

**TOWN OF WARWICK
ZONING BOARD OF APPEALS
JUNE 27, 2022**

Members Present:

Jan Jansen, Chairman
Stephanie Midler, Acting-ZBA Attorney
Diane Bramich
Chris Daubert
James Mehling
Connie Sardo, ZBA Secretary

PUBLIC HEARING OF JOHN WELCH - for property located at 111 Walling Road, Warwick, New York and designated on the Town tax map as Section 26 Block 1 Lot 25 and located in an RU District for a variance of Section 164.46J permitting a chicken coup less than 100 feet from the property lines. **Continued from the 4/25/22 ZBA Meeting.**

Representing the Applicant: John Welch, Applicant.

Chairman Jansen: We have a memo from Bob Fink, our ZBA Attorney, dated 4/28/22. The memo is stated as follows:

“Nothing in the Code specifically prohibits free range chickens but then, nothing allows it, and if not allowed, it is prohibited”.

“What is allowed are:

- Up to 10 fowl (gender neutral);*
- Housing has to be within 100 feet of any lot line (for fowl);*
- Penning area of less than 1-acre has to be not less than 50 feet from any lot line;*
- No storage of manure, etc., shall be within 100 feet of any lot line;*
- There is no minimum acreage requirement for fowl as opposed to horses, etc. Sub-Section 101”.*

“Looking at Mr. Welch’s survey, it would appear he is in violation of, in addition to the housing setback, the penning area requirement of 50 feet from any lot line and storage of manure, etc...within 100 feet of any lot line.”

“However, he cannot apply for variances because no violation(s) has been issued”.

Attorney Midler: Mr. Welch does have a violation.

Chairman Jansen: He does have a violation?

Attorney Midler: Yes. When I looked at the Code, I believe the requirement for storage of manure is actually 150 feet from any lot line. Mr. Welch, could you confirm for the record that the area you are seeking for a variance is for the penning area of 100 feet?

John Welch: It is over 100 feet.

Attorney Midler: The penning area of less than 1-acre has to be not less than 50 feet from any lot line. Are you telling us that it is 100 feet?

John Welch: Yes. It is from the complaining person. We are right on the line of the other people that also has chickens. They are not complaining. We are way over the variance from where Mike lives to our house for compliance. That is the bottom line.

Attorney Midler: The Board knows that it would not matter which neighbor is complaining because the Code says that it has to be not less than 50 feet from the property lines. Is it within 50 feet from one of your property lines?

John Welch: No. It is on the edge of one property of the neighbor that has chickens.

Attorney Midler: It is within the 50 feet. Is that correct?

John Welch: But from Mike who is complaining, it is way over 100 feet.

Attorney Midler: That would not matter. I am just trying to identify to make sure if you were granted or denied variances that it is clear which ones you are or are not being given. We have identified that the housing has to be within 100 feet of a lot line. The penning area is also within 100 feet of a lot line. Are you storing manure with chickens?

John Welch: No.

Attorney Midler: Ok. There are 2 variances for consideration, which are the penning area and the housing itself.

Chairman Jansen: Ok. Do any Board members have any questions? Is there anyone from the public wishing to address the Welch application?

Mike Faulls: I am a complaining neighbor. There are 3 property lines involved which are the Holodinski's, the guy on Newport Bridge Road, and the neighbor to the right or to the left.

Chairman Jansen: You are the only one that is complaining. Is that correct?

Mike Faulls: Yes.

Chairman Jansen: Did you settle anything regarding the Roosters?

Mike Faulls: The Roosters are still there.

John Welch: No. There were 3 Roosters. Two Roosters are gone. There is only 1-Rooster left.

Mike Faulls: I still have to listen to it crow.

Chairman Jansen: If you got rid of the Rooster, how would you feel?

Mike Faulls: If it was up to me, I would rather see them all gone. His wife has been giving me problems. They are close to my property. It is not within 100 feet.

Chairman Jansen: Ok.

John Welch: I think we need to bring the Building Inspector out to measure. It is 100-feet away.

