

TOWN OF WARWICK
ZONING BOARD OF APPEALS
JUNE 28, 2021

Members Present:

Jan Jansen, Chairman

Mark Malocsay, Co-Chairman

Robert Fink, Attorney

Diane Bramich

Kevin Shuback

Chris Daubert

PUBLIC HEARING OF KIMBERLY MOELLER - for property located at 51 Miriam Drive, Warwick, New York and designated on the Town tax map as Section 56 Block 4 Lot 19 and located in an SL District for a variance of Section 140-4.B allowing installation of an above ground 18 foot circumference pool 5 feet from the side line where 15 feet are required. **Continued from the 5/24/21 ZBA Meeting.**

CHAIRMAN JANSEN: This is continued from the 5/24/21 meeting.

MS. MOELLER: Last meeting you asked that I go back and look into other options. I spoke with the pool company and to the septic inspector. I was originally looking to do an 18 foot pool. If I drop down to a 15 foot pool and then move it closer to the septic the variance would be for the septic, not the sideline to the neighbor's property as we're giving it the 15 foot requirement. The building inspector already approved the pool being 15 feet from the septic. Now I'm requesting it be 10 feet.

ATTORNEY FINK: So you're changing your application?

MS. MOELLER: Yes. I was asked to look into options. This is one.

MR. SHUBACK: How close is it to the septic?

MS. MOELLER: It would be 10 feet from the septic. This is what it would look like just to get a visual.

ATTORNEY FINK: The Code says 20 feet unless conditions warrant the lessening or increasing. Mark, weren't you going to look into this?

MR. MALOCSAY: I did. There were 2 similar applications. The other one involved a well. So you have to ask the question, why? You have these setbacks and is it possible contamination of a well if the pool should leak into the ground, could it contaminate? The other one is on the septic or leach field. This specifically is a tank on this one, not the leach field. In that case the same thing, if it's leaking and it's over a leach field area then your septic isn't going to work if it's a slow leak over time. I understand why they would want those distances but I was going to ask you the question almost exactly in the opposite – wouldn't the way Code reads the building inspector can say and be able to do that or does it have to come before us for a variance? The way that I read the Code, the building inspector has the ability to say yes or no. I don't have a problem with us giving a variance because he sent it to us. I was a little confused with that.

MR. SHUBACK: First it was the sideline. Now it's not that, it's the distance to the septic.

MR. MALOCSAY: We give variances all the time in regard to the character of the neighborhood, what do other pools look like in the area and how much closer is it going to be. With all that said, I don't have a problem with this application, or the other one with the well, because in new wells the casing goes down into the bedrock and are surrounded by concrete. There's more of a chance of things getting in through the cap than from things getting in through the ground. I don't have a problem with either one of the applications. And with the slight bit that she changed I don't see a reason that is has to be re-advertised.

CHAIRMAN JANSEN: Any other questions? The Public Hearing is still open. Is there anyone from the Public that wishes to address this application? If not, I'll close the Public Hearing.

ATTORNEY FINK: It seems like you have about 5 feet to play with here.

MS. BRAMICH: What if she moved it 5 additional feet from the septic and gave the septic the 15 feet?

ATTORNEY FINK: The closer you can get to the 20 foot requirement on a septic system the better.

MR. SHUBACK: Then she would need a variance on the property line of a couple feet.

MR. MALOCSAY: Because of the original advertisement we could give a variance for 10 feet from the property line and no closer than 10 feet to the septic tank. This gives her a little flexibility of shifting the pool within the allowable space. If the building inspector wants 15 feet from the septic, she has that flexibility of moving it a bit closer to the property line if we approve a variance of 10 feet.

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.

ATTORNEY FINK: Is it a substantial variance?

MS. BRAMICH: 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?

MS. BRAMICH: Yes.

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

MS. BRAMICH: So moved.

MR. DAUBERT: Seconded.

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

ATTORNEY FINK: Does anyone care to move that the variance be granted with the condition that the pool would be no less than 10 feet from the septic system and no less than 10 feet from the sideline?

MR. MALOCSAY: So moved.

MR. SHUBACK: Seconded.

