

TOWN OF WARWICK
ZONING BOARD OF APPEALS
MARCH 6, 2023

Members Present:

Chairman Jan Jansen

James Mehling

Marc Malocsay

Chris Daubert

Mary Garcia, ZBA Recording Secretary

CONTINUED PUBLIC HEARING OF Joseph Tomczak & Laura Krill - for property located at 364 Liberty Corners Road, Pine Island, New York and designated on the Town tax map as Section 1 Block 1 Lot 36.3 and located in an SL District for a variance of Section 280-a of the Town Law allowing access for a single-family dwelling over a private road.

Continued from the 1/23/23 ZBA Meeting. (Postponed to 3/27/23)

Chairman Jansen: The application has been postponed to the March 27, 2023 ZBA Meeting.

CONTINUED PUBLIC HEARING OF Michael Kushner & Remy Germinario - for property located at 24 Lake Trail, Greenwood Lake, New York and designated on the Town tax map as Section 72 Block 5 Lot 1 for a variance of the Bulk Area Requirements of the Code allowing an existing shed which is over the front property line. **Continued from the 1/23/23 ZBA Meeting.**

Representing the applicants: Remy Germinario, Applicant

Remy Germinario: Hi. How's everybody doing tonight? Thank you so much everyone. So when last we spoke, to quick recap is that unbeknownst to us in our new home, part of our home, which is very clearly ours is below street level, within sense is in HOA property. It was like an old zoning thing. When last we spoke, you guys said to bring in just approval from the HOA saying that they're okay with us having it here. My printer is running out of ink; I only made three copies, I'm sorry.

Chairman Jansen: That's all right. I think we all have copies of that.

Chris Daubert: Yes.

Remy Germinario: Oh, you do?

Chris Daubert: Yes. It was emailed to us.

Remy Germinario: Great. And then they also gave me this document. We don't have deeds right to the road.

Chairman Jansen: Exactly.

Remy Germinario: Do you know about that?

Chairman Jansen: It's been such a long time that's been there and they've had other items come up there that we've done and we've taken the word of the Association.

Remy Germinario: Yes. I have some other things. And I'm glad too, but I have—it's a legal description of area compromising Indian Park, Greenwood Lake, that's in our HOA handbook that they told me to print out, as well as a Tax map. I don't know if that got emailed to you all, but here's a copy that they also sent me.

Marc Malocsay: It's a bit different.

James Mehling: That is literally different.

Remy Germinario: Very literally.

Chairman Jansen: Wow.

Remy Germinario: But they approved it in the letter.

Chairman Jansen: Right. And you're going to be subject to whatever the letter said.

Remy Germinario: Exactly. Pretty much that is the fence, the stairs, and the shed.

Chairman Jansen: And if they're going to change the road then, and they make you change it, well so be it. So public hearing is still open. Anyone from the public hearing —public— that would like to address this application? If not, public hearing is closed and I'll go to the criteria. Is an undesirable change will or will not be produced in character of the neighborhood and the detriment of properties will not be created by granting the area variance? And the area variance really is we would approve up to the line.

Marc Malocsay: Right.

Chairman Jansen: Anything beyond the line, we can't approve.

Remy Germinario: Okay.

Chairman Jansen: So the structure can be there and as long as they allow it, that's okay, but we can only approve up to the line.

Remy Germinario: I'll take it. Awesome. Thank you all so much for your time. Appreciate it.

Board Members and Chairman Jansen: Wait. We are not done yet.

Remy Germinario: I'm sorry.

Chairman Jansen: I know you're in a rush to get to New York City.

Remy Germinario: Yes.

Chairman Jansen: Okay, Bob has here an undesirable change will or will not be produced in the character of the neighborhood and that detriment to the nearby property will or will not be created by granting the area variance.

Marc Malocsay: And the answer: definitely not because it, it exists. It's there now. It's been there forever.

Chairman Jansen: Right. Are the benefits sought by the applicant can or cannot be achieved by some method feasible for the applicant to pursue other than the variance? Not really.

Marc Malocsay: No, the question on feasible to move the structure itself is a great expense.

Chairman Jansen: Right.

Marc Malocsay: And then it was even a question if it was able to fit and not need a variance once moved.

Chairman Jansen: Right. So the question: variance is numerically substantial or not substantial?

Marc Malocsay: It's the worst that we've ever seen.

Chairman Jansen: There you go.

Marc Malocsay: Because it's from whatever it is for the setback is to zero feet.

Chairman Jansen: The proposed variance will or will not have an adverse effect or impact on the physical or the environmental condition in the neighborhood or the district.

Marc Malocsay: It will not.

