

TOWN OF WARWICK
ZONING BOARD OF APPEALS
NOVEMBER 23, 2020

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Robert Fink, Attorney

Kevin Shuback

Chris Daubert

Members Absent:

Diane Bramich

PUBLIC HEARING OF AMENDED APPLICATION 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 and Section 164-41.C(4)(f) permitting an existing 6 foot fence in the front yard setback. **Continued from the 9/28/20 ZBA Meeting.**

Applicant was not in attendance.

To be continued at the 1/25/21 ZBA Meeting.

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'. **Continued from the 10/26/20 ZBA Meeting.**

CHAIRMAN JANSEN: Anyone have any further questions or concerns regarding this application?

MR. MALOCSAY: My main concern is all of these variances required are quite substantial for such a small lot.

CHAIRMAN JANSEN: Anyone else? No. 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. DAUBERT: No.

CHAIRMAN JANSEN: No.

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

CHAIRMAN JANSEN: Not with the amount of land that is available.

ATTORNEY FINK: Is it a substantial variance?

MR. SHUBACK: Yes.

MR. MALOCSAY: Yes.

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

MR. SHUBACK: No.

ATTORNEY FINK: Is the alleged difficulty self-created?

MR. DAUBERT: Yes.

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

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

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

ATTORNEY FINK: Does anyone care to move that the variance be
granted as advertised?

MR. SHUBACK: So moved.

MR. DAUBERT: Seconded.

CHAIRMAN JANSEN: All in favor? [3 ayes; 1 nay]
Motion carried.

PUBLIC HEARING OF Sandra McMahon –for property located at 35 & 39 Oak Hill Road, Warwick, New York and designated on the Town tax map as Section 48 Block 3 Lots 5.2 and 3 and located in an MT District for a variance of Section 280-a of the Town Law granting variances to permit access to residences off a private road.

CHAIRMAN JANSEN: Please identify yourself for the record.

MR. STRIDIRON: My name is Darren Stridiron from CV Associates representing the McMahons. I'm the surveyor for the project. We are here for a 280-a variance for two lots on Oak Hill Road.

CHAIRMAN JANSEN: You're looking for access for both lots off a private road?

MR. STRIDIRON: Correct.

ATTORNEY FINK: My first question is what right do you/they have to use the private road?

MR. STRIDIRON: These two lots were approved on a subdivision plat from the 1990's. At the time this subdivision was approved it had the road in the current location which is the only access the subdivision provides for these lots.

ATTORNEY FINK: Let me question you again: you're saying this board granted a variance previously?

MR. STRIDIRON: No. The Planning Board approved the subdivision back in the 1990's.

ATTORNEY FINK: If they approved the subdivision, there would have been the requirement to either be on a public road or if you have access to it over a right of way, you could get a variance. The Planning Board could not have given or approved a subdivision without a variance. There would have to have been a variance. Unless you can show us that these two lots have a right to use Oak Hill Road, I don't know how we can grant the variance.

CHAIRMAN JANSEN: It sounds like there's a lot history that we need to look into with the Planning Board. We need to check back on what the original conditions are for this whole subdivision. I would be very hesitant to grant anything at this point until we saw that.

ATTORNEY FINK: Connie can help with this.

MR. MALOCSAY: So with that said, we're going to look on our end by talking to Connie who can pull up the old subdivision information. Also, I'm under the assumption that there's a deed to this property and on the deed itself there should be a road maintenance agreement.

CHAIRMAN JANSEN: Again, we need to look further into this thing. Obviously there are a lot of answers we don't have right now. We'll continue this to the next meeting, which will most likely be in January. You may be asked for more information if Mr. Fink deems it necessary.

MR. STRIDIRON: Understood. Thank you and good evening.

PUBLIC HEARING OF Nuka Reddy – for property located at 26 Oil City Road, Pine Island, New York and designated on the Town tax map as Section 1 Block 1 Lot 52 and located in an A1 District for a variance of Section 164-41.A.(1)(a) permitting construction of a 10.5 foot X 16 foot awning attached to the residence which awning is less than the required 10 feet from the garage.

CHAIRMAN JANSEN: Could you please explain to the board why you need to do it there?

MR. REDDY: I would like to provide some sort of shade for that area protecting it from the sun, rain, snow, etc. in the form of a permanent structure.

ATTORNEY FINK: How close is the awning?

MR. REDDY: It's very close to the wall; maybe two feet possibly on the one side.

MR. MALOCSAY: The reason for the 10 foot setback is primarily for fire protection. If the garage were to catch on fire it wouldn't catch the house on fire. That's why there is a 10 foot setback between things. If the awning were to be made of something that wasn't flammable, like metal, I don't think the board would have a problem with it, if that's a possibility.

MR. REDDY: What materials would you suggest?

