

TOWN OF WARWICK
ZONING BOARD OF APPEALS
AUGUST 28, 2017

Members Present:

Jan Jansen, Chairman

Diane Bramich

Kevin Shuback

Chris Daubert

Attorney Robert Fink

PUBLIC HEARING OF Joan Hoge “Amended” Application - for property located at 165 Union Corners Road, Warwick, New York and designated on the Town tax map as Section 17 Block 1 Lot 21.191 and located in an RU District for an interpretation that the proposed location of a structure to house animals that the proposed setback of 94 feet from the front boundary line satisfies the requirements under the Zoning Code Section 164.46J-16 or, in the alternative, for a variance permitting a setback of 94 feet where 150 feet are required. **Continued from the July 31, 2017 ZBA Meeting.**

CHAIRMAN JANSEN: Any changes to this application?

MS. HOGE: No.

ATTORNEY FINK: We were just waiting to hear from the County. The issue arose about a boundary line. This is an odd circumstance where the neighbor’s boundary is across the 50 foot State right-of-way and moving it actually closer to the road moves it further away from the neighbor on that side. It more than makes the 150 feet from the other property line but not her own property line. The consensus was that it was fine.

CHAIRMAN JANSEN: So is it actually a setback?

ATTORNEY FINK: It’s a variance from the setback simply because her property line is any property line, so she is closer than 150 feet from her property line but it’s more than 150 feet from the adjacent property because of the separation of the road.

CHAIRMAN JANSEN: The Public Hearing is still open. Anyone from the Public wish to add anything? If not, we will close the Public Hearing.

ATTORNEY FINK: Is this going to create an undesirable change in the character of the neighborhood or be a detriment to nearby properties?

MS. BRAMICH: No.

CHAIRMAN JANSEN: No.

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

MR. SHUBACK: No.

CHAIRMAN JANSEN: No, it’s pretty limited there.

ATTORNEY FINK: Is it a substantial variance? On its face it appears to be but it’s not really because it’s more than 150 feet.

MR. SHUBACK: So, I would say no.

ATTORNEY FINK: Will the proposed variance have an adverse effect or impact upon the physical or the environmental conditions in the neighborhood or district?

MR. SHUBACK: No.

MR. DAUBERT: No.

CHAIRMAN JANSEN: No.

ATTORNEY FINK: Is the alleged difficulty self-created?

CHAIRMAN JANSEN: Yes.

MR. SHUBACK: Yes.

CHAIRMAN JANSEN: Would someone care to make a motion to grant the variance as advertised?

MR. SHUBACK: So moved.

MS. BRAMICH: Seconded.

CHAIRMAN JANSEN: Any further discussion?

All in favor? (4 ayes) Motion carried.

PUBLIC HEARING OF Richard & Maureen Mazur - for property located at 7 Bellvale Boulevard, Warwick, New York and designated on the Town tax map as Section 56 Block 4 Lot 21 and located in an MT District for a variance of Section 164.41A(1)(b) permitting an 8 foot X 12 foot shed and new detached 10 foot X 22 foot 1 car garage that do not meet the existing setback requirements of the Code. **Continued from the July 31, 2017 ZBA Meeting.**

CHAIRMAN JANSEN: This is the continued Public Hearing also carried over from last meeting. Everybody was able to see it. I was able to see the property today. The barn is already there and it is about 3 feet away from the property line at this point. Here is a photo Mr. Mazur provided.

ATTORNEY FINK: It seems to me we got concentrated on this garage the last meeting. We're also talking about an existing shed, the 8 X 12 foot shed, correct?

MR. MAZUR: There is an attached garage to the house that was there when I purchased the house. The shed placed next to the garage was also pre-existing.

ATTORNEY FINK: But there's no issue with this other structure being placed too close to the house, or is there?

MR. MAZUR: No.

ATTORNEY FINK: But the word description is an existing 8 X 12 shed and a new detached 10 X 22 1-car garage.