Chairman Jansen: No. And the alleged difficulty was or was not self-created?

Marc Malocsay: You know, this is one that we always say yes, but it exists and it has existed and he's not doing anything different to it. So is it self created?

Chairman Jansen: No, he didn't do it.

Marc Malocsay: Yeah. So I'm going to say no and then Bob can laugh when he does the decisions or read the minutes.

Chairman Jansen: Okay. Can someone move that the action be typed an unlisted action with no adverse environmental consequences?

Marc Malocsay: So moved.

Chris Daubert: Second.

James Mehling: Aye.

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

Chairman Jansen: And now therefore we resolved that it is determined based on information and analysis presented to the Board that the proposed action will not result in any significant adverse and vital impact submitted by...

Marc Malocsay: So moved.

Chris Daubert: Second.

Chairman Jansen: Seconded by Daubert. Any discussion? All in favor? (4-Ayes). Motion carried.

Remy Germinario: There was so much more. I don't know why I thought to leave <laugh>.

Chairman Jansen: Well, there's one more. Someone has to move that the application be granted as advertised and the property has not been conveyed. Subject to the applicant filing permission by the owner to make the application for the variance motion.

Marc Malocsay: So moved.

Chris Daubert: Second.

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

James Mehling: Enjoy your shed.

Remy Germinario: Thank you, I will. I appreciate it. Do I do anything else?

Chairman Jansen: No.

Remy Germinario: Awesome. Cool. Thank you all so much.

Chairman Jansen: You're not applying for any permits to move anything.

Remy Germinario: No.

James Mehling: Good luck with the Title company.

Remy Germinario: I really appreciate it.

PUBLIC HEARING OF Anthony & Theresa Costello - for property located at 12 Wawayanda Road, Warwick, New York, designated on the Town tax map as Section 49 Block 1 Lot 45.3 for a variance of the Bulk Area Requirements of the Code allowing 2 existing sheds extending over the side property line and Section 140-4B allowing an existing pool 5 feet from the property line where 15 feet are required. **Continued from the 1/23/23 ZBA Meeting**

Representing the applicants: Brittney Goshen (Brokerage Personnel)

Chairman Jansen: You have removed the two sheds. Is that correct.

Brittney Goshen: Yes. I am representing the Costello's this evening. They were unable to be here tonight.

Mary Garcia: I'm sorry, what is your name?

Brittney Goshen: Brittany Goshen.

Chairman Jansen: And what is your relationship to the applicants?

Brittney Goshen: I work for the brokerage firm that is selling their home.

Chairman Jansen: Okay. We had discussed the pool. There was nobody that had any problem with the existing pool located there. That was fine. The only problem we had was with the sheds encroaching on the other property. Those 2 sheds have been removed from the property as per the Building Department. Is there anyone here from the public that wants to address this application? If not, we'll go through the criteria for approval. Let the record show no further public comment. The public hearing is now closed.

Chairman Jansen: An undesirable change will or will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variance? And this is really relating to the pool. You can't move the pool; it's where it is and that's it. So, will this be a detriment to nearby properties?

Marc Malocsay: No, absolutely not. It exists.

Chairman Jansen: Okay. The benefit sought by the applicants can or cannot be achieved by some method that is feasible for the applicant to pursue other than a variance? And that will be dig up the pool and move it, which is not very practical. The requested variance is numerically substantial or not substantial?

Marc Malocsay: Very slightly.

Chairman Jansen: Okay. Slightly substantial. The proposed variance will not have an impact, adverse effect or impact on the physical or the environmental condition in the neighborhood or district?

Marc Malocsay: That is correct.

Chairman Jansen: The alleged difficulty was not self-created? I don't even know if they put in the pool themselves or not. Probably not; it was probably there. Okay. Someone move that the action be typed as an unlisted action with no adverse environmental consequences?

Marc Malocsay: So moved.

Chris Daubert: Second.

Chairman Jansen: Now, <inaudible> environmental impact. Motioned by Marc Malocsay, second by Mr. Daubert. All in favor?

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

Chairman Jansen: We need a motion to grant the variance as pursuant to section 140-4B, allowing the existing pool 5 feet from the property line where 15 feet are required.

Chris Daubert: So moved.

Marc Malocsay: Second.

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

Brittney Goshen: Thank You.

PUBLIC HEARING OF Timothy & Lisa Bacher - for property located at 88 Wickham Drive, Warwick, New York and designated on the Town tax map as 36-5-13 and located in an SM district for a variance of the Bulk Area Requirement of the Code permitting construction of a garage with a one side setback of 3.8 (+/-) feet from property line where 5 feet is required.

