

TOWN OF WARWICK
ZONING BOARD OF APPEALS

Members Present:

Chairman Jan Jansen

Attorney Jeremy Havens

Marc Malocsay

Glenn Ehlers

Aaron Ubides (Alternate)

Mary Garcia, ZBA Recording Secretary

Not Present: Chris Daubert, Diane Bramich

PUBLIC HEARING OF Kelly Ann Walsh & Louis Manganiello III - regarding property located at 121 Little York Rd., Warwick, NY 10990, and designated on the Town tax map as Section 12, Block 4, Lot 11 and located in the RU district, for an area variance from the front yard setback requirements under Town Code §164-40N permitting the construction of a proposed new 10'x50' front covered porch addition to the front of the existing dwelling, reducing the existing front yard setback from 44' to 34', where a 75' front yard setback is required.

Representing the Applicant: Kelly Ann Walsh & Louis Manganiello III, Applicants

Attorney Havens: We received the Orange County Planning Department GML 239 referral response on August 19th, and the recommendation is a local determination with no further comment.

Chairman Jansen: So discuss what you're trying to do.

Louis Manganiello III: We're trying to build a little country porch, not too far from the ground up, just going the whole length of the house.

Chairman Jansen: When you're only going up that slight amount, do you have to put the pillars in?

Louis Manganiello III: We are doing the pillars, 14" sonotubes.

Chairman Jansen: I don't know if that's required, if you're that low.

Louis Manganiello III: When we originally got denied it did say we needed the variance and the 14" sonotubes. The people we bought the house from had it all set up with 12" sonotubes, but they have to be 14.

Chairman Jansen: Any environmental concerns, Jeremy?

Attorney Havens: On the short form EAF question 12b, "Is the project site or any portion of it located in or adjacent to any area designated as sensitive for archeological sites on the New York State Historic Preservation Office archeological site inventory?" And it identifies, yes. Are you aware of what that may be in reference to?

Kelly Ann Walsh: I think that was pre-filled. Was that about the bat or something?

Attorney Havens: Nope. That was a separate item.

Louis Manganiello III: I think we put that on by mistake.

Attorney Havens: I looked on the Orange County GIS map and didn't identify anything within your immediate proximity. Question 13a, "Does any portion of the site of the proposed action or lands adjoining the proposed action contain wetlands or other water bodies regulated by a federal, state, or local agency?" Selected, yes. I'm sure you're well aware of the stream that runs right through your property?

Louis Manganiello III: Yes.

Attorney Havens: And that's a nationally regulated wetland—the stream is at least, but it doesn't appear that the wetlands itself technically are on your property with the exception of that stream and that's off to the side. Is it going to be impacted by the porch?

Louis Manganiello III: Not at all. The porch is the exact length of the house; it doesn't go beyond the house at all.

Attorney Havens: Question 15, "Does the site of the proposed action contain any species of animal or associated habitats listed by the state, federal government or as threatened or endangered?" The report says yes and it's Indiana bat. And basically the regulations with respect to Indiana bat is you're precluded

from doing any significant tree clearing of large trees from the spring through the fall in order to protect and preserve Indiana bat habitats. Does your project involve cutting down any major trees in order to make room for this?

Louis Manganiello III: No.

Attorney Havens: Then that's a non-issue for us.

Chairman Jansen: Public hearing is open. Is there any from anyone from the public that would like to address this application?

No one present

Attorney Havens: So the application does qualify as a Type 2 action under SEQR section 617.5(c), subsections 12 and 16. Would someone care to make a motion typing the action as a Type 2 with no adverse environmental impact?

Marc Malocsay: So moved.

Glenn Ehlers: Second.

Chairman Jansen: Motion by Marc, Second by Glenn. Any discussion? All in favor?

BM: Aye.

Chairman Jansen: Any opposed? Motion carried.

Attorney Havens: Zoning Board needs to determine whether a site inspection is necessary.

Chairman Jansen: I was there today.

Marc Malocsay: And I was earlier. We always look at the character in the neighborhood, and on Little York Road this does not change the character at all.

Attorney Havens: Alright. Any other comments or concerns about site inspection?

Chairman Jansen: No.

Attorney Havens: The ZBA is to consider any use restrictions or any other conditions to be imposed. It was specifically stated in the building permit denial that the applicant was to provide plans that show sonotubes 14 inches and minimum 6 x 6 posts. The applicant knows and understands you're going to be required to comply with that.

Louis Manganiello III: Yes.

Chairman Jansen: Public hearing is closed.

Attorney Havens: So in considering an area variance, the Board has to consider the five statutory criteria and pursuant to the application submitted by the applicant. Question number 1, "Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby property be created by granting the variance requested?" The applicant states no. And the reason given, "No, a change will improve the characteristics of the neighborhood." Does the Board agree that the requested variance will not produce a negative change in the character of the neighborhood or a detriment to nearby properties?

BM: Yes.

Attorney Havens: Question 2, "Can the benefit the applicant seeks be achieved by some feasible method other than the variance?" The applicant states no. And the reason given, work cannot start without an approved permit. Does the Board agree that the benefit that the applicant seeks can't be achieved by some feasible method other than granting the variance?

BM: Agreed.

Attorney Havens: Question 3, "Is the requested variance substantial?" The applicant states no. And the reason given is the change requested is minor. Does the Board agree that the variance is not substantial?

Marc Malocsay: It is substantial.

Chairman Jansen: It is substantial.

Attorney Havens: Question 4, "Will the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?" The applicant states no. And the reason given, the change will not impact environmental conditions in the neighborhood. Does the Board agree?

Chairman Jansen: We agree.

Attorney Havens: Question 5, "Is the alleged difficulty self-created?" The applicant states no. The reason given, the permit was denied to build the front covered porch. Does the Board agree that the alleged difficulty is not self-created?

Marc Malocsay: It is self-created.

Chairman Jansen: Yes, it is self-created.

Attorney Havens: All of the criteria having been considered, would someone care to make a motion granting or denying the variance as advertised?

Marc Malocsay: I'll grant it as advertised.

Glenn Ehlers: Second.

Chairman Jansen: Motion and a Second. All in favor?

BM: Aye.

Chairman Jansen: Any opposed? Motion carried.