

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
September 19, 2019
6:30 PM**

The Town of Manlius, Zoning Board of Appeals assembled at the Town Hall, 301 Brooklea Drive, Fayetteville, New York, with Chairman K.P. Kelly presiding and the following Board members present:

	Member	Jim Campbell
	Member	Al Ruthig
	Member	Clare Miller
Absent	Member	Judy Salamone
	Secretary	Lisa Beeman
	Attorney	Jamie Sutphen
	Codes Director	Randy Capriotti

Also, Present: Kevin & Simone Smith, Jessica & Tom Umina, Ken Eggert, Chris Panebianco.

The Pledge of Allegiance was recited. The meeting was called to order at 6:30 PM.

Minutes

Member Miller made a motion, seconded by Member Campbell, to approve the minutes of August 15 as submitted by Secretary Witzel and it was carried unanimously.

Legal Notices

Member Campbell made a motion, seconded by Member Ruthig to waive the reading of the public notices and it was carried unanimously.

Member Miller made a motion seconded by Member Campbell, made a motion to open the public hearing at 6:31 PM.

Thomas & Jessica Umina, 8859 Haystack Lane, Chittenango NY (082.2-01-14.0) requesting an area variance for an 18' X 36' inground pool in the rear yard. With an existing rear yard setback of 25', will need a 15' variance to meet the required 40' rear yard setback.

Present for the applicant were Mr. & Mrs. Umina and their two children.

Mrs. Umina stated as to why they need the variance, they would like a pool in their back yard.

Chairman Kelly proceeded with Thomas & Jessica Umina through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? No
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? No
- 3) Whether the requested Variance is substantial? No
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No
- 5) Whether the alleged difficulty was self-created? No, it is because of the shape of the lot.

Member Ruthig made a motion seconded by Member Campbell, made a motion to close the public hearing at 6:39 PM.

Board Discussion

Member Campbell stated there is no other place for a pool on the property.

Member Miller stated that there is commercial property behind this property.

Board Questions

Chairman Kelly preceded with the Board Members the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? No, this is the only place for the pool; doesn't fit anywhere else due to topography of the property.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? No. there are other pools in the neighborhood; it backs up to commercial property and is a good addition to neighborhood.
- 3) Whether the requested variance is substantial? No, not in relation to the land.
- 4) Variance will have an adverse effect on physical or environmental conditions? No. There are no drainage issues per pool installers as it backs up to commercial property.
- 5) Whether the alleged difficulty was self-created? Yes, but not determinative.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the application **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance for 15' in the rear yard is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions: None

SEQRA Review

Chairman Kelly determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action

Based on the answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member Campbell made a motion, seconded by Member Ruthig, to grant to Thomas & Jessica Umina, 8859 Haystack Lane, Chittenango NY an area variance for an 18' X 36' in ground pool in the rear yard a 15' rear yard variance to meet the required 40' rear yard setback.

The Board voted as follows:

Chairman Kelly	Aye
Member Ruthig	Aye
Member Miller	Aye
Member Campbell	Aye

The motion was carried

Simone Quinn-Smith 8209 Penstock Way, Manlius NY (114.-02-16.0) requesting an area variance for an 18' X 37' X 29' in ground pool in the rear yard. With an existing rear yard setback of 25' they will need a 24' variance to meet the required 40' rear yard.

Member Ruthig made a motion seconded by Member Miller, made a motion to open the public hearing at 6:43 PM.

Simone Quinn-Smith stated they would like to install and in ground pool.

Chairman Kelly proceeded with Simone Quinn-Smith through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? No, because it's a corner lot and the way the house is situated it makes it the only usable place.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? No, many houses in the neighborhood have pools.
- 3) Whether the requested Variance is substantial? No
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No
- 5) Whether the alleged difficulty was self-created? Yes, we would like a pool.

Member Ruthig made a motion seconded by Member Campbell, made a motion to close the public hearing at 6:47 PM.

Board Discussion

Member Campbell stated it is the best location on the property for the pool.

Board Questions

Chairman Kelly proceeded with the Board Members through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? No, The Property is a corner lot and it is tight in the back with more land in front.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? No, many pools in the area.
- 3) Whether the requested Variance is substantial? No, not in relation to the lot.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No, no drainage issues
- 5) Whether the alleged difficulty was self-created? Yes, would like pool.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the application **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance for 24 feet is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions:

SEQRA Review

Chairman Kelly determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Board Action

Based on the answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member Ruthig made a motion, seconded by Member Campbell, to grant Simone Quinn-Smith, 8209 Penstock Way, Manlius NY an area variance for an 18' X 37' X 29' in ground pool in the rear yard. With an existing rear yard setback of 25' they will need a 24' variance to meet the required 40' rear yard.

The Board voted as follows:

Chairman Kelly	Aye
Member Ruthig	Aye
Member Miller	Aye
Member Campbell	Aye

The motion was carried

Christopher Panebianco, 4450 Treetops Circle, Manlius NY requesting an area variance for a 10' X 20' storage shed in the side yard. Applicant has an existing side yard setback of 5' and is requesting a 15' variance to meet the required 20' side yard setback.

