

Town of Warwick ZBA Minutes

Town of Warwick

Zoning Board of Appeals

Monday, February 28, 2022

Members Present:

Jan Jansen, Chairman

Robert Fink: ZBA Attorney

Malocsay Malocsay

Diane Bramich

James Mehling

Chris Daubert

Regina Feliciano ZBA Secretary

Public Hearing of Continued Application – Johnny Hayseed LLC. - for property located at Glenwood Road, Warwick, NY 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 more feet. **Continued to March 28, 2022 ZBA Meeting.**

Public Hearing of Donna Grosman – for property located at 35 Echo Lane, Warwick, NY and designated on the Town tax map as Section 30. Block 2 Lot 1.2 for a variance of the Bulk Area Requirements of the Code permitting renovation and addition to existing single-family dwelling reducing front yard setback from 61.2 feet to 49.0 feet where 75 feet are required and side setbacks from 41.25 feet to 37.75 feet where 75 feet are required and 49 feet where 75 feet are required. **Continued from 1/24/22 ZBA Meeting.**

Ms., Grosman: The lot on the house sits on another lot and as a result I have a building code violation. I came to town assessor Deborah and had those two lots combined. Two lots in front dwelling I am leaving as they are.

CHAIRMAN JANSEN: Any questions? Any questions from the public?

Malocsay: No, I have questions for Bob.

CHAIRMAN JANSEN: Any questions from the public? If not, public hearing is closed.

Malocsay: First thing. It's a way of not having to have a variance. By definition the front of the house faces the road. Technically, the front of the house is the back of the house on this one. So does she need a variance for a front yard setback. Because its the opposite side the of the road frontage.

Attorney Fink: Let's look to see – does not meet the 75ft, that's what the building inspector says. He is looking at the front yard as being the front of the house. Why do you think that should be the back of the house?

Malocsay: because by definition the front of the house is one that fronts the road frontage. All this is, is a driveway that goes all around. We have this all the time because of side yard setbacks when there are two road frontages.

Attorney Fink: That seems correct, but we run into problems when the lot doesn't go straight, Let's look this up.

Malocsay: It does not affect that variance though, having an easement costs money. Having a variance doesn't cost ay money,

Attorney Fink: Malocsay, where do you say the front of the house is now? Tell me the right, left or the middle.

Malocsay: Why because it faces the road frontage.

Attorney Fink: So the 75ft is no longer?

Malocsay: It's the rear of the house, I believe it 35ft but I'm not the building inspector so...

Attorney Fink: We have definitions of lot which include lot line rear and that generally opposite to the street line. The rear lot is less than 10 ft so the rear lot for some strange reason does not define as the rear or side – it has to be the front. Lot line generally opposite the street line is where the driveway is.

Malocsay: No, the driveway goes around these.

Attorney Fink: 40.25 ft there

Sardo: 41.25 Ft

Attorney Fink: And where they are constructing would be the side.

Malocsay: I would call that the rear or the back.

Malocsay: I wouldn't call that a right of way. The other one is in the front that simply is a driveway that goes to the other side.

Attorney Fink: I'm sold. We'll get there.

Malocsay: I believe 41.25 for variance.

Attorney Fink: 61-49 where 50 ft are required – 31-47 ft where 4=50 ft are required. The difference is 75ft to 50ft.

Malocsay: I thought it was 35 ft not 50 ft in that case ho variance is needed. We're good.

Attorney Fink: Will the proposed variance cause an undesirable change cause and undesirable change to the character of the neighborhood or be detriment to nearby properties.

BRAMICH: No

MALOCSAY: No

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

BRAMICH: No

ATTORNEY FINK: Is it's a substantial variance?

MALOCSAY: No

ATTORNEY FINK: Will it have an adverse effect upon the physical or environmental conditions?

CD: No

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

Malocsay: So moved

BRAMICH: second

CHAIRMAN JANSEN. All in favor

(5 ayes) Motion carried.

D Grosman: Can I get something in writing?

CHAIRMAN JANSEN: She will send a letter with the resolution. You will have the decision by the end of the week.

Sardo: Yes, it will be sent to you. Then you can contact the building department for your building permit.

Public Hearing of Jason Schuler and Morganne Frazier – Goodman Acres – for property located at 26 Pine Island Turnpike, Warwick, NY and designated on the Town tax map as Section 27 Block 1 Lot 18 for a variance Section 164-41A.(1)(a) expanding an existing accessory building from 1800 ft (variance granted 4/26/21) to 2100 ft where 1200 ft is permitted.

CHAIRMAN JANSEN: Ok. Next on the agenda. Jason Schuler and Morganne Frazier – Goodman Acres. Please identify yourself for the record.

