that location because of the placement of the new septic. That is why I chose this location.

CHAIRMAN JANSEN: Does anyone have any questions at this point? No. Let me open it up to the public. Is there anyone from the public that would like to address this application? No. OK, Public Hearing is now closed.

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

MR. SHUBACK: No.

MR. MALOCSAY: No.

ATTORNEY FINK: Can the benefit sought by the applicant be achieved by any other feasible method?

MS. BRAMICH: No.

MR. MALOCSAY: No.

ATTORNEY FINK: Is it a substantial variance?

MR. DAUBERT: No.

MR. SHUBACK: No.

ATTORNEY FINK: physical or environmental conditions?	Will this have an adverse effect or impact on
MS. BRAMICH:	No.
MR. SHUBACK:	No.
ATTORNEY FINK:	Is the alleged difficulty self-created?
MS. BRAMICH:	Yes.
MR. DAUBERT:	Yes.
ATTORNEY FINK: with no adverse environmental impact?	Would someone care to type this as "Unlisted"
MS. BRAMICH:	So moved.
MR. SHUBACK:	Seconded.
CHAIRMAN JANSEN:	All in favor? [5 ayes] Motion carried.
ATTORNEY FINK: granted as advertised?	Does anyone care to move that the variance be
MS. BRAMICH:	So moved.
MR. SHUBACK:	Seconded.
CHAIRMAN JANSEN:	All in favor? [5 ayes] Motion carried.

OTHER CONSIDERATIONS:

CHAIRMAN JANSEN:
September 24, 2018 meeting.

Motion to approve the ZBA Minutes from the

MS. BRAMICH:

So moved.

MR. SHUBACK:

Seconded.

CHAIRMAN JANSEN:

All in favor? [5 ayes]
Motion carried.

Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]