Chairman Jansen: It might be 100 feet away from the neighbor, but it is not 100 feet away from the property lines.

John Welch: The other neighbors are fine with it. They are happy and complacent. They all have chickens themselves.

Ms. Bramich: Are you saying that Mr. Faulls property is 100 feet away from the coop?

John Welch: Yes.

Ms. Bramich: How can that be? Your lot line is only 126 feet wide.

John Welch: We are the ones that are away from him behind my shed. It is all in the paper work. It is way over 100 feet.

Mr. Mehling: The only question I would raise is that your neighbor closest to the lot line is not complaining. However, the Board in consideration of granting a variance also has to take into consideration what comes down the road...

John Welch: If someone buys that house and they don't want them, we will take it right out. I have no problem with that.

Mr. Mehling: That could lead to another set of problems.

Ms. Bramich asked Mr. Welch to show on the survey where the coop is located. Ms. Bramich states it is not 100 feet from the line. Mr. Welch states that it is 100 feet away from the complainer. The Board and Applicant continues to discuss the distance of the coop from the lot lines.

Attorney Midler: Regards to the Chairman's question about the Roosters, as this Board knows, you have the general authority under the Code to issue variances with conditions as long as those conditions relate to one of the factors. I know the issue of noises with Roosters came up. That could be something to consider on putting a condition on if you do decide to grant this variance.

Chairman Jansen: We would be. It is in front of the Town Board in changing the Code. Is that correct?

Connie Sardo: The Town Board is in the works on changing that.

John Welch: They want to change it to 11 acres for Roosters. That is from what I understand.

Connie Sardo: I don't think so regarding that. It is up to 10 small fowls. What kind, I don't know yet. The Town Board is currently working on that Code.

John Welch: We have been grandfathered in. I have been paying taxes here my whole life.

Chairman Jansen: We are going to hold this application over to next month's meeting. We will get the Building Inspector out to your property to measure the distances.

John Welch: Yes.

Chairman Jansen: Part of the conditions would be getting rid of the Roosters. No Roosters. This application will be continued to the July 25, 2022 ZBA Meeting.

PUBLIC HEARING OF RENE DIAZ & MARA MATOS – for property located at 124 Jersey Avenue, Greenwood Lake, New York and designated on the Town tax map as Section 74 Block 7 Lot 1 and located in an SM District for a variance of Section 140-4 permitting a hot tub less than the required 15 feet from the dwelling and property line setbacks.

Representing the Applicant: Rene Diaz, Applicant.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Diaz application.

Chairman Jansen: Ok.

Attorney Midler: I just wanted to let the Board know that the Applicant would be seeking 2-variances. One variance would be the 15-foot requirement from the rear yard line. The other one would be 15 feet from any basement.

Chairman Jansen: It doesn't affect your application. Briefly tell us why the hot tub has to be there.

Renee Diaz: There is really no other place to put the hot tub. The property is basically a cliff. I believe that when this house was built in 1950. May be that was the area where the oil tank was. Then, it got all covered and graveled. The hot tub has to face the lake which is gorgeous. I just purchased the house in February. There is a front area. But the septic system is located there. It was practically put on the parking lot. It wouldn't work. This has electrical. This is the only spot where I could have the little hot tub.

Ms. Bramich: I went to the property today. I also looked up this property on the internet. This property has been an Airbnb since the year 2015.

Renee Diaz: No.

Ms. Bramich: According to your website, it was originated in 2015.

Renee Diaz: No. The house was created in 2015 with that name.

Ms. Bramich: That is not what it said. When did you purchase the house?

Renee Diaz: I just recently purchased the house in February. I opened it up in June when they gave me the renting permit.

Ms. Bramich: You better check the website. It is listed as an Airbnb as Chateau Renee in 2015.

Renee Diaz: In October of 2015. It was the past owner. She made a plaque that said Chateau Renee. I loved it because my name is Renee.