D. Getz: David Getz Engineering properties. For property located at 26 Pine Island Turnpike, Warwick, NY and designated on the Town tax map as Section 27 Block 1 Lot 18 for a variance Section 164-41A.(1)(a) expanding an existing accessory building from 1800 ft (variance granted 4/26/21) to 2100 ft where 1200 ft is permitted.

CHAIRMAN JANSEN: Please identify yourself for the record.

DG: David Getz, Engineering properties.

CHAIRMAN JANSEN: This is a continuation from last month,

DG: We resent the notice. We have receipts. I think that's all straight. We discussed last time the applicant expanding from 1800ft to 2100 ft. The additional square footage will not be visible from the street. It is out back a little bit. So we think if we get the variance we still have to go to the planning board.

CHAIRMAN JANSEN: Any questions? Any questions from the public? None, ok let me open to the public. Is there anyone that would like to address this application?

Malocsay: I checked on a couple of things going to the planning board and then to us, when I thought there were changes that still might have changes in what you are asking for. It is unclear about the usage which isn't us. I'm willing to go forward because going from the 1200 to the 2100 it's not a big difference.

Attorney Fink: All we are doing is granting size?

Malocsay: Yes

CHAIRMAN JANSEN: Based on that the public hearing is closed.

Attorney Fink: Will the proposed variance cause an undesirable change cause and undesirable change to the character of the neighborhood or be detriment to nearby properties.

BRAMICH: No

MALOCSAY: No, numerous buildings and commercial buildings.

Attorney Fink: Can the benefit sought by the applicant be achieved by any other feasible measure?

BRAMICH: No

ATTORNEY FINK: Is it's a substantial variance?

MALOCSAY: No

ATTORNEY FINK: Will it have an adverse effect upon the physical or environmental conditions?

CD: No

ATTORNEY FINK: Would someone care to type this as "unlisted" with no adverse environmental impact?

Malocsay: Going from 1800 ft to 2100 ft. is not significant,
No,

Chris B: So moved

BRAMICH: Second

Attorney Fink: Does anyone care to move that the variance be granted as advertised for property located at 26 Pine Island Turnpike, Warwick, NY and designated on the Town tax map as Section 27 Block 1 Lot 18 for a variance Section 164-41A.(1)(a) expanding an existing accessory building from 1800 ft (variance granted 4/26/21) to 2100 ft where 1200 ft is permitted.

Malocsay: So moved

BRAMICH: Second

CHAIRMAN JANSEN. All in favor

(5 ayes) Motion carried.

Public Hearing of Anthony Napolitano – for property owned by 138 Pine Island Turnpike, LLC and located at 1138 Pine Island Turnpike, Warwick, NY and designated on the Town map as 29-1-74 and located in a RU District for a variance of Section 164-41C(4)(f) permitting an existing fence 8 feet in height where only 4 feet are permitted.

Please state your name for the Record.

MG: Ms. Grzegorcewski. I sold the house. I am here on behalf of the Applicant for a variance to allow an existing 8-foot high fence in the front yard. The fence has been there for a long time.

Chairman Jansen states that the ZBA would have no problem with issuing a variance for the existing 8-foot fence. The application is located off Pine Island Turnpike which is a County Road. The application has been sent to O.C. Planning Department. We are awaiting to hear back from the County. They have 30 days to respond. The ZBA is in a consensus on approving the variance for the existing 8-foot fence. The ZBA will continue this application to the March 28, 2022 ZBA Meeting for approval of the variance. The Applicant does not need to be at the March meeting for the ZBA's approval of the variance.

Public Hearing of Owen and Patrick Keady – for property located at 80 Furnace Trail, Greenwood Lake, Warwick, NY. Designated on the town tax map as 74-9-18 and located in an SM District for a variance of the /bulk Area Requirements of the Code permitting a front covered porch in the minimum front yard setback.

CHAIRMAN JANSEN: Please identify yourself.

Patrick Keady.

CHAIRMAN JANSEN: Briefly tell us what you are trying to do.

PK: I want to extend the front porch 6ft. Basically, everything else has been approved. We just want to know about the porch.

Bramich: You want to go up a level and toward the road 6ft over the existing structure,

PK: Yes. 6ft toward the road.

MM: The issue is that the second floor will cover the porch. That is the footprint of a structure above the porch,

Attorney Fink, Bramich and Malocsay discuss the extension of the porch with a dwelling above. An enclosed porch needs no variance. They discuss the existing porch and the architecture of the porch. It is stated it will be open with four columns.

CHAIRMAN JANSEN: Any other questions? I will open it up to the public.

State your name for the record.

Keith Kimker I am the Managing Agent for Furnace Brook Homeowners Association. Myself, along with other members of our community are concerned because we just received notice two days ago. We had a discussion with the applicant and made inquiry on his build and was shown architectural drawings. It encroaches the street and there is no backyard. The design is not keeping with the aesthetics of the current community.

