

TOWN OF WARWICK  
ZONING BOARD OF APPEALS  
NOVEMBER 25, 2019

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Robert Fink, Attorney

Diane Bramich

Chris Daubert

Kevin Shuback

**PUBLIC HEARING OF Anthony Mercado** - for property located at 188 Brook Trail, Warwick, New York and designated on the Town tax map as Section 73 Block 4 Lot 25 and located in an SM District for a variance of the Bulk Area Requirements of the Code allowing an existing shed in the front yard setback, 14 (+/-) feet where 30 feet are required.

**Continued from the August 19, 2019 ZBA Meeting.**  
**To be continued at the January 27, 2020 ZBA Meeting.**

**PUBLIC HEARING OF Gregory Pasternak** - for property owned by Albert Alin Inc. and located at 80 Indian Trail North, Warwick, New York and designated on the Town tax map as Section 72 Lot 1 Block 59.2 and located in an SM District for a variance of the Bulk Area Requirements of the Code permitting a 420 (+/-) square foot addition to a single family dwelling with a rear setback of 7.1 (+/-) ft where 30 ft are required.

**Continued from the October 28, 2019 ZBA Meeting.**

**To be continued at the January 27, 2020 ZBA Meeting.**

**PUBLIC HEARING OF American Fruits Cordial Corp.** - for property located at 371 & 385 Glenwood Road, Warwick, New York and designated on the Town tax map as Section 10 Block 1 Lots 23 & 28.2 and located in an AI District for a variance of the Bulk Area Requirements of the Code to permit a lot line change as follows: (required / proposed) Proposed Lot 1 - minimum both side setbacks 200 ft / 136.8 feet; building height of existing distillery building 22.75 ft / 60 ft; building height existing garage 6.25 ft / 12 ft; Proposed Lot 2 - minimum side setback 100 ft / 83 ft; minimum both side setbacks 200 ft / 190 ft; minimum rear yard setback 100 ft / 29 (+/-) ft; building height existing storage building 7.25 ft / 16.5 ft.

**Continued from the October 28, 2019 ZBA Meeting.**

CHAIRMAN JANSEN: The consensus at our last meeting was to approve favorable. It has come back from the County as Local Determination. Public Hearing is now open. Is there anyone from the Public that would like to address this application? If not, the 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. MALOCSAY: No, it exists now.

MR. SHUBACK: No.

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. MALOCSAY: Yes.

MS. BRAMICH: Yes.

ATTORNEY FINK: Will it have an adverse effect upon the physical or environmental conditions?

MR. DAUBERT: 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"
MR. SHUBACK:	So moved.
MR. MALOCSAY:	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. MALOCSAY:	Seconded.
CHAIRMAN JANSEN:	All in favor? [5 ayes] Motion carried.

**PUBLIC HEARING OF Tiffany & Mark Potempa** - for property located at 63 Waterbury Road, Warwick, New York and designated on the Town tax map as Section 27 Lot 1 Block 38.21 and located in an RU District for a variance of Section 164-41A(1)(a) permitting construction of a 50 ft X 100 ft accessory building wherein no more than 1,200 sq ft nor a median dimension of 48 ft are allowed.

CHAIRMAN JANSEN: Please identify yourself for the record.

MR. GETZ: David Getz from Lehman & Getz Engineering along with Mark Potempa, property owner.

CHAIRMAN JANSEN: Tell the board what it is you want to do.

MR. GETZ: We have a plan showing an attempt to have a long driveway in from Waterbury Road. There is a house, pool, garage, and studio on this site. The family would like to put up a large accessory building behind the garage and studio for the purpose of gymnastics. That's the reason for the size of the building. It is just for the family's private use, never as a public gym.

ATTORNEY FINK: Let me make a comment here. Generally we don't restrict the use of the building. We are only interested in how that building fits in with the character of the neighborhood. You can use it for gymnastics today and something else tomorrow. The property could be sold and it becomes something different. That's up to the Building Inspector and the Planning Board whether the use is allowed, etc. The main concern for this board is how does it fit in and why do you need it.

MR. POTEMLA: Here is a rendering of what it would look like. This is mostly going to look like a barn, like a lot of the barns you see throughout Warwick. Our siding is brown and our roof is specific in we have a hip roof on all the buildings on our property. This structure would as well.

MR. GETZ: The house, the garage, the whole plan in the vicinity of the house is very attractive. Mark is committed to making the new building blend in as best as he can. He doesn't want an industrial look. We realize that the size of the building could create some visual impact. You will see on the plan we did highlight an area that's downhill of the proposed accessory building and we've labeled it as a proposed berm with evergreen plantings to help screen the view from the 2 closest homes, which would be at the end of Points of View. That is especially important at this time of the year when the leaves are off. There a couple of homes along Waterbury Road that would possibly see it too.

CHAIRMAN JANSEN: The Public Hearing is now open. Is there anyone from the Public that would like to address this application? If so, please come up and identify yourself for the record.