Ms. Bramich: It is rented like an Airbnb. There is not going to be anymore traffic than what is there now. There are 2 roads. The road below called Lake Shore Road; you could see the

house from there. There are 2 roads. Jersey Avenue goes into it. You could hardly see the house from Jersey Ave. If you are coming from Lake Shore Road, you could see it.

Jan Jansen: I will open it up to the public. Is there anyone in the audience wishing to address the Diaz application?

Thomas Kelly: I live below it. I live on Lake Shore Road. The people next to our house just sold their house. They said that they were not going to Airbnb it out. Now they are doing it. I have people walking on my driveway and dogs going on my lawn. The other one behind us is doing the same thing. It is a problem in our neighborhood. If you drive there, it is by the lake. It is a problem. Regarding them proposing a hot tub, I would have to oppose that because everybody is renting on that road. They are all renting it out. My other neighbor on Lake Shore Road is always parking on the driveway in front of his house. It is a problem. Most of the owners are not there. They are renting it out and collecting the money. It is a problem.

Attorney Midler: I would like to direct the Board's attention that the issue as to whether or not Mr. Diaz may Airbnb the property is not before this Board. It is my understanding that Mr. Diaz already has a building permit through the Building Department to do that legally. The question simply is with regard to the area variance factors for the hot tub he is proposing.

Ms. Bramich: What difference would it make if the hot tub is there or not?

Thomas Kelly: The difference is that I don't know who is going to rent it out. If they rent it to people and there are 10 people up there hooting and hallowing all night, we would all hear it.

Attorney Midler: Mr. Diaz, does your permit for the short-term rental have a limitation of how many people you could rent it to?

Renee Diaz: It is for 4 people.

Chairman Jansen: We received a letter from an Evan Goldberg Law, dated 6/27/22. The letter is stated as follows:

Dear Sir/Madam:

I am writing as the owner and resident of 129 Lake Shore Road, Greenwood Lake, NY to voice concerns over the application.

I have lived at 129 Lake Shore Road for approximately fourteen years. It is my residence. There has been a recent influx of "Airbnb" properties that is problematic. While I understand that the licensure of such properties is out side your jurisdiction, nonetheless, I find it relevant with respect to the nature and character of the neighborhood.

Mr. Diaz has made it clear that the property has been purchased and renovated as a commercial endeavor. It is being listed on close to a dozen Airbnb type sites as Chateau Renee (which is in the application as well).

It is my understanding that the Chateau Renee will have no lake access such that the hot tub will be their only resource for water recreation. As such, it's use is expected to be substantial.

My property, while a couple of lots over, is the next property over that is up on the hill, with a clear line between the site of the proposed hot tub and my deck. There is a back road leading to the right of way for 124 Jersey Avenue, but the back area, which has been subject of prior litigation, is tight and multi-functional, consisting of easements, driveways, and rights of way, with two other properties that, as of this past year, are now are also actively seeking Airbnb customers.

I note the appellant's position that this is not a swimming pool but rather a hot tub. I also note that even hot tubs for townhouses, have more or a setback than wis is being proposed as well as fencing and enclosure requirements. I also note the availability of other areas on the property not at odds with setback codes which would be more discreet and further away from the common back road.

I had hoped to be in attendance so that my concerns could be discussed with Mr. Diaz and addressed, unfortunately, I became suddenly ill and did not want to infect those in attendance. Hence my letter. If the matter is adjourned, I invite Mr. Diaz to contact me for further discussion.

Thank you for your consideration of my position.

Respectfully,

Evan Goldberg

Attorney Midler: Mr. Diaz, you could request time to reply to that letter if you wish?

Renee Diaz: No. I'm fine.

Attorney Midler: I am just letting you know. You have that right.

Ms. Bramich: Could you tell me how big the hot tub is?

Renee Diaz: The hot tub is 6'x6'.

Ms. Bramich: How many people does it hold?

Renee Diaz: It holds 4 people.

Chairman Jansen: Could the hot tub be placed somewhere else on the property?

Ms. Bramich: The only other place would be up on the parking lot. There is not much room over there either.

Renee Diaz: That would make it a problem for the septic system.

