

**COPY**

**TOWN OF MANLIUS  
ZONING BOARD OF APPEALS**

**AREA VARIANCE FINDINGS & DECISION**

Address of Property: 8291 East Seneca Turnpike, Manlius NY 13104

Upon of Motion by Member: Tim Kelly and Seconded by Member Warren Linhart, the Zoning Board of Appeals Passed the Following Resolution:

WHEREAS, the applicant, came before the Zoning Board of Appeals on July 20, 2023, for an area variance of 13.76 feet to meet the required 200' for Front Road Frontage.

NOW, THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals adopts the following findings and decisions:

Applicant: Danielle + Ryan Ewert

Zoning District: \_\_\_\_\_

Published Notice on: July 12, 2023

Property Location: 8291 E. Seneca Tpke., Manlius NY 13104

Applicable Sections of Town Zoning Code: \_\_\_\_\_

Current use of Property: \_\_\_\_\_

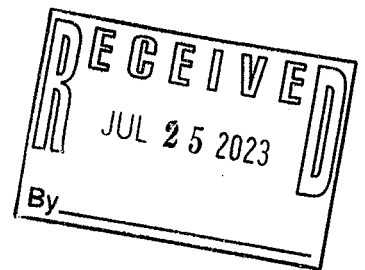
Tax Map No.: 099-01-27.4

**I. Notice Sent to the County Planning Board:**

_____	Not Applicable
_____	Date
<u>X</u>	County Determination

**II. SEQRA (State Environmental Quality Review Act)**

_____	Unlisted Action
_____	Type I Action
<u>X</u>	Type II Action (no further action required)



Finding, if applicable \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address of Property: 8291 E. Seneca Turnpike, Manlius NY 13104

**III. Factors Considered:**

1. Whether benefit sought by applicant can be achieved by some other feasible method.

Yes  No

**Reasons:** For purposes of consideration of this criterion, Section 155-12 A.1 of the Town of Manlius Zoning Code relevantly states, “...A minimum of 150 feet of frontage and a minimum of 40,000 square feet of area are required where public sanitary sewers are provided. A minimum of 200 feet of frontage and a minimum of 100,000 square feet of area are required where a septic system is proposed.”

A variance can be completely avoided for this property if it is served by public sanitary sewer and not private septic/holding tank. This applicant seeks a variance because they desire the property to be served by a private sewage disposal system, and that requires 200 feet of road frontage per the Town Code. But, the applicant does, in fact, have sufficient road frontage of a minimum of 150 feet for its newly created subdivided lot.

The question presented by this variance criterion is whether there is a “feasible” alternative to a variance. Feasibility does not necessarily mean affordability, as affordability is very subjective dependent upon the financial situation of the party. Particularly where a newly subdivided parcel can be readied for commercial development, the affordability issue becomes even more subjective. However, it is known from evidence presented by the applicant through its quotes, that installing the infrastructure necessary for a public sewer access is feasible, notwithstanding cost; in other words, it can be done.

This property, when subdivided, can be ready for any number of commercial uses which are allowed by the Code in an RA zone. This Board does not look at any one use, or the use proposed by the applicant currently. Rather, in general, where the potentially commercial lot can feasibly be served by public sewer and avoid the variance, that is a significantly weighted factor by this Board. It bears noting that a similarly situated commercial enterprise located at 8275 East Seneca Turnpike was required to “hook up” to public sewer to serve its commercial use as a veterinary practice. This provides further proof of the feasibility of same, and accordingly, this Board is not persuaded that the financial numbers presented render the hookup to public sewer unfeasible. The County Health Department, by email dated June 27, 2023, was, apparently, somewhat persuaded by the financial differential presented by the applicant in noting that they would have “no objection to a private sewage disposal system.” This is a sharp departure from the County Referral of April 26, 2023, wherein the County Planning Board stated as a modification, “It appears the public sewerage is available and accessible to this parcel. As such, the Onondaga County Sanitary Code requires connection to the public utility, versus installation of a septic system. Plans must be modified to reflect a connection to the public sanitary sewer system, and a sewage disposal plan must be approved by the Onondaga County Health Department, prior to, or as a condition of, municipal plan approval.” And, in any event, as stated by Jeffrey Till of the County Health Department in his June 27<sup>th</sup> email: “the final decision to require connection to the public system lies with the Town of Manlius.” Because the need for the variance can be eliminated, this Board adopts the requirement of connection to the public sanitary sewer system as a feasible alternative to the variance.

2. Whether the variance will result in an undesirable change in the character of the

Neighborhood or be a detriment to nearby properties: Yes  No

**Reasons:** This particular area has a significant residential component, and the newly subdivided lot will be surrounded by residential uses. An unnecessarily reduced road frontage as requested herein creates an undesirable change in the neighborhood in that the reduced road frontage provides for less opportunity to locate a curb cut at a reasonable distance from the residential neighbor to the west. This could potentially create an undesirable change in the neighborhood, to the detriment of adjacent and nearby residential neighbors.

3. Whether the request variance is substantial: Yes  No

**Reasons:** The 13.76 variance requested is substantial considering the location of adjacent parcels and the frontage in comparison to the proposed lot configuration, which becomes very narrow just shortly beyond the substandard road frontage.

4. Whether the variance will have an adverse effect on the physical or environmental conditions of the neighborhood: Yes  No

5. Whether the alleged difficulty was self-created: Yes  No

**Reasons:** This difficulty is self-created in that the applicant seeks to subdivide a parcel off of their current residential-use parcel to pursue a separate commercial use on a newly created lot. The applicant pursued a zone change on their entire parcel, which could potentially allow certain commercial uses provided all zoning criterion are met. So, the applicant was aware that a zone change alone would not be sufficient to potentially develop a commercial use, rather, site plan approval and/or Special permit approval would be necessary in order to pursue an approved commercial use, and bulk regulations would also have to be met – such as setbacks, lot size, etc.

**IV. Determination of ZBA Based on the Above Factors:**

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

The benefit to the applicant 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 of \_\_\_\_\_ 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: \_\_\_\_\_

---

---

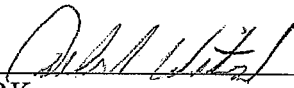
Address of Property: 8291 E. Seneca Tpk, Manlius NY 13104

RECORD OF VOTE

Chairman Name: Timothy Kelly Aye:  Nay:  Absent   
Member Name: Karrie Catalino Aye:  Nay:  Absent   
Member Name: KP Kelly Aye:  Nay:  Absent   
Member Name: Clare Miller Aye:  Nay:  Absent   
Member Name: Warren Linhart Aye:  Nay:  Absent

Chairman Timothy Kelly then declared the Resolution duly adopted.

I Deborah Witzel CLERK OF THE ZONING BOARD OF APPEALS OF THE TOWN MANLIUS hereby certify that the foregoing is a true and correct excerpt from the minutes of a meeting of said Board duly convened and held on July 20, 2023, a quorum being present.

  
CLERK