MR. MALOCSAY: A metal roof along with tubular steel for the structural strength for example.

CHAIRMAN JANSEN: If we went ahead and approved this, could we put in a condition that it is to be built with fireproof materials?

MR. MALOCSAY: I don't have a problem with that.

ATTORNEY FINK: Yes, that could be a condition. Is there a better word than awning?

CHAIRMAN JANSEN: What else could we call something like that?

MR. MALOCSAY: Why don't we call it a shed roof?

CHAIRMAN JANSEN: 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?
CHAIRMAN JANSEN:	No.
ATTORNEY FINK:	Can the benefit sought by the applicant be achieved by any other feasible method?
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?
MR. DAUBERT:	No.
ATTORNEY FINK:	Is the alleged difficulty self-created?
CHAIRMAN JANSEN:	Yes.
ATTORNEY FINK:	Would someone care to type this as "Unlisted" with no adverse environmental impact?
MR. MALOCSAY:	So moved.
MR. SHUBACK:	Seconded.
CHAIRMAN JANSEN:	All in favor? [4 ayes] Motion carried.
ATTORNEY FINK:	Does anyone care to move that the variance be granted as advertised amended to show that it is not an awning, it is a shed roof, and is to be constructed of fire proof materials?
MR. MALOCSAY:	So moved.
MR. DAUBERT:	Seconded.
CHAIRMAN JANSEN:	All in favor? [4 ayes] Motion carried.

PUBLIC HEARING OF Robert & Diane Delaney – for property located at 227 Bellvale Lakes Road, Warwick, New York and designated on the Town tax map as Section 47 Block 1 Lot 108.11 and located in an RU District for a variance of Section 164-41.A.(1)(a) permitting construction of a 40 foot X 40 foot (1,600 sq. ft) pole barn which exceeds the size limit of 1,200 square feet.

CHAIRMAN JANSEN: Please identify yourself for the record and briefly tell us what it is you are trying to do.

MR. DELANEY: Robert Delaney. I am looking to get a variance to put a pole barn. It is 40 feet X 40 feet and the maximum is 40 feet X 30 feet.

CHAIRMAN JANSEN: What will it to be used for?

MR. DELANEY: Basically to store vehicles, snowmobiles, trailers, motorcycles, etc. My wife passed away this August; it was either sell the house or have my son and his family move in, so we went with that option. He's moving out of a house to move in. He has a house full of stuff and three kids. I didn't need this pole barn before but I need it now. That's how it all came about.

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.

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

MR. MALOCSAY: Only if you did two separate buildings.

ATTORNEY FINK: Is it a substantial variance?

MR. DAUBERT: No.

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

MR. MALOCSAY: No.

ATTORNEY FINK: Is the alleged difficulty self-created?

MR. SHUBACK: Yes.

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

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

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

ATTORNEY FINK: Does anyone care to move that the variance be
granted as advertised?

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

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

PUBLIC HEARING OF Cascade Lake Properties, LLC – for property located at Seminole Drive & Hansen Place, Warwick, New York and designated on the Town tax map as Section 64 Block 1 Lots 24-29 and located in an MT District for a variance of Section 164-53B(12) extending a previously granted variance from Section 280-a of the Town Law.

CHAIRMAN JANSEN: Please identify yourself for the record. I believe this is just a request for an extension of a previously granted variance.

MR. CLEVERLEY: I'm Brad Cleverley of MJS Engineering and, yes, that is correct.

CHAIRMAN JANSEN: Bob, how do we handle that?

ATTORNEY FINK: Unless there has been a substantial change, there really isn't any reason to deny it.

MR. CLEVERLEY: There hasn't been. This property just hasn't sold.

CHAIRMAN JANSEN: Is there anyone from the Public that wishes to address this application? If not, the Public Hearing is now closed.

ATTORNEY FINK: We don't have to go through the criteria. It's just an extension of the previous variance, there has been no change. Just the one thing - is it going to create an adverse effect upon or impact nearby properties?

CHAIRMAN JANSEN: No.

MR. SHUBACK: No.

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

MR. SHUBACK: So moved.

MR. DAUBERT: Seconded.

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

ATTORNEY FINK: Does anyone care to move that the variance be granted as advertised?

MR. SHUBACK: So moved.

MR. DAUBERT:

Seconded.

CHAIRMAN JANSEN:

All in favor? [4 ayes]
Motion carried.

OTHER CONSIDERATIONS:

CHAIRMAN JANSEN: Motion to cancel the December 28, 2020 meeting.

MR. DAUBERT: So moved.

MR. SHUBACK: Seconded.

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

CHAIRMAN JANSEN: We do not have a quorum this evening to approve the minutes from the October 26, 2020 ZBA meeting. Diane is not here. Mark and Kevin were not present at the October 26th meeting, making them ineligible to vote. To be carried over to the next meeting of this board.

Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]