Ms. Bramich: The pictures on the internet shows the property and where it is. The plaque that is there already is what I have a problem with. It is a hot tub. It is not a swimming pool. If it is a 4-seater hot tub, can you say that the hot tub could be no larger than a 4-seater?

Attorney Midler: If the Board decides to grant a variance, the variance would include the dimensions that he is representing to us today. If he wishes to change that in the future, the Building Department would take a look at it and send him back to the ZBA. You must grant a specific variance. The ZBA can't grant something that is open ended for the purpose of this Board.

Ms. Bramich: Is there parking on Lake Shore Road to get up to this house?

Renee Diaz: No.

Ms. Bramich: It is only up above.

Renee Diaz: Correct.

Attorney Midler: Is there anyone else wishing to address the Diaz application? Let the record show no further public comment.

Chairman Jansen: I propose to close the public hearing or hold it over?

Attorney Midler: While I have not myself reviewed the building permit. As this Board knows, I do work with the Building Department, but I was not involved in processing the building permit. If the Board feels more comfortable to check to make sure there is an occupancy limit or we could condition it on the fact that you understand the permit had an occupancy limit of 4 people. If that is proven to be incorrect, then we would ask for Mr. Diaz to come back to the ZBA.

Chairman Jansen: Mr. Diaz, you could verify that. Is it 4 people max?

Renee Diaz: Yes.

Chairman Jansen: Ok. You could put that as a condition.

Attorney Midler: With the understanding that the permit is currently issued for 4 people.

Chairman Jansen: What is the Board's feeling?

Attorney Midler: My only issue is that I am missing one mailing.

Renee Diaz: Because it is repeated.

Attorney Midler: I am looking for Zipoli's mailing receipt. Since we don't have that one mailing receipt, we would have to hold over the application and send a letter out for the next meeting.

Chairman Jansen: We could hold this application over to the next meeting.

Attorney Midler: Yes. We would have to. I know you mailed out a lot of letters, but unfortunately you missed one neighbor. We would have to hold this application over. It is a procedural defect. Even if you were to grant a variance and they came out to object it the variance would become null and void. We would give you an updated Public Hearing Notice. You don't have to send it to everyone again. You would only need to mail it out to Zirpoli.

Renee Diaz: Ok. Could I start working on the electrical?

Attorney Midler: No. You can't get a building permit for this yet.

Renee Diaz: Ok.

Chairman Jansen: We will hold this application over to the July 25, 2022 ZBA Meeting.

Attorney Midler: In the meantime, you could get us a copy of the permit for the Airbnb for this Board. That would be helpful.

Chairman Jansen: Ok.

Renee Diaz: Ok. Thank you.

PUBLIC HEARING OF CYNTHIA MONTALTO – for property located at 4 Four Corners Road, Warwick, New York and designated on the Town tax map as Section 33 Block 1 Lot 9.311 and located in an RU District for a variance of Section 164-41.A(4) permitting an accessory building in the front yard setback.

Representing the Applicant: Cynthia Montalto, Applicant.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Montalto application.

Chairman Jansen: Ok. Please explain to us why the shed has to be there. I know it is already existing.

Cynthia Montalto: It needs to be there. That was the only spot on the property that doesn't flood when the ditches on Four Corners Road fills with leaves. I am the lowest point on the left side. All the water comes down and skips over Four Corners Road and hits my house. That is the driest and flattest area for the shed.

Chairman Jansen: It does not look like it is visible from the road at all. This is a public hearing. Is there anyone wishing to address the Montalto application?

Meredith Mason: I live at 1 Four Corners Road. I am not objecting to this. We received a notice. I just came to see what it was about. I am not objecting to anything. Could I see where it is going?

Mr. Mehling: It is already on the property.

Cynthia Montalto: It is the shed that is already there on the property.

Meredith Mason: Ok.

Rodney Mason: I just wanted to make a comment about what Ms. Montalto stated about the water that comes down Four Corners Road. She is right about that. They showed up on the opposite side of the road where she lives with blacktop. There was a ditch. They filled it up. It causes water problems. Every year, I have to clean out the ditch on my side of the road. The Town does not do it.

