

TOWN OF WARWICK  
ZONING BOARD OF APPEALS  
JANUARY 25, 2021

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Robert Fink, Attorney

Diane Bramich

Kevin Shuback

Chris Daubert

**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 11/23/20 ZBA Meeting.**

ATTORNEY FINK: Ok, I believe we were waiting on you getting a survey. Has that been done?

MR. MULLEN: Yes, here are copies for your review.

CHAIRMAN JANSEN: So, why 4 feet off the property line for the shed; why not 5 feet?

ATTORNEY FINK: Actually, that's a front yard setback – should be 75 feet and you're looking for 4 feet. And the 6 foot fence, also in the front yard setback, is on the line which also requires 75 feet.

MR. MULLEN: I am looking to upgrade what has existed there already for almost 30 years. There was both a shed and fence in equally terrible shape that I'm looking to replace/upgrade in the same locations.

MS. BRAMICH: There is all this property, why here?

MR. MULLEN: Most of my property is on an incline and a lot of it isn't flat enough for what I'm looking to do.

MR. DAUBERT: Yes, it's very hilly over there.

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

ATTORNEY FINK: Why a 6 foot fence; why not 4 feet?

MR. MULLEN: Basically for privacy.

CHAIRMAN JANSEN: Anyone else? No. The Public Hearing is still open. Is there anyone from the Public that wishes to address this application? If not, the Public Hearing is now closed.

ATTORNEY FINK: We are dealing with 2 items. We'll go through the criteria but deal with each item separately. First, with regard to the fence, which is going to be 1 (+/-) feet off the front line and 75 feet are required. Will this cause an undesirable change to

the character of the neighborhood or be a detriment to nearby properties?

CHAIRMAN JANSEN: No, it's been there for 30 years.

ATTORNEY FINK: Now the shed, which is going to be 4 feet off the front line where 75 feet are required. Will this cause an undesirable change to the character of the neighborhood or be a detriment to nearby properties?

MR. DAUBERT: No.

ATTORNEY FINK: For the fence, can the benefit sought by the applicant be achieved by any other feasible method?

MR. SHUBACK: No, the terrain doesn't really allow it to be placed further back.

ATTORNEY FINK: What about the fence being 6 feet in height as opposed to 4 feet?

CHAIRMAN JANSEN: Four feet doesn't provide privacy.

ATTORNEY FINK: For the shed, can the benefit sought by the applicant be achieved by any other feasible method?

MR. SHUBACK: Again, the terrain doesn't allow the shed to be placed further back.

ATTORNEY FINK: Are these substantial variances?

MR. SHUBACK: Yes.

ATTORNEY FINK: Will they have adverse effect or impact upon the physical or environmental conditions?

MR. MALOCSAY: No.

ATTORNEY FINK: Are the alleged difficulties self-created?

MR. DAUBERT: Yes.

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

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

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

ATTORNEY FINK: The variance will be changed slightly. The variance is for a 10 foot X 12 foot shed 4 feet off the property line and a 6 foot fence along the front property line. Does anyone care to move that the variance be granted?

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

CHAIRMAN JANSEN: All in favor? [5 ayes]  
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. **Continued from the 11/23/20 ZBA Meeting.**

**PUBLIC HEARING OF 27 OAK HILL ROAD, LLC.** - for property located at 27 Oak Hill Road, Warwick, New York and designated on the Town tax map as Section 48 Block 3 Lot 2.2 and located in an MT District for a variance of Section 280-a of the Town Law permitting access from a private road to a public road for a new single-family dwelling.

ATTORNEY FINK: These 2 applications will be done together.

CHAIRMAN JANSEN: Please identify yourselves for the record.

MR. STRIDIRON: Darren Stridiron representing Sandra McMahon.

MR. NEZIRI: Michael Neziri for 27 Oak Hill Road, LLC.

CHAIRMAN JANSEN: Instead of me asking what they want to do, they both want access from a private road to a public road.

ATTORNEY FINK: They want a 280-a variance. Apparently, nobody has been able to find the subdivision map. At least Connie said that she wasn't able to. It is filed with the Orange County Clerk. It's hard to believe that the Planning Board would have granted the subdivision on that road if the lots, as part of the subdivision, didn't have rights to it. What puzzles me is there would have had to have been a 280-a variance granted. And if that is the case, I don't know why people would be here. No one can seem to locate that file.

MR. STRIDIRON: Here is a copy of the subdivision map that is filed. This is a blown up version.

ATTORNEY FINK: This was filed in 1965. Well, they did things a little differently back then. Looks like there is a turnaround pictured at the end of the road; does that exist today?

MR. STRIDIRON: No. There is no built turnaround at the end of that road. I have no idea if there is land available to build one. I believe the property in that area at the end of the road, and beyond, is part of the Orange County Land Trust.

CHAIRMAN JANSEN: Where does that leave us?

ATTORNEY FINK: That leaves us with granting or not granting the subdivision with no turnaround.

CHAIRMAN JANSEN: I would think we would at least need a letter from the applicable emergency services as to whether or not they can access these properties.

ATTORNEY FINK: They can access them but have to back out. That's what is being done currently. What is this here? Does this road exist?

MR. NEZIRI: That's called Paper Road, I believe. It's just a walking path into the preserve.