Board addressed the fact that the only thing before the board is the porch addition.

Keith Kimker: Asked for a postponement to review the plans for transparency. Said several neighbors had not received the notices.

Sardo: The notices were sent February 17, 2022, which gave sufficient notice. A discussion between Mr. Kimker and the applicant ensued whereby Mr. Kimker was accusatory in not having an opportunity to review the plans in which the applicant reminded him that he and others had already reviewed the plans in question.

Attorney Fink: The only thing that is in front of us is the covered porch. He would want to do anything else on the property he would have to appear before us again with a new application. I think we should postpone it to next month,

Mr. Keady: We have been waiting for 8 months. It's ridiculous that I have to continue to wait. Everything else has been approved. I have done everything that has been asked of me.

Bramich: There is no need to wait until next month. All of the bungalows have been transformed into year-round homes. That's what is happening to all those properties. Some are close to road and some have not property at all. I don't think there is a reason to wait.

Malocsay: They want to know the amount of footprint on the lot. That is what he is trying to understand.

Bramich: From what I know of the property you should all be happy that he is renovating it,

Mr. Kimker: We are. 100%. We are just asking for a time to review.

Malocsay: Bob I have a question for you. On the legality of the enclosed porch is not accurate, The variance will be the same but it not for a covered porch, The footprint of the house will be 6ft closer, If you want to call that a porch.

Attorney Fink: Based on the application to determine the footage. Now, insofar could you argue that a porch should be there, I don't see where this would have to be readvertised,

Malocsay: Going forward the way that it is read to us we cannot call it a covered porch. It's a 6 ft addition to the front of the house. They don't want to hold it over but if it comes back for whatever reason. I'm bringing it up because it would have to be re advertised, The only thing before us is the 6ft addition porch. Diane because you know the character of the area. On average it appears that they are 25 ft from road. Is it fair to say that there are buildings that are between 25-20 ft to the road.

Bramich: Definitely.

Malocsay: I do not see any reason to hold it over.

CHAIRMAN JANSEN: Anyone else? This matter is closed to the public hearing.

Discussion between Malocsay and Fink to determine the definition of a porch.

Fink: A porch used as an outdoor living area. Porches can be enclosed by roof or screen. I will * it.. Calling it a roof has been disputed by ZBA member. It will be referred to as structure.

Attorney Fink: Will the proposed variance cause an undesirable change cause and undesirable change to the character of the neighborhood or be detriment to nearby properties.

All in agreement. NO

Attorney Fink: Can the benefit sought by the applicant be achieved by any other feasible measure?

BRAMICH: No

ATTORNEY FINK: Is it's a substantial variance?

MALOCSAY: No

ATTORNEY FINK: Will it have an adverse effect upon the physical or environmental conditions?

CD: No

ATTORNEY FINK: Would someone care to type this as "unlisted" with no adverse environmental impact?

Malocsay: No,

Chris B: So moved

BRAMICH: Second

Attorney Fink: Does anyone care to move that the variance be granted as will be further explained in the body of the variance with a 6ft extension and a cantilever structure with a structure underneath,

Malocsay: So Moved

CB. Second,

All in favor. (5 ayes)

Motion carried,

Public Hearing of Craig Robert Shields – for property located at 48 Little York Road, Warwick, NY. And designated on the Town tax map as 12-5-8.1 and located in. an SL District for a variance of the Bulk Area Requirements of the Code permitting covering an existing deck 11.4 feet from the front line where 50 feet are required.

Please identify yourself for the record.

Hello I am Greg () I will be representing Mr. Shields this evening, The deck has already been built. We now want to put a roof around it.

Malocsay: This is one of the nicest houses in the area. I don't know if you have seen most of the houses are about 2 ft from the road. This house was built before 1910 before the zoning laws.

Chairman Jansen: Do you have any questions?

Bramich: Yes, what is he covering. There are two porches here,

Malocsay: It's the front porch.

Bramich: OK

Chairman Jansen: Questions? Anybody?

Attorney Fink: Will the proposed variance cause an undesirable change cause and undesirable change to the character of the neighborhood or be detriment to nearby properties.

All in agreement. NO

Attorney Fink: Can the benefit sought by the applicant be achieved by any other feasible measure?

BRAMICH: No

ATTORNEY FINK: Is it's a substantial variance?

MALOCSAY: No

ATTORNEY FINK: Will it have an adverse effect upon the physical or environmental conditions?

CD: No

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

Malocsay: No,

Malocsay: So moved

BRAMICH: Second

CHAIRMAN JANSEN. All in favor

(5 ayes) Motion carried.

Thank you everyone.