Chairman Jansen: Is there anyone else wishing to address the Montalto application? Let the record show no further public comment. The public hearing is now closed.

Attorney Midler: Will the proposed variance cause an undesirable change to the character of the neighborhood or be detriment to nearby properties?

Ms. Bramich: No.

Chairman Jansen: No.

Attorney Midler: Can the benefit sought by the Applicant be achieved by any other feasible measure?

Chairman Jansen: No. Because it is a flooded area.

Attorney Midler: Is it a substantial variance?

Chairman Jansen: No.

Attorney Midler: Will it have an adverse effect upon the physical or environmental conditions?

Chairman Jansen: No.

Attorney Midler: Is the alleged difficulty self-created?

Ms. Bramich: Yes.

Mr. Mehling: So moved.

Mr. Daubert: Seconded.

Chairman Jansen: Does anyone care to move that the variance be granted as advertised for property located at 4 Four Corners Road, Warwick, New York and designated on the Town tax map as Section 33 Block 1 Lot 9.311 and located in an RU District for a variance of Section 164-41.A(4) permitting an accessory building in the front yard setback.

Ms. Bramich: So moved.

Mr. Daubert: Seconded.

Chairman Jansen: All in favor? (4-Ayes)

Motion carried.

Cynthia Montalto: Thank you.

PUBLIC HEARING OF RYAN & YVONNE FISHER - for property located at 29 Airport Road, Warwick, New York and designated on the Town tax map as Section 38 Block 1 Lot 1.2 and located in an RU District for a variance of Section 164-41.C(4)(f) permitting a 6-foot fence in the front yard and 8-foot fence in the rear yard setbacks.

Representing the Applicant: Ryan Fisher:

Connie Sardo: Mr. Chairman, we received the certified mailings for the Fisher application.

Chairman Jansen: Ok. Please explain your hardship for the fence. Why is the fence 6-foot in one spot and 8-foot in the other spot?

Ryan Fisher: The 8-foot is 2 feet from the actual standard 6-foot fence. That is where all the hangers are along my side of the property. The front yard, we don't want an 8-foot fence. That would look odd. We want to go with the normal 6-foot fence in the front. The 8-foot fence in the rear yard is more about blocking the view.

Chairman Jansen: There is another fence located there.

Ryan Fisher: That is the airport's chain link fence. They were mandated after 911 to put that fence up.

Chairman Jansen: Is there anyone in the audience wishing to address the Fisher application? Let the record show no public comment. We will close the public hearing.

Attorney Midler: Could you give an approximate location to the Board on how far the fence is from the property line?

Ryan Fisher: Their chain link fence that you see in the photo they put that 10 feet off their line. There is a 10-foot buffer after their fence. I just had our surveyed to see exactly where our pins are.

Attorney Midler: How far is your fence from your property line?

Ryan Fisher: We have not put up anything yet. We are probably going to be within 5 feet of the property line.

Attorney Midler: Ok. It will be within 5 feet of the property line. I just wanted to make sure because that would be the variance granted.

Ryan Fisher: I would go as close as I can. The Wright Farm is helping us out with it. I would go as close to the line as possible. I don't know if there is a variance for that.

Chairman Jansen: He knows where his property line is. He could put the fence right on the property line.

Ryan Fisher: We had it pinned. We would like to go right up to the property line.

Mr. Daubert: You would be better off going right to the property line.

Attorney Midler: In that case it would be a full 75-foot 100% variance.

Chairman Jansen: Yes.

Attorney Midler: The 8-foot fence you need a variance just to allow above the 6 feet. First, we will do the 6-foot fence variance and then we will do the 8-foot fence variance. Will the proposed variance cause an undesirable change to the character of the neighborhood or be detriment to nearby properties?

Ms. Bramich: No.

Chairman Jansen: No.

Attorney Midler: It would be for the 6 feet and the 8-feet?

Chairman Jansen: It would still not.

Attorney Midler: Can the benefit sought by the Applicant be achieved by an other feasible measure?

