

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
June 20, 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
Member	Judy Salamone
Secretary	Debi Witzel
Attorney	Jamie Sutphen
Codes Director	Randy Capriotti

Also, Present: Nicole Rowe, James Balintfy, Kristin Keim, Jason Keim, Brian Civitella

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

Minutes

Member Ruthig made a motion, seconded by Member Campbell, to approve the minutes of May 16, 2019 as submitted by Secretary Witzel and it was carried unanimously.

Legal Notices

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

Member Ruthig made a motion, seconded by Member Campbell, to open the public hearing at 6:32 pm in the matter of the – James & Harmony Balintfy, 5793 Tilton Rd., E. Syracuse NY 13057, for a rear yard variance to construct a 16' X 27' inground pool. With a proposed rear yard setback of 9 feet they are requesting a variance of 16 feet to meet the required rear yard setback of 25'. Motion is carries unanimously.

James & Harmony Balintfy, 5793 Tilton Rd., E. Syracuse NY 13057 (tax map # 075.-07-17.0). The applicant is requesting a rear yard variance to construct a 16' X 27' inground pool. With a proposed rear yard setback of 9 feet they are requesting a variance of 16 feet to meet the required rear yard setback of 25'.

Mr. Balintfy stated he would like to have an in-ground pool installed and he needs 16' off the rear property line.

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

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Mr. Balintfy answered no – because he wanted to leave room in the yard for the kids to play and for the swing set.

- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Balintfy answered no
- 3) Whether the requested Variance is substantial? Mr. Balintfy answered yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Balintfy answered no
- 5) Whether the alleged difficulty was self-created? Mr. Balintfy answered yes

Board Questions

Member Campbell asked if the applicant had notified his neighbors. Mr. Balintfy answered yes
Member Campbell asked why the pool will be in a different location from where the above ground pool sat. Mr. Balintfy answered 2 reasons one the ground sits lower there and two the neighbors 2 large pine trees would drop pinecones into the pool.

Chairman Kelly asked Mr. Balintfy if he would be willing to turn the pool 90° so it would lie across the back of the yard. Mr. Balintfy stated if it were turned it would use up more yard.
Randy Capriotti Codes Director stated if he turned the pool, he would then need 1 variance for the rear and 1 for the side which would bring the pool much closer to the side yard. Chairman Kelly asked if a depression in the ground will be left where the old pool was located. Mr. Balintfy stated that the land will be graded to slope towards the fence, covering the area.

Attorney Sutphen asked if the deck that was with the above ground pool was still there. Mr. Balintfy answered no; it was removed with the pool.

With there being no further comments from the public, Member Campbell made a motion, seconded by Member Miller, to close the public hearing at 6:40 pm. The motion is carried unanimously.

Board Discussion

Member Ruthig stated he understands what the applicant is asking for and he feels it will be an improvement over the prior above ground pool.

Member Campbell stated the look of the in-ground pool is in keeping with the neighborhood and there are many in the neighborhood.

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

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no; it is not an unreasonable request for the pool to be placed in the requested location.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no: it is an improvement over the old above ground pool and no further variances needed.
- 3) Whether the requested Variance is substantial? The board answered no; not for the neighborhood and the small lot.

- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no: there are other pools in the neighborhood.
- 5) Whether the alleged difficulty was self-created? The board answered yes: he wants a 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 16 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: landscape the balance of the yard to supplement the grade.

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 James Balintfy, 5793 Tilton Rd., E. Syracuse NY be granted an area varaince for the purpose of constructing a 16' X 27" pool, resulting in a rear yard setback of 9' and the variance to accomplish that is 16', and carried unanimously.

Jason Keim, 5854 Torrington Circle, E. Syracuse NY (tax map # 076.-10-31.0). The applicant is requesting a rear yard varaince to construct a 12' X 22' inground pool. With an existing rear yard setback of 19 feet they are requesting a 6 foot varaince to meet the required 25' rear yard setback.

Member Ruthig made a motion, seconded by Member Campbell, to open the public hearing at 6:52 pm. The motion carried unanimously.

Mr. Keim stated he wants to build an in-ground pool and needs a 6' of relief from the rear property line.

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

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Mr. Keim answered no; property is too steep to do it any other way.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mr. Keim answered no; not in a negative way.
- 3) Whether the requested Variance is substantial? Mr. Keim answered no.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Keim answered no.
- 5) Whether the alleged difficulty was self-created? Mr. Keim answered no.

Board Questions

Member Miller asked if the neighbor were notified especially the neighbor at 711 Carstairs. Mr. Keim answered yes.

Chairman Kelly asked if the pool could be placed by the porch. Mr. Keim answered no.

Chairman Kelly asked if they will have trouble getting stairs to the pool. Mr. Keim answered the stairs will come down from the side.

With there being no further comments from the public, Member Ruthig made a motion, seconded by Member Miller, to close the public hearing at 6:55 pm. The motion carried unanimously.

Board Discussion

Member Ruthig stated they did have difficulty finding a location and the pool is only 12' wide and 4' deep.

