

TOWN OF WARWICK
ZONING BOARD OF APPEALS
SEPTEMBER 28, 2020

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Robert Fink, Attorney

Diane Bramich

Chris Daubert

Kevin Shuback

PUBLIC HEARING OF Martin G. Mullen – for property located at 64 Echo Lane, Warwick, New York and designated on the Town tax map as Section 30 Block 2 Lot 3.1 and located in an RU District for a variance of the Bulk Area Requirements of the Code permitting an existing 10 foot X 12 foot shed in the front yard setback. **Continued from the August 24, 2020 ZBA Meeting.**

CHAIRMAN JANSEN: I believe you had some stuff to do in order to get this thing through. This is continued from the August meeting. Is the survey in?

MR. MULLEN: No.

CHAIRMAN JANSEN: What about the fence? What are you doing about the fence?

MR. MULLEN: There is a concern from a neighbor that I took down 3 panels of the fence in order to bring in material to finish up that area. That would go back up if approved. The fence has been there for 28 years and should be upgraded. That is what I'm appealing to you guys in order to do.

ATTORNEY FINK: How far off the property line is the shed?

MR. MULLEN: Approximately 4 to 5 feet.

ATTORNEY FINK: And the fence?

MR. MULLEN: It's on the property line.

ATTORNEY FINK: Without an actual survey it's hard to determine exact measurements. These submitted documents are all hand-drawn. How soon can we expect a survey?

MR. MULLEN: As soon as I can get a surveyor out there.

ATTORNEY FINK: Can we put this over 2 months?

MR. MULLEN: Sure. At this point it will be springtime before this project gets started anyway.

CHAIRMAN JANSEN: If you need another month or two, just let Connie know and we'll extend it as such. There's no one here objecting this. We do need the survey in order to put the legalese together for him to write the decision.

ATTORNEY FINK: We'll hold this over to November and if more time is needed, please let Connie know.

PUBLIC HEARING OF Drowned Lands Group – for property located at 18 Brozdowski Lane, Warwick, New York and designated on the Town tax map as Section 3 Block 1 Lot 71.1 and located in an SL/AI Districts for a variance of the Bulk Area Requirements of the Code permitting construction of a 2 family home requiring the following variances: Required / Proposed: minimum lot area 49,050 sq. ft / 24,394 sq. ft; minimum lot width: 150' / 65'; minimum front setback: 50' / 17.5'; minimum one side setback 35' / 9.5'; minimum both side setbacks 80' / 30.5'.

CHAIRMAN JANSEN: So my first question: is this going to be migrant or farm housing or is this something they're going to rent out?

MR. GETZ: David Getz, Lehman & Getz Engineering along with Christian Sobiech. This would be affordable housing. Let me give you a little bit of a background on the property. It's a long, narrow lot which is approximately a half acre in size. You'll notice an existing foundation and a well next to it. Years ago there was a house there. At times it was a 1-family house; at times it was a 2-family house. About 2 years ago, in 2018, our office prepared a plan for a different owner at the time to get approval to rebuild the house on the existing foundation. That involved needing a new septic system because the old one was not functional. We went through the Town and through the County Health Department and got approval for that. We got an approved plan for a septic system, well, and all for a 4-bedroom house built on that footprint of the existing foundation. What Mr. Sobiech would like to do is to, again, build on that same foundation but instead of a single family house, make it a 2-family house. Although the requirements for a 2-family home are greater, the house we're proposing would still be 4 bedrooms. The septic system would still be good for that. But instead of putting up a 1-family home, he would like to put a 2-family home in an effort to provide affordable housing in this area of Pine Island. One impact that I thought might be of interest or concern would be parking. If we have 2 families at the house there's likely to be more cars. This property is a little unusual and I think it works well in this case because on the plan we show 4 parking spaces with access from a neighboring property which is also owned by the same family. There is no driveway from either Brozdowski Lane or Mission Land Road. The connection is interior. Parking is down behind the house where it would not be really visible from either street. We have the capability to park 4 cars without any trouble. We feel visually the house would look very similar whether it was a 1-family or a 2-family.

ATTORNEY FINK: How are you going to get to the 4 parking spaces?

MR. GETZ: Through the neighboring property.

ATTORNEY FINK: Would there be an irrevocable variance to allow people to continue crossing that neighboring property to get to the parking spaces even if said property is sold?

MR. SOBIECH: Yes, there's a 60-foot easement.