Ms. Bramich: No.

Chairman Jansen: No.

Attorney Midler: It is no for the 6-foot fence and 8-foot fence. Is it a substantial variance for the 6-foot fence and 8-foot fence?

Chairman Jansen: No.

Attorney Midler: Will it have an adverse effect upon the physical or environmental conditions for the 6-foot fence and 8-foot fence?

Ms. Bramich: No.

Mr. Mehling: No.

Attorney Midler: Is it self-created for the 6-foot fence and 8-foot fence.

Ms. Bramich: Yes.

Mr. Mehling: Yes.

Chairman Jansen: Could we have a motion for the 6-foot fence in the front yard?

Mr. Mehling: So moved.

Ms. Bramich: Seconded.

Chairman Jansen: All in favor? (4-Ayes).

Motion carried.

Chairman Jansen: Could we have a motion for the 8-foot fence in the rear yard?

Mr. Daubert: So moved.

Mr. Mehling: Seconded.

Chairman Jansen: All in favor? (4-Ayes).

Motion carried.

Ryan Fisher: Thank you.

PUBLIC HEARING OF PHILLIP & DEBORAH O'CALLAGHAN - for property located at 36 Ball Road, Warwick, New York and designated on the Town tax map as Section 53 Block 1 Lot 38 and located in an RU District for a variance of Section 164-41.C(4)(f) permitting construction of 6-foot fence in the front yard.

Representing the Applicant: Phillip & Deborah O'Callaghan, Applicants.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the O'Callaghan application.

Chairman Jansen: Ok. Please explain your hardship for the 6-foot fence.

Deborah O'Callaghan: We want to put a Deer fence up. It is not really in the front yard. I brought pictures of where we want to put it.

Chairman Jansen: Ok. We will open this up to the public. Is there anyone in the audience wishing to address the O'Callaghan application? Let the record show no public comment. The public hearing is now closed.

Attorney Midler: This is allowing a fence for the front property line, left side of the property line and for a portion of the rear property line. The fence will be 6 feet in height. Will the proposed variance cause an undesirable change to the character of the neighborhood or be detriment to nearby properties?

Chairman Jansen: No.

Attorney Midler: Can the benefit sought by the Applicant be achieved by any other feasible measure?

Chairman Jansen: No.

Attorney Midler: Is it a substantial variance?

Chairman Jansen: Yes.

Attorney Midler: Will it have an adverse effect upon the physical or environmental conditions?

Mr. Mehling: No.

Attorney Midler: Is it self-created?

Mr. Mehling: No.

Chairman Jansen: Could we have a motion that the variance be granted as advertised for property located at 36 Ball Road, Warwick, New York and designated on the Town tax map as Section 53 Block 1 Lot 38 and located in an RU District for a variance of Section 164-41.C(4)(f) permitting construction of 6-foot fence in the front yard.

Ms. Bramich: So moved.

Mr. Daubert: Seconded.

Chairman Jansen: All in favor? (4-Ayes)
Motion carried.

Phillip & Deborah O'Callaghan: Thank you.

PUBLIC HEARING OF RICK LEALLI/COMMUNITY LD, LLC. - for property located at 5 Riley Court, Warwick, New York and designated on the Town tax map as Section 60 Block 1 Lot 8.2 and located in an SL District for a variance of Town Law Section 280-a permitting access to a municipal road from a private road.

Representing the Applicant: Rick Lealli, Applicant.

Connie Sardo: Mr. Chairman, we received the certified mailings for the Rick Lealli/Community, LD, LLC application.

Chairman Jansen: Ok. Please explain your hardship to this Board.

Rick Lealli: I want to build a single-family home. I applied for a permit. I got the septic approved. I am looking to get a driveway permit.

Chairman Jansen: Ok.

Rick Lealli: I need a variance for a driveway permit because it is coming off a private road.

Chairman Jansen: Ok. Do we want specifications for the private road?

Attorney Midler: I reviewed the matter with the Town Attorney. He stated that for 280-a variances, we will need road specifications. Those road specifications need to be sent to EMS (Emergency Services, Police, Fire & Ambulance).