MR. MALOCSAY: I want to hold this over. I want to look up a few things. Think about this for a second: we have 3 applications before us and we have an old subdivision map showing a turnaround that was supposed to be there in 1965. It's not there. As far as I'm concerned if the Orange County Land Trust bought the property that has a turnaround on it on an approved plan, then we ought to talk to them to see if they're going to allow us to put a turnaround in. More so, somebody had to go and get permits before, in 2000 for example, and in 2000 they should have come here before us for a variance on a 280-a. I was here in 2000; I don't remember this one at all. That's one of the things I want to look up, to see what we did back then. Clearly, we gave them a variance back then and if we didn't, then something is wrong with this picture. I'm only one person on the board. If the others want to continue with it, that's fine.

CHAIRMAN JANSEN: Well, I think we'd all like to get to the bottom of this. We also definitely need to see the road maintenance agreement for the homes that already exist on this road because these applicants would need to join in.

ATTORNEY FINK: Exactly. The maintenance agreement would have to be amended to include these additional lots and the people who currently belong to the maintenance agreement would have to agree to it. It can also be added to the agreement that any damage to the road during construction on these additional lots would be the responsibility of these particular lots to repair, not the group as a whole. If there was ever to be a turnaround built, that would be the responsibility of the entire group. We need to see the existing road maintenance agreement. The neighbors present here tonight should be able to provide a copy. They wouldn't have gotten mortgage approval themselves without it. We will carry this over to next month. Your homework is to work with the neighbors present to provide said road maintenance agreement. Our next meeting is Monday, February 22, 2021 at 7:30pm.

**PUBLIC HEARING OF MARK & JILL MANTE** - for property located at 242 Bellvale Lakes Road, Warwick, New York and designated on the Town tax map as Section 47 Block 1 Lot 78.232 and located in an MT District for a use variance for proposed Lot 2 of a 2 lot subdivision permitting an accessory building (existing garage) to be used as a principal use until the new dwelling is constructed and a variance pursuant to Section 280-a of the Town Law permitting the said Lot 2 to have access to a public road off a private road.

**Applicant was not in attendance.**

**To be continued at the 2/22/21 ZBA Meeting.**

**PUBLIC HEARING OF TDM REALTY GROUP, LLC.** - for property located at 657 Rt 94N, Warwick, New York and designated on the Town tax map as Section 19 Block 1 Lot 49 and located in an RU District for a variance of Section 164-41.A(1)(a) allowing construction of a pole barn / steel building, 40 feet X 50 feet (2,000 square feet) wherein a maximum of 1,200 square feet are allowed.

CHAIRMAN JANSEN: Please identify yourself for the record.

MR. SMITH: I'm Tom Smith from Garden State Koi. I am also the principal at TDM Realty which owns 657 Route 94.

CHAIRMAN JANSEN: So, the question is always, why do you need 2,000 square feet instead of 1,200 square feet?

MR. SMITH: I've been there for 20 years. I leased the property from Richard Sandford for a long time and last year I purchased the property. We are a growing business. The building will be used primarily for storage and we need as much space as possible to accommodate our growth. It will have electric in it. There won't be any heat.

CHAIRMAN JANSEN: Any questions? 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: This had to go to the County. Have we heard back?

MS. HEBEL: It was mailed on January 4. No response yet.

ATTORNEY FINK: The County has 30 days to respond and we're at 21 days. I believe we have a consensus to approve this application, am I right?

ALL BOARD MEMBERS: Yes.

ATTORNEY FINK: Unless the County says there is something we have to deal with, we can vote on this application at next month's meeting where it will be granted. You are not required to attend that meeting, unless you choose to. After the approval, you should receive the decision within a week or so after that.

MR. SMITH: When is February's meeting?

ATTORNEY FINK: It is scheduled for Monday, February 22. Figure by March 1<sup>st</sup> you should hear something or you can always contact Connie as well.

MR. SMITH: Ok, thank you.

**PUBLIC HEARING OF LAWRENCE & KIMBERLY BENNETT** - for property located at 25 Sandfort Lane, Warwick, New York and designated on the Town tax map as Section 31 Block 2 Lot 107 and located in an RU District for a variance of the Bulk Area Requirements of the Code reducing 1 side setback of an existing dwelling 14.2 feet from the side line where 20 feet are required.

CHAIRMAN JANSEN: Go ahead Mr. Getz.

MR. GETZ: David Getz, Lehman & Getz representing the applicants, the Bennetts, who are building a large house at 25 Sandfort Lane. They had a survey done recently by Bob Schmick. This little sliver shown in red is part of a room at the end of the house used for trash and recycle containers. There was some confusion early on whether that was going to be a room with a roof or just an open area with an exterior wall. Turns out it is a roofed area part of the building and it extends about 16 feet to the side setback where 20 feet are required. The closest part of that little room is about 14.2 feet from side setback line shown in green. So we are here to ask for a side setback variance to allow that piece to remain.

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

ATTORNEY FINK: This had to go to the County as well. Have we heard back? I'm assuming we have not.

MS. HEBEL: No, we have not. It was mailed on January 4. No response yet.

ATTORNEY FINK: Again, the County has 30 days to respond and we're at 21 days. Do we have a consensus to approve this application?

ALL BOARD MEMBERS: Yes.

ATTORNEY FINK: Unless we hear otherwise from the County, we can officially vote on this application at next month's meeting.

MR. GETZ: Ok, thank you. Good evening.

**OTHER CONSIDERATIONS:**

CHAIRMAN JANSEN: Motion to approve the ZBA Minutes from both the October 26, 2020 and November 23, 2020 meetings.

MR. MALOCSAY: So moved.

MR. DAUBERT: Seconded.

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

Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]