Mr. Panebianco stated he would like to put a storage shed in his side yard.

Member Campbell made a motion seconded by Member Ruthig, made a motion to open the public hearing at 6:52 PM.

Chairman Kelly proceeded with Mr. Panebianco through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? No
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? No
- 3) Whether the requested Variance is substantial? No
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No,
- 5) Whether the alleged difficulty was self-created? No

Member Miller made a motion seconded by Member Campbell, made a motion to close the public hearing at 6:59 PM.

Board Discussion

Member Ruthig asked what the finishes would be to the shed and if it will match the house. Mr. Panebianco stated the shed will be painted to match the house with a black roof.

Member Miller asked why he picked the location in the yard for the shed. Mr. Panebianco stated the neighbors have items in their yard in the same area.

Member Campbell asked what the shed would be placed on and if he will add electricity. Mr. Panebianco stated it would be blocks and there will not be electricity.

Board Questions

Chairman Kelly proceeded with the Board Members through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? No, because a lot of the yard is lost to foliage and a steep slope so without the variance it would be in the middle of the yard.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? No because there are other sheds in the neighborhood.
- 3) Whether the requested Variance is substantial? No

- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No, the lot next door has been vacant for many years and is not well kept.
- 5) Whether the alleged difficulty was self-created? Yes

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the application **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance for 15 feet is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions:

Board Action

Based on the answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member Campbell made a motion, seconded by Member Ruthig, to grant Christopher Panebianco, 4450 Treetops Circle, Manlius NY an area variance of 15' in the side yard for the purpose of placing 10' X 20' storage shed in the side yard.

The Board voted as follows:

Chairman Kelly	Aye
Member Ruthig	Aye
Member Miller	Aye
Member Campbell	Aye

The motion was carried.

Kenneth Eggert, 6599 Maricarol Lane, Kirkville NY is requesting an area variance for a 24' X 28' X 15' detached garage in the side yard. Applicant has an existing side yard setback of 13' is requesting 7' to meet the required 20' side yard setback.

Mr. Eggert stated he would like to build a 2-car detached garage. Mr. Eggert explained how he came to own the property and why the property is an unusual construction.

Member Campbell made a motion seconded by Member Ruthig, made a motion to open the public hearing at 7:09 PM.

Chairman Kelly proceeded with Mr. Eggert through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Yes, but if he were to move the garage over the 7' it would be behind the house and he would like it look symmetrical. He would like the center line of the driveway to line up with the garage.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? No, it will improve the look of the neighborhood.
- 3) Whether the requested Variance is substantial? No
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No
- 5) Whether the alleged difficulty was self-created? Yes, he wants the garage.

Member Ruthig asked about the size of the garage. Mr. Eggert stated it is large and he is sure he will fill it up fast. Member Ruthig asked if the garage would only be used for storage and if there will be electricity. Mr. Eggert stated it will be used for storage only and there will be electricity.

Member Ruthig made a motion seconded by Member Campbell, made a motion to close the public hearing at 7:14 PM.

Board Questions

Chairman Kelly proceeded with the Board Members through the five (5) criteria questions:

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? No, Applicant is trying to make it symmetrical, which is desirable.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? No, It will actually make it better because the lot nearest to the garage has a lot of debris and garage helps block it.
- 3) Whether the requested Variance is substantial? No, only 5'.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No, visibly pleasing as proposed and no drainage issues.
- 5) Whether the alleged difficulty was self-created? Yes

SEQRA Review

Chairman Kelly determined the proposed project and action contemplated is comprised of a Type II Action pursuant to the New York State Environmental Quality Review Act, and as such no further review was required.

Determination of ZBA Based on the Above Factors:

The ZBA, after taking into consideration the above five factors, finds that:

 X The benefit to the application **DOES** outweigh the Detriment to the Neighborhood or Community.

 The benefit to the applicant **DOES NOT** outweigh the Detriment to the Neighborhood or Community and therefore the variance requested is denied.

The ZBA further finds that a variance for 7 feet is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The ZBA further **GRANTS** the variance as requested with the following conditions: the garage will match the house including roof material. Garage will be no a monolithic slab.

Board Action

Based on the answers provided in the application and before the board, the ZBA determined that the benefit to the applicant outweighed any detriment to the neighborhood.

Member Ruthig made a motion, seconded by Member Campbell, to grant Kenneth Eggert, 6599 Maricarol Lane, Kirkville NY an area variance of 7' for the purpose of constructing a 24' X 28' X 15' detached garage in the side yard. Applicant has an existing side yard setback of 13' is requesting 7' to meet the required 20' side yard setback.

The Board voted as follows:

Chairman Kelly	Aye
Member Ruthig	Aye
Member Miller	Aye
Member Campbell	Aye

The motion was carried.

Other Business - None

Adjournment

With there being no other business, Member Miller made a motion, seconded by Member Campbell, and carried unanimously, to end the meeting at 7:19 PM.

Respectfully submitted,
Debi Witzel, Secretary
Zoning Board of Appeals