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

PUBLIC HEARING OF LUIS MARTINEZ & SOPHIA INOSTROZA - for property located at 277 Old Dutch Hollow Road, Warwick, New York and designated on the Town tax map as Section 59 Block 5 Lot 1 and located in an SL District for a variance of Section 140-4.A constructing a 20 foot X 40 foot in ground swimming pool in the front yard setbacks 40 (+/-) feet from the front line where 50 feet are required, Sub-Section C 10 (+/-) feet from the house basement where 15 feet are required; and Section 164-41C(4)(f) permitting a 5 foot fence in the front yard setbacks where no more than 4 feet are permitted. **Continued from the 5/24/21 ZBA Meeting.**

ATTORNEY FINK: You want to put in a 20 X 40 foot in-ground swimming pool. You have 2 front setbacks. You want to make it 40 feet from 1 frontline where 50 feet are required and 10 feet from the house basement where 15 feet are required. Can you move it?

MR. MARTINEZ: It's actually 25 feet away from the house.

ATTORNEY FINK: So you don't need that variance. What we're looking at is placing the pool in the front yard setback 40 feet from the line where 50 feet are required. Then you want to put up a 5 foot fence in the front yard setback where no more than 4 feet are permitted.

MR. MARTINEZ: I would actually like to put up a 6 foot fence for the safety of the kids and for privacy as well.

CHAIRMAN JANSEN: Let's go with the 6 foot fence. The Public Hearing is now open. Is there anyone present that wishes to address this application? If not, I'll close the Public Hearing.

ATTORNEY FINK: Ok, so we are talking a 6 foot fence where no more than 4 feet are permitted and the 20 X 40 foot pool in the front yard setback 40 feet from the front line where 50 feet are required. Will the proposed variance cause an undesirable change to the character of the neighborhood or be a detriment to nearby properties?

CHAIRMAN JANSEN: No.

MS. BRAMICH: Yes. My concern is where they have put fill in on the one side of the property. There's nothing holding that dirt back, it's just dirt upon dirt. We've conditioned before, can we condition with a retaining wall?

ATTORNEY FINK: We can put in there upon the condition they have a retaining wall approved by the Building Department and to make sure it's engineered correctly.

MS. BRAMICH: Fine.

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?
CHAIRMAN JANSEN:	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. SHUBACK:	So moved.
MR. DAUBERT:	Seconded.
CHAIRMAN JANSEN:	All in favor? [5 ayes] Motion carried.
ATTORNEY FINK:	Does anyone care to move that the variance be granted with a 6 foot fence 40 feet from the sideline and the condition that there is a suitable retaining wall as approved by the Building Department?
MR. MALOCSAY:	So moved.
MR. DAUBERT:	Seconded.
CHAIRMAN JANSEN:	All in favor? [5 ayes] Motion carried.

PUBLIC HEARING OF WARWICK PROPERTY HOLDINGS LLC - for property located at 59 Warwick Estates Drive, Warwick, New York and designated on the Town tax map as Section 93 Block 1 Lot 10 and located in an ___ District for a variance of Section 140-4.D permitting installation of an in ground pool 10 feet from the well casing where 20 feet are required. **Continued from the 5/24/21 ZBA Meeting.**

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

MR. MALOCSAY: No.

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

MS. BRAMICH: 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.

ATTORNEY FINK: Would someone care to type 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: Does anyone care to move that the variance be granted subject to approval that the Building Inspector finds conditions warrant the reduction?

MR. MALOCSAY: So moved.

MS. BRAMICH: Seconded.

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

PUBLIC HEARING OF JOHN & JESSE LENTINI - for property owned by The John and Jesse Lentini Family Trust and located at 480 Jersey Avenue, Greenwood Lake, NY and designated on the Town tax map as Section 72 Block 3 Lot 2 and located in an SM District for a variance of Section 164-40M permitting a chicken coup 15 (+/-) feet from the side line where 100 feet are required.

This application was not heard this evening.

To be continued at the July 26, 2021 ZBA Meeting.

PUBLIC HEARING OF WILLIAM ALLISON & ALEXANDRA TANGREDI - for property located at 191 Nelson Road, Warwick, New York and designated on the Town tax map as Section 62 Block 8 Lot 12.12 and located in an SM District for a variance of Section 164-41.C(4)(f) permitting a 6-foot fence in the front yard setback where not more than 4 feet are permitted.