Representing the applicants: Timothy Bacher, Applicant

Chairman Jansen: Just briefly tell us more what you're trying to do.

Timothy Bacher: Sure. So I'm looking to build a garage that's replacing my existing garage. My existing garage is 20x20. I'm looking to expand that to 32x20. But the problem I'm sure as you all know, is that it is, I believe 3.8 feet from the setback line versus the five feet required.

Chairman Jansen: And there's no possibility of reducing its size or moving it any?

Timothy Bacher: So as I had mentioned based off the plan, I'm going to be using the existing foundation of my 20x20, so I can't build it to the left, which would be closer to my deck, without <inaudible> or pouring more concrete which would be an increased cost product for me. And as far as the size is concerned, my two choices are 32 feet or 30 feet. If this is something that I plan on keeping for years and years and years, I'd like to try and do the 32 feet with the 1.2, or however many feet over the setback that I may be.

Chairman Jansen: Okay. Any other questions?

Marc Malocsay: No, the lot's full, everything is tight in there. So, it's not out of the character of the neighborhood.

Chairman Jansen: That's the first question I'm going to ask anyway.

Marc Malocsay: Yes.

Chairman Jansen: So we open up to the public.

Marc Malocsay: It doesn't look like anyone is here.

Chairman Jansen: Anyone from the public would like to address this application? Let the record show no public comment. Public hearing is closed.

Timothy Bacher: Yeah. If it's worth anything, I texted my neighbor and got their blessing too.

Chairman Jansen: It's always good to be on good terms with your neighbors.

Timothy Bacher: Oh, always, always.

James Mehling: We need more of that.

Timothy Bacher: Yeah.

Chairman Jansen: So anyway, let me go through the criteria. Is there an undesirable change will or will not be produced in the character of the neighborhood and a detriment to nearby properties will or will not be created by granting the variance? So Marc, you already said you looked at it and looks like...

Marc Malocsay: It's the lots are all small. Everything in there is tight and not really meeting, not knowing where property lines are, everything looks like it's very, very close to property lines. They don't appear to meet the new standards for setbacks.

Chairman Jansen: I actually, when I saw the pictures, I thought you had already built it.

Timothy Bacher: No. Yeah, that 20x20 was there already. I have all that wasted space. I want to make something out of it.

Chairman Jansen: So the benefits sought by the applicant can or cannot be achieved by some method feasible to the applicant pursue other than the variance? And it's not really.

Marc Malocsay: It's, no. Because he addressed the issue of can it be smaller? Yes, it can, but it doesn't then suit the issue of the size of the garage that he wants.

Chairman Jansen: The requested variance is substantial or not? Not really.

James Mehling: Foot and a half?

Marc Malocsay: Yeah, not really.

James Mehling: Not really.

Chairman Jansen: The proposed variance will not or will have an adverse effect or impact on the physical or environmental condition of the neighborhood or district?

Marc Malocsay: Will not.

Chairman Jansen: And the alleged difficulty was self-created.

Marc Malocsay: Absolutely, yes.

Chairman Jansen: Can someone move that the action be typed as an unlisted action with no adverse environmental consequence?

Marc Malocsay: And just a point of order, just close the public hearing first.

Chairman Jansen: Okay. Public hearing's closed.

Marc Malocsay: Okay.

Chairman Jansen: So the resolution is now that therefore be it resolved, that it is determined based on the information and analysis presented to the board, that the proposed action will not result in any significant environmental impact.

James Mehling: So moved.

Chris Daubert: Second.

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

Chairman Jansen: Can someone move that the application for the variance be granted as advertised?

James Mehling: So moved.

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

Timothy Bacher: Thank you.

Chairman Jansen: So you can go to the Building Department for your permit.

Timothy Bacher: Ok. I have the certified mailings. Do you want the receipts?

Chairman Jansen: Yes. You can give those to the secretary.

Mary Garcia: Thank you so much.

Chairman Jansen: In about a week they should be able to give you the permit.

Timothy Bacher: Okay. So would you know if they just resend it to my house, I have to come in and refill out the application...?

Chairman Jansen: Give the Building Department a call to find out how they process their permits.

Timothy Bacher: Ok.

Marc Malocsay: They're really good. They're probably just waiting for this. And then for Bob then to fill out the resolution.

Timothy Bacher: Sure.

Marc Malocsay: So we're, Bob's really quick, we're really quick. But like I said, if you just call them at the office, they'll just say, "oh, we just, we're waiting on that", and then no, then you can go ahead.

Chairman Jansen: And I'll come in and sign it.

Timothy Bacher: Appreciate it. Thank you.