CHAIRMAN JANSEN: It's really not a garage. You can't get to it by car. It's really a shed.

ATTORNEY FINK: That's true but what is this 8 X 12 shed?

MR. MAZUR: That's the shed that was with the garage next to the house.

ATTORNEY FINK: The point is this shed is too close to the house. That's the problem. This shed exists. The building inspector cites 2 things: the shed and the garage don't meet the setback requirements for the dwelling and the property lines. So the shed is too close to the house. It can't be any closer than 10 feet. That's really the subject of this variance, 2 items. We were really concentrating on the proposed 10 X 22 garage which is apparently 3 feet from the property line as opposed to you wanting to put it right on the line. So tell us about this existing shed.

MR. MAZUR: That was there when we bought the house as is. I didn't realize a problem existed until I applied for a permit for this new 10 X 22 structure. I learned that there was never a permit for it. So I just want to be in compliance with the Town.

CHAIRMAN JANSEN: And it's only 2 feet from the house?

MR. MAZUR: Approximately, yes.

CHAIRMAN JANSEN: And it can't be moved or reduced in size?

MR. MAZUR: No, not really.

ATTORNEY FINK: Have you talked with the building inspector about fireproofing?

MR. MAZUR: I have not, but I will.

CHAIRMAN JANSEN: That's going to be a requirement.

MR. MAZUR: I think that could be fixable.

ATTORNEY FINK: So what we're dealing with is granting 2 variances. One – reducing the new garage setback from 5 feet to 3 feet. Two – allowing this existing shed to be 2 feet from the house where 10 feet are required.

CHAIRMAN JANSEN: The Public Hearing is still open. Would anyone from the Public wish to address this application? If not, we will close the Public Hearing.

ATTORNEY FINK: Will an undesirable change be produced in the character of the neighborhood and a detriment to nearby properties be created by the granting of the area variance?

MS. BRAMICH: No, it's already there.

CHAIRMAN JANSEN: No.

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

MS. BRAMICH: He could move it.

CHAIRMAN JANSEN: Theoretically he could move it but practically, no. There is too much sloping on the property.

ATTORNEY FINK: Is the variance substantial?

MR. SHUBACK: Yes.

MR. DAUBERT: Yes.

MS. BRAMICH: Yes.

CHAIRMAN JANSEN: Yes, certainly for the shed.

ATTORNEY FINK: Will the proposed variance have an adverse effect or impact upon the physical or the environmental conditions in the neighborhood or district?

MS. BRAMICH: No.

MR. SHUBACK: No.

MR. DAUBERT: No.

ATTORNEY FINK: Is the alleged difficulty self-created?

CHAIRMAN JANSEN: Yes.

MR. SHUBACK: Yes.

MR. DAUBERT: Yes.

CHAIRMAN JANSEN: Would someone care to type this as "Unlisted" with no adverse environmental impact?

MR. SHUBACK: So moved.

MS. BRAMICH: Seconded.

CHAIRMAN JANSEN: Any discussion?

All in favor? (4 ayes) Motion carried.

ATTORNEY FINK: Does anyone care to move that the variances for the shed (10 feet to 2 feet) and the garage (5 feet to 3 feet) be allowed?

MS. BRAMICH: So moved.

MR. DAUBERT: Seconded.

CHAIRMAN JANSEN: Any discussion?

All in favor? (4 ayes) Motion carried.

PUBLIC HEARING OF Christopher Harrison & Tiffany O'Keefe - for property located at 18 Horseshoe Lane, Warwick, New York and designated on the Town tax map as Section 27 Block 1 Lot 100 and located in an RU District for a variance of the Bulk Area Requirements of the Code reducing 1 side setback from 60 feet 4 inches to 39 feet 5 inches where 75 feet are required and the 2nd side setback from 81 feet 7 inches to 73 feet 5 inches where 75 feet are required and both side setbacks from 141 feet 11 inches to 112 feet 10 inches where 150 feet are required for the purpose of an 8 foot X 16 foot addition and 10 foot X 21 foot covered porch and a 6 foot X 8 foot open deck on an existing single family dwelling.