Rick Lealli: What do you mean by road specifications? Is it to change to an existing road? It is not for driveway specifications. They are on the print. Is that correct?

Chairman Jansen: It is already an existing road. Is that correct?

Rick Lealli: Yes. It is just not paved.

Attorney Midler: You could speak to the Town Engineer for the exact road specifications that they are looking for. It would still have to be reported to EMS before the ZBA could make any decision.

Rick Lealli: Is that normal procedure?

Attorney Midler: Yes.

Rick Lealli: Why wasn't I notified about that before?

Attorney Midler: I don't know. That is why I am telling you tonight.

Connie Sardo: You would have to speak to the Building Department regarding that.

Chairman Jansen: Where would he go for the specifications?

Attorney Midler: For the specifications, I will speak to Jay Myrow about that. You should speak to the Town Engineer regarding that.

Rick Lealli: I did speak to somebody in the Building Department. I was told that I just have to make this application and that it was a formality.

Attorney Midler: This is part of the application. It must be referred to EMS. We don't know if the road is meeting their standards.

Rick Lealli: There is another private owner that has one lot left on that road. He had the roadwork done so there could be a turnaround for the fire department and emergency service vehicles.

Connie Sardo: That is what the EMS concerns are. Their concerns are the turnaround.

Attorney Midler: Yes.

Rick Lealli: I came before the Board for a variance. No one notified me to notify the EMS. If I was told to do that, I would have notified the EMS. This is all new to me. I'll come back July 25th. What would the next step be? This is frustrating.

Connie Sardo: Mr. Lealli applied to the Building Department for a building permit to build a single-family home on 5 Riley Court. First, he had 2 lots 3 & 5 Riley Court. He went to the Assessor's office and combined the 2 lots into 1 lot, 5 Riley Court to make it better for the driveway access.

Rick Lealli: Correct.

Connie Sardo: When he applied for a building permit, the Building Inspector stated to Mr. Lealli that he would need to apply to the ZBA for 280-a variance for a driveway off a private road. I don't think the Building Inspector was aware of the road specifications and EMS letters.

Ms. Bramich: We have done this before with applications that were off Cascade Road. We have always asked for with private roads to make sure the fire and ambulance could get access into there.

Connie Sardo: The issue was turnarounds. That was always Bob Fink's concern. We have done this before on Buttermilk Falls Road. It is not as hard as to what you think it is.

Rick Lealli: I completely understand that. But at the end of the day, it still is another 30 days to move forward.

Connie Sardo: Our regular ZBA Attorney has been out on medical leave. He would normally send me or the applicant a memo stating what specifications are needed regarding private roads.

Rick Lealli: I am from the city. I am not from the State. A rule is a rule.

Attorney Midler: Is it my understanding from prior practices that 280-a variances have to get approval referral to EMS which would include the Fire Department that services your property as well as ambulance.

Rick Lealli: Would I contact the Warwick Fire Department?

James Mehling: It would be the Greenwood Lake Fire Department.

Chairman Jansen: We will open it up to the public. Is there anyone in the audience wishing to address the Lealli application?

Ed Mateo: I am a resident on the road in question. I am also an elected Board Member of the Association that manages the road in question. We were going to ask that this application would be held over. That has already been done. Since it is being held over, it seems like there was a defect in the mailing list. There is at least one property that wasn't notified and should have been notified.

Connie Sardo: Do you know who?

Mr. Mateo shows the map to the Board and the neighbors surrounding the property. Mr. Mateo points out that James Riley who is the namesake of the road was not on the mailing list. Mr. Riley is away on vacation. Mr. Mateo states that he knows it is not a technical requirement but the road is own collectively by all of the board members. If it is held over, it would give another opportunity for everyone to weigh in.

Chairman Jansen: Is there anyone else wishing to address the Lealli application?

Matt Waghorn: I live on 7 Riley Court. In term of a municipal road, my interpretation of that is it is owned by Warwick or by some type of government. Is that the case?