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

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no; the property is too steep to put it anywhere else.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no; pool is smaller than other pools in the area.
- 3) Whether the requested Variance is substantial? The board answered no; only 6 feet.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no; there are other in-ground pools in the area.
- 5) Whether the alleged difficulty was self-created? The board answered yes; wants 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 6 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: 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 Jason Keim, 5854 Torrington Circle, E. Syracuse be granted a rear yard variance to construct 12' X 22' in-ground pool, for a proposed rear yard setback of 19' by way of a variance of 6' to meet the required rear yard setback of 25', and carried unanimously.

Nicole Rowe, 7140 E. Taft Rd., E. Syracuse NY (tax map # 034.-02-22). The applicant is requesting a side yard variance to construct an above ground pool. With an existing side yard set back of 9'4" they are requesting a variance of 10'8" to meet the required side yard setback of 20'.

Ms. Rowe stated she would like to install an in-ground pool and she needs a variance of 10'8".

Member Campbell made a motion, seconded by Member Miller, to open the public hearing at 7:02 pm. The motion carried unanimously.

Chairman Kelly asked if the neighbors had been notified. Mr. Gutierrez answered yes.

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

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Ms. Rowe answered no; because of the location of the septic system in the back and the electric lines on side that run back to the solar panels.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Ms. Rowe answered no
- 3) Whether the requested Variance is substantial? Ms. Rowe no
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Ms. Rowe answered no
- 5) Whether the alleged difficulty was self-created? Ms. Rowe answered yes because she wants the pool.

Board Questions

Member Campbell asked if any neighbor objected to the pool. Ms. Rowe answered no.

Chairman Kelly did bring up possible moving the pool a bit. After a discussion it was decided not to make changes for safety reasons.

With there being no further comments from the public, Member Ruthig made a motion, seconded by Member Campbell, to close the public hearing at 7:12 pm. The motion carried unanimously.

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

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no; because of the septic system and the electric lines on the side.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no; there are other pools in the area and neighbors are in favor.
- 3) Whether the requested Variance is substantial? The board answered no; about halfway
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no.
- 5) Whether the alleged difficulty was self-created? The board answered yes; applicant wants 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 11 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: 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 Ruthig made a motion, seconded by Member Miller, to grant an area variance Nicole Rowe, 7140 E. Taft Rd., E. Syracuse NY. For the purpose of construction an above ground pool. The variance will be 11' leaving a proposed side yard setback of 9' and as purposed requirement of 20' and carried unanimously.

Brian Civitella, 5113 Shiraz Lane, Fayetteville, NY (tax map # 096.-12-10.0). The applicant is requesting a rear yard variance to construct a 12' X 14' shed. With an existing rear yard setback of 17' they are requesting a variance of 23' to meet the required rear yard setback of 40'. With an existing side yard setback of 5' they are requesting a variance of 15' to meet the required side yard setback of 20'.

Member Campbell made a motion, seconded by Member Miller, to open the public hearing at 7:16 pm. The motion carried unanimously.

Mr. Civitella stated he would like to place a shed in the back corner of the yard.

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

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? Mr. Civitella answered yes; stating that if he followed the required setbacks the shed 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? Mr. Civitella answered no.
- 3) Whether the requested Variance is substantial? Mr. Civitella answered no.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mr. Civitella answered no.
- 5) Whether the alleged difficulty was self-created? Mr. Civitella answered no.

Board Questions

Chairman Kelly asked what the distance between his shed and the neighbors shed will be. Mr. Civitella answered about 20'. Chairman Kelly asked if the shed will be built on site are delivered. Mr. Civitella answered it will be delivered and the shed company will do the site work for the base.

Member Campbell asked if the shed will match the house or have electricity. Mr. Civitella answered it will match the house and no electricity.

Member Miller asked what type of door the shed will have. Mr. Civitella answered a double door. Member Miller asked if the shed will be larger than the neighbors. Mr. Civitella answered the neighbors is 8' X 10 and his is 12' X 14'.

With there being no further comments from the public, Member Ruthig made a motion, seconded by Member Campbell, to close the public hearing at 7:22 pm. The motion carried unanimously.

Chairman Kelly proceeded with the board through the five (5) criteria questions for the Board.

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no; if the setbacks were to be followed the shed 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? The board answered no; because the shed will back up to the neighbors shed.
- 3) Whether the requested Variance is substantial? The board answered no; not considering neighborhood.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no; It is in conformity with other yards, steps away from drainage swale.
- 5) Whether the alleged difficulty was self-created? The board answered yes; he wants a shed.

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 23' rear line, 15' sideline 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: that the shed match the existing color and look of the house.

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 two area variances to Brian Civitella, 5113 Shiraz Lane, Fayetteville, NY. For the purpose of constructing a 12' X 14' Shed. The rear yard setback will be 17' requiring a variance of 23', side yard set back will be 5' requiring a variance of 15' and the motion carried unanimously.

Adjournment

With there being no other business, Member Ruthig made a motion, seconded by Member Campbell, and carried unanimously, to end the meeting at 7:33 PM.

Respectfully submitted,
Debi Witzel, Secretary
Zoning Board of Appeals