CHAIRMAN JANSEN: Please identify yourself for the record.

MR. HARRISON: I am Christopher Harrison. Here are the Certified Mail Receipts and some updated photos and copies of the survey to what you currently have. I would like to point out that one piece of the description is not entirely accurate. There is a 10 X 23 foot addition on the west side of the house, and then the 10 X 21 foot covered porch and then the deck. I don't know why that didn't come up on the description but it is shown on the survey plot and it was also on the building permit application.

ATTORNEY FINK: So what you want is an 8 foot X 16 foot addition, is that right?

MR. HARRISON: Yes, that is on the west side of the house.

ATTORNEY FINK: And the 10 X 21 foot covered porch?

MR. HARRISON: That is on the east side of the house. There is also a 10 X 23 foot addition on the east side of the house. So we're extending the house on the east side and putting the covered porch and deck on that side. If you look on the survey it shows the addition on each side and the screened porch and the deck.

MS. BRAMICH: What's the mudroom?

MR. HARRISON: That is the 8 X 16 foot addition. It will basically be the entrance into the house with access to the 2nd floor.

ATTORNEY FINK: You should explain two things. First, presumably there is no property available to increase the size of your lot?

MR. HARRISON: There is no property that is for sale. I have actually inquired about purchasing the lot to the east of us that is owned by Mr. Jorgensen but have not gotten a response from him on that.

ATTORNEY FINK: Could these be made smaller and still be practical?

MR. HARRISON: Not really for the purpose of trying to increase the living space. It's kind of tight.

ATTORNEY FINK: They couldn't go on another part of the dwelling so there would be less of a variance requirement?

MR. HARRISON: No, the areas we are expanding are actually in the living space where the kitchen, dining room and living room are. The area we are not expanding is where the bedrooms and bathroom are for the house.

CHAIRMAN JANSEN: It a weird lot to begin with.

MR. HARRISON: Yes. One of the things I cited in there is our lot is a wedge-shaped lot so by the Town Code we are held by the road frontage which is the biggest dimension. If you go by either what the average is or what the dimension is, at the house where the addition is, we actually fall under a much smaller setback that requires 35 feet. So if that were the case, we would be in compliance. But because we are held to the large road frontage on a wedge-shaped lot, that's what keeps us needing a variance.

ATTORNEY FINK: This is a rare occurrence where you have roads on the on the front and back as opposed to the front and the side.

MS. BRAMICH: It's got 2 front yards?

ATTORNEY FINK: No. That was my initial impression that we were dealing with 2 front yards. In this instance the front yard is Horseshoe Lane and the back yard is on a highway.

MR. HARRISON: Yes, and there is a small cliff that drops off to County Route 1.

ATTORNEY FINK: Before we get too far, did we get anything back from the County? I don't have anything in my file. If not, do we know when it was mailed to the County?

MARY HEBEL: Let me check the file. No, we haven't received anything yet.

CHAIRMAN JANSEN: The Public Hearing is open. Does anyone from the Public want to address this application?

CHAIRMAN JANSEN: If not, we will keep it open until next meeting. We really can't act until we hear from the County. The next meeting will be Monday, September 25 at 7:30pm.

PUBLIC HEARING OF KP Home Builders, Inc. - c/o Ken Porter for property located at County Route 26 & County Route 1, Warwick, New York and designated on the Town tax map as Section 14 Block 1 Lot 7 and located in an LB District for variances of the Bulk Area Requirements of the Code allowing reduction of front yard setback for a proposed 3 story building with restaurant and offices on the 2nd and 3rd floor with a front yard setback of 22 feet where 35 feet are required and lot coverage of 62% where not more than 50% is permitted.

CHAIRMAN JANSEN: Please identify yourself for the record.

ATTORNEY FINK: If I may before you start, I think we have the same problem. Have we heard anything back from the County?