Chairman Jansen: It is still considered a private road.

Ms. Bramich: There are 2 private roads which are Riley Court and Alexander Road. Then, you have the main Town road.

Matt Waghorn: Understood. The 2nd issue to clarify is the condition of Riley Court which is the extension of Alexander Road. It is paved up to a point then it is not paved. Does the Fire Department have to go down and inspect that?

Chairman Jansen: They would have to right a letter to the Fire Department asking them if they have access to the road. It doesn't have to say if they would have to have blacktop. It would have to say if they have access. It is just for access.

Matt Waghorn: The improvement of that piece of road the 50-foot piece, who would that fall upon? Who would that fall upon?

Attorney Midler: I don't know if it could be a dirt road.

Ed Mateo: This is one of the concerns. We have several concerns that pertains specifically to the entrance onto the private road. We pay for the improvement of the road collectively as an Association. We pay dues. Some people have been paying for 30 years. We bring the pavement up as we would get the money to afford it. Mr. Waghorn is the last one. When he built that property, he wasn't required to pave forward. We want time to look at this application because he will be bringing the road down another couple hundred of feet. We have not had time to look at this. We need time to chew on this.

Chairman Jansen: That is fine. You would have a month to do that.

Mr. Mehling: Things are pretty crazy in the world right now. Folks could get a little protective. I've been in Orange County my entire life. People take abuse some times to other folks wanting to move in. I am at a mind set that if you are a responsible descent person that is a good neighbor and wants to move in and wants to help to contribute to something, I am not speaking as a member of the Board. I am speaking as a member of the community. They would have to do their do-diligent to. They would have to sit down with folks and find a happy medium that would work. Find away to work together with one another.

Attorney Midler: As far as the Town is concerned, I don't know who is required to pave the road. We could look into that.

Matt Waghorn: I have concerns about the adverse environmental impacts of the neighborhood.

Chairman Jansen: We received your email letter, dated 6/27/22. I will read your letter for the record. It is stated as follows: *"I called earlier this morning regarding tonight's ZBA meeting for a road variance to lots 5 & 3 Riley Court. Below are the various issues we learned from our own report of the land in question. We are concerned that the new owner's development plans will ignore these environmental issues, which we feel are justifications to reject building permits and the development of a property.*

As adjoining land owners, we strongly encourage the building & planning depts to preserve the land in its current state, and to reject any future building permits or plans for development.

- Extensive wetlands / surface water on lot 5*
- Extensive deforestation necessary to create viable building parcel*
- Proximity to our well on adjoining lot (7 Riley Ct)*
- Proximity to the freshwater stream (tributary to Greenwood lake)*

- Steep angled banks and run-off into that stream*
- EPA report lists a NYSHPO archeological site of interest*
- EPA report lists an endangered species”*

Thanks,

Matt Waghorn

7 Riley Ct, Monroe, NY 10950

Chairman Jansen: Connie, do you need that report?

Matt Waghorn: We are looking for the Contractor's report.

Connie Sardo: I don't know. I don't work for the Building Department. The email was sent to the Building Department. They forward it to me.

Attorney Midler: The Building Department would have that report.

Rick Lealli: The Building Department has the site plan. The site plan addresses everything.

Connie Sardo: You could put in a FOIL request to the Building Department for that information. You would contact the Town Clerk's office. You would fill out the FOIL form (Freedom of Information Form). It would be given to the Building Department for them to get you the information you request.

Matt Waghorn: Ok. Thank you.

Chairman Jansen: We will hold this application over to the July 25, 2022 ZBA Meeting. This is your notice. Another notice won't be mailed out.

OTHER CONSIDERATIONS:

1. ZBA Minutes of 4/25/22 for ZBA approval.

Ms. Bramich makes a motion to approve the ZBA Minutes of 4/25/22.

Seconded by Mr. Daubert. Motion carried; 4-Ayes.

Mr. Mehling makes a motion to adjourn the June 27, 2022 ZBA Meeting.

Seconded by Mr. Daubert. Motion carried; 4-Ayes.