ATTORNEY FINK: That would have to be submitted. Then it would have to be filed before a building permit is filed. You would have to show proof of that easement. Or we would have to do a 280-A for access from a public road.

MR. MALOCSAY: I have a few questions, but I would like to hold this over to next month to look up some things.

CHAIRMAN JANSEN: If you come up with any solutions in the meantime, pass them unto us and, if applicable, the application would need to be amended. Sorry for all the confusion.

MR. GETZ: No, we get it; it's complicated. Thank you.

PUBLIC HEARING OF David O'Connor – for property located at 1 Kimberly Terrace, Warwick, New York and designated on the Town tax map as Section 62 Block 2 Lot 9 and located in an MT District for a variance of the Bulk Area Requirements of the Code permitting a 10' 5" X 20' deck 20 (+/-) feet from the front yard setback where 100" are required and 20 (+/-) feet from the side yard setback where 75' are required and a total side yard setback of 65 (+/-) feet where 150' are required.

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

MR. O'CONNOR: My name is David O'Connor. I'd like to build a deck on the front of the house – approximately 10 feet out and 20 feet wide off the living room with a sliding glass door. It's a small house so the deck would provide some additional living space during the warm weather months.

CHAIRMAN JANSEN: Anyone have any questions? No. Ok, let's open it up to the Public. Is there anyone from the Public that wishes 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's typical for the area.

CHAIRMAN JANSEN: No, I don't believe so.

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

CHAIRMAN JANSEN: Not really.

MR. SHUBACK: No.

ATTORNEY FINK: Is it a substantial variance?

MR. MALOCSAY: Yes.

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.

MR. MALOCSAY: Yes.

ATTORNEY FINK: Would someone care to type this as “Unlisted”
with no adverse environmental impact?

MS. BRAMICH: So moved.

MR. SHUBACK: Seconded.

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

ATTORNEY FINK: Does anyone care to move that the variance be
granted as amended to include the provision for the 2 front yard setbacks?

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

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

PUBLIC HEARING OF Pete Fini, Inc. – for property located at 73 Wawayanda Road, Warwick, New York and designated on the Town tax map as Section 63 Block 1 Lot 16.3 and located in an MT District for a variance of the Bulk Area Requirements of the Code allowing construction of a proposed single family dwelling with a side yard setback of 36.4 feet where 75 feet are required.

CHAIRMAN JANSEN: Go ahead John.

MR. MCGLOIN: I'm here because this subdivision, which was approved by the Planning Board in 2008, shows a proposed dwelling on it. The location can't really be modified without going back to Planning Board. I staked out the clearing limits. Mr. Fini cleared the land and constructed three-quarters of the driveway. He contacted me to come and stake out the house. I staked out the house and it was on 12-foot of solid rock, straight up. It doesn't appear that way on the subdivision plan either by existing contours or finished contours, but it's a big problem. There is nowhere to move the house except into the side setback. I had asked the Planning Board Chairman and the Town Engineer to look at the situation. After doing so, they agreed it should be moved because it would least impact the environment, number one. It would be a lot less damaging to the site. It shows the location where we'd like to move the house on the plans I provided. The Planning Board has seen it. So, that's why I'm here. The location of the septic and the well really preclude moving it anywhere else then where I have it shown.

CHAIRMAN JANSEN: I did receive a call from the Planning Board Chairman asking if we would look favorably upon this application.

MR. MALOCSAY: Is there a house on the other lot yet?

MR. MCGLOIN: Mr. Fini owns the next lot over where we're going towards. Again, they're both at the minimum lot area and because of the contour you can't even wiggle the line around.

MR. MALOCSAY: The Planning Board did a lot of work and need the recommendation to do this. I don't have a problem with that.

CHAIRMAN JANSEN: Any other questions? No. Ok, let's open it up to the Public. Is there anyone from the Public that wishes 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.

MS. BRAMICH: No.

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

MR. MALOCSAY: No.

MR. SHUBACK: 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.

ATTORNEY FINK: Is the alleged difficulty self-created?

MS. BRAMICH: Well, no, because of the solid rock.

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?

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

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

OTHER CONSIDERATIONS:

CHAIRMAN JANSEN: Motion to approve the ZBA Minutes from the August 24, 2020 meeting. Mr. Shuback was absent so cannot vote.

MS. BRAMICH: So moved.

MR. DAUBERT: Seconded.

CHAIRMAN JANSEN: All in favor? [4 ayes]
Motion carried.

Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]