CHAIRMAN JANSEN: No.

MR. NOSEK: John Nosek, Nosek Engineering, the engineer representing the applicant, Ken Porter of KP Home Builders. This particular lot is a half-acre piece located at the intersection of County Route 26 and County Route 1. I assume the board is familiar with this site. It's right in the center of town there in Pine Island. It is a vacant lot that at one time had a fruit stand on it. Mr. Porter would like to put up a nice restaurant with some office space. We feel it is well suited for the area and consistent with land usage in the surrounding area. It's a commercial area. In order to put up a restaurant we had to go the Planning Board. We originally proposed a building further back with parking up front. They were not in favor of that. They wanted the building up front with parking in the rear. In order to do that and make it feasible with the parking access, we need to push the building up to a point where we would need relief of approximately 13 feet for the front setback from 35 feet to 22 feet. That being said, the rear and side of the site would be used for parking and we would have a pretty good sized septic system (that would be subject to approval from the Orange County Department of Health since it's a restaurant) which would also be located behind the building. So what we're asking for is a front setback variance and larger lot coverage variance for the required number of parking spaces and size of the building. Town Code specifies no more than 50% is permitted. We are looking at upping that to 62%.

CHAIRMAN JANSEN: Any questions at this point from anyone?

MR. SHUBACK: There won't be any parking in the front? It's all going to be at the side and rear of the building?

MR. NOSEK: Yes, that was the requirement from the Planning Board.

MR. SHUBACK: How many parking spots are you anticipating?

MR. NOSEK: 34.

CHAIRMAN JANSEN: The Public Hearing is open. Does anyone from the Public want to address this application? Please come on up and identify yourself for the record.

MR. HAMLING: I am Philip Hamling. I live at 376 County Route 1. I own 624 Glenwood Road which is directly behind this property. Is there a site plan available that I can look at?

CHAIRMAN JANSEN: Yes. Come on up. There are more details, of course, in the Planning Board's file

MR. HAMLING: The other thing I was curious about is how does the front of this proposed building compare to that of the Harvest Restaurant? Is it closer to the road or in line?

MR. PORTER: It's about the same.

MR. HAMLING: Where would the septic system go?

MR. NOSEK: The septic system is going to be an infiltration under pavement design subject to approval by the Health Department. I did speak to the Health Department and they will permit these systems under concrete and traffic loading chambers and pavement.

MR. HAMLING: Will you be removing the walnut trees?

MR. PORTER: Well the one located right where the bank starts to slope down has to come out. The other one I might be able to leave.

MR. HAMLING: Please take it away too.

MR. PORTER: You want it out of there? You got it. I will be cleaning up all the broken up concrete and debris. You won't recognize it when it's all done. It will be a nice building with nice landscaping, etc.

MR. HAMLING: OK, great. Thank you.

CHAIRMAN JANSEN: Anyone else? If not, we will keep the Public Hearing open until next meeting. The next meeting will be Monday, September 25 at 7:30pm.

OTHER CONSIDERATIONS:

CHAIRMAN JANSEN: Motion to approve the ZBA Minutes from the July 31, 2017 meeting.

MR. SHUBACK: So moved.

MS. BRAMICH: Seconded.

CHAIRMAN JANSEN: All in favor? (4 ayes) Motion carried.

Black Bear Campground "Amended" ZBA Resolution

CHAIRMAN JANSEN: We are to discuss “Amending” the ZBA Variance Approval that was granted on March 27, 2017 for Black Bear Campground.

ATTORNEY FINK: We are simply reaffirming what we voted on in March.

CHAIRMAN JANSEN: Motion to accept the ZBA Variance Approval granted on March 27, 2017.

MR. SHUBACK: So moved.

MS. BRAMICH: Seconded.

CHAIRMAN JANSEN: All in favor? (4 ayes) Motion carried.
Meeting adjourned.

[ZBA Recording Secretary – Mary Hebel]