CHAIRMAN JANSEN: Please identify yourself for the record.

MR. ALLISON: I am William Allison. It's a peculiar piece of property because it is a corner lot, but Williams is a single lane dirt road with a couple families living down it. The Building Inspector said they still consider Williams front yard. It's not in any way a hazard for anybody pulling out of Williams and going down. The fence is truly behind our house which faces Nelson Road which is the main drag. It is mostly wooded and part of it is replacing an existing chain link fence.

MR. SHUBACK: How high is the chain link fence?

MR. ALLISON: I would say 5 ½ feet.

CHAIRMAN JANSEN: Let's open the Public Hearing. Is there anyone that wishes to address this application? If not, let's close the Public Hearing.

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: Not really.

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

MS. BRAMICH: No.

ATTORNEY FINK: Is it a substantial variance?

MR. SHUBACK: Yes.

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?

MS. BRAMICH:	Yes.
ATTORNEY FINK: with no adverse environmental impact?	Would someone care to type this as “Unlisted”
MR. MALOCSAY:	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. MALOCSAY:	Seconded.
CHAIRMAN JANSEN:	All in favor? [5 ayes] Motion carried.

PUBLIC HEARING OF TED DONNELL - for property located at 16 Deer Trail, Greenwood Lake, NY and designated on the Town tax map as Section 72 Block 2 Lot 11 and located in an SM District for a variance of Section 164-45.1 permitting an addition and deck to an existing single family dwelling reducing 1 side setback from 36.1 feet to 2 feet where 12 feet are required and both side setbacks from 38 feet 1 inch to 4 feet where 30 feet are required.

This application was not heard this evening.

To be continued at the July 26, 2021 ZBA Meeting.

PUBLIC HEARING OF CONTINUED APPLICATION – JOHNNY HAYSEED LLC - for property located at Glenwood Road, Warwick, New York and designated on the Town tax map as Section 24 Block 1 Lot 35.22 and located in an RU District for a variance of Section 164-41A(1)(a) & (b) permitting construction of a 4,824 square foot accessory building less than 10 feet from the existing dwelling where not more than 1,200 square feet are permitted and the distance from the dwelling has to be 10 or more feet.

CHAIRMAN JANSEN: Go ahead Mr. Getz.

MR. GETZ: David Getz, Engineering & Surveying Properties. We appeared briefly before you in October but at that point the applicant had not obtained a building permit. You said you could not proceed in reviewing an accessory building because it has to be accessory to a house. Since then he has obtained a building permit. I want to point out that part of that notice does not apply as the accessory building will not be within 10 feet of the residence. The accessory building is separated by quite a distance. It is much larger than the permitted 1,200 square feet. The applicant has a large piece of property on Glenwood Road, about 18 acres. It is a flag shaped property with a long driveway up to the building area. This is the proposed house location. He is proposing this large outbuilding for storage of several cars as part of a collection. He has a tractor, other equipment, etc. That is why he would like such a large building. This would be well screened because it is quite a wooded area and it would sit approximately 700 feet up the hill horizontally from Glenwood Road.

CHAIRMAN JANSEN: Let's open the Public Hearing. Is there anyone that wishes to address this application? If not, I'll close the Public Hearing.

ATTORNEY FINK: You're asking that this accessory building be constructed because he now has a building permit but he's not even in the ground for his house. Also, nothing has been submitted as to what this accessory building will look like. May I suggest that this be put over 1 or 2 meetings so that he has time to begin construction of the house, so we know it's being constructed, and we can also look at what he proposes for the accessory building? We need to know what this building is going to look like. Or why don't you let us know when construction begins?

MR. GETZ: Ok, I will speak with the applicant tomorrow and let you know.

CHAIRMAN JANSEN: Just let Connie know whether to put it on the agenda for next month or the month after. No further mailings need to be done.

MR. GETZ: Ok. Thank you.

OTHER CONSIDERATIONS:

CHAIRMAN JANSEN:
24, 2021 meeting.

Motion to approve the ZBA Minutes from the May

MR. SHUBACK:

So moved.

MR. DAUBERT:

Seconded.

CHAIRMAN JANSEN:

All in favor? [5 ayes]
Motion carried.

Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]