MR. FERSKO-WEISS: My name is Henry Fersko-Weiss and I live at 14 Points of View. I am directly below the existing structures. There are 3 structures already here and this is going to be so much closer to my property. I already feel kind of crowded in by all the buildings up above there. A fourth building, especially of that size, seems like a hell of a lot to me. Plus there's a swimming pool. I feel I'm being encroached on.

CHAIRMAN JANSEN: Is there anyone else? Any questions or concerns at this point?

MR. MALOCSAY: After seeing the picture of the building, we have the porch/overhang area to consider. Is that part of the dimensions of the building or is that sticking out? Technically it would be part of the structure itself.

MR. GETZ: No, actually it is not included in the dimensions of the building.

ATTORNEY FINK: How far does that come out?

MR. GETZ: Approximately 5 feet this way and 5 feet this way.

MR. MALOCSAY: You may want to find out the true dimensions because if we give the variance for 50 X 100 and it turns out to be larger, you are going to have to come back before us with another variance. You really want to determine whether or not that overhang is part of the proposed dimension of 50 X 100. The other is to come up with a landscape plan for plantings that would help screen.

CHAIRMAN JANSEN: Is there a reason that it has to be this size? Could it be smaller?

MR. POTEPA: The equipment needed for this sport is what dictates the size. I am already compromising on size.

MR. GETZ: Sounds like you want more information on dimensions and plantings.

ATTORNEY FINK: If you could, come back with an accurate measurement of the building and a landscape plan with the condition that it needs to be maintained. If the application needs amending, a second mailing would need to be done.

MR. GETZ: So we would expect to be back in January.

CHAIRMAN JANSEN: Yes, on Monday, January 27, 2020 at 7:30pm.

**PUBLIC HEARING OF Raymond Jahn** - for property located at 92 Dekay Road, Warwick, New York and designated on the Town tax map as Section 41 Lot 1 Block 54 and located in an RU District for a variance of the Bulk Area Requirements of the Code permitting attachment of an existing single family dwelling and garage by a breezeway with a garage side setback of 56 ft where 75 ft are required.

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

MR. JAHN: My name is Raymond Jahn, the homeowner. I would like to get a variance to build a breezeway connecting my home and garage.

ATTORNEY FINK: Because the garage is now part of the house it becomes 75 feet. It's a technicality but nothing changes.

CHAIRMAN JANSEN: The Public Hearing is now open. Is there anyone from the Public that would like to address this application? If not, the 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?

MS. BRAMICH: No.

MR. MALOCSAY: No.

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

MS. BRAMICH: No.

MR. SHUBACK: No.

ATTORNEY FINK: Is it a substantial variance?

MR. MALOCSAY: No.

ATTORNEY FINK: Will it have an adverse effect upon the physical or environmental conditions?

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Is the alleged difficulty self-created?

MS. BRAMICH: Yes.

CHAIRMAN JANSEN: Yes.

ATTORNEY FINK: This is a Type 2 Action so there is no environmental concern. Does anyone care to move that the variance be granted as advertised?

MS. BRAMICH: So moved.

MR. MALOCSAY: Seconded.

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

**PUBLIC HEARING OF Nicholas & Jesse Carbone** - for property located at 1387 State Route 17A, Warwick, New York and designated on the Town tax map as Section 66 Lot 1 Block 51 and located in an RU District for a variance of Section 164-41.C(4)(f) permitting an existing 6 ft fence in the front yard setback where only 4 ft are permitted.

CHAIRMAN JANSEN: Is the fence up already?

MR. CARBONE: Yes, it's been up for probably 20 years.

CHAIRMAN JANSEN: Then how did this come up?

MR. CARBONE: Basically I was closing out old permits and found out the fence needs to be 4 feet.

ATTORNEY FINK: I'm afraid to ask if we've heard back from the County.

MS. HEBEL: Not yet. It was mailed on November 5.

CHAIRMAN JANSEN: Can we do a contingent approval? He's being held up on a mortgage.

ATTORNEY FINK: There's no reason we couldn't vote to grant it contingent upon receiving the County response. As soon as we get it, or the 30 days are up, I'll do the variance and send it to you. You'll be held up a little bit but not until January.

MR. CARBONE: That would be great.

CHAIRMAN JANSEN: The Public Hearing is now open. Is there anyone from the Public that would like to address this application? No, the Public Hearing is closed.

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, it's been there for 20 years.

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. MALOCSAY:	Yes.
MS. BRAMICH:	Yes.
ATTORNEY FINK: environmental conditions?	Will it have an adverse effect upon the physical or
MR. DAUBERT:	No.
ATTORNEY FINK:	Is the alleged difficulty self-created?
MS. BRAMICH:	Yes.
MR. SHUBACK:	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
MR. SHUBACK:	So moved.
MR. DAUBERT:	Seconded.
CHAIRMAN JANSEN:	All in favor? [5 ayes] Motion carried.

**OTHER CONSIDERATIONS:**

CHAIRMAN JANSEN:

Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]