

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
April 20, 2023
6:30 PM**

The Town of Manlius Zoning Board held a hybrid meeting with in-person attendees and virtual attendees. The meeting was live streamed on the Town Facebook page and the Town YouTube Channel. The recording of the meeting can be viewed here: <https://youtu.be/Ih9BYpklLFE>

Chairperson Timothy Kelly presided, and the following Board members were present:

	Member	K P Kelly
	Member	Clare Miller
Absent	Member	Karrie Catalino
	Member	Warren Linhart
	Secretary	Debi Witzel
	Attorney	Jamie Sutphen
	Code Officer	Tom Poitras

In Person Attendees: Danielle & Ryan Ewert, Manlius. Dirk Oudemool, Attorney. Tim Goode, E. Syracuse. Paula Ellenberg, Manlius. Barbara Emmons, Manlius. Kevin Smalley, Manlius. Joe Mastroianni, Liverpool. Tracy Crowe, Manlius. Cynthia Crowe, Manlius.

Virtual Attendees: Liz Morgenthien, Manlius. John Palmer, Manlius.

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

Approval of Minutes – March 16, 2023 - Tabled

**Danielle & Ryan Ewert, 8291 E. Seneca Turnpike, Manlius NY, (tax map # 099.-01-27.4)
Public Hearing for a variance of 13.76 feet to provide relief from the required 200 feet of frontage.**

Member K P Kelly made a motion, seconded by Member Miller, to open the public hearing at 6:34 PM and it was carried unanimously.

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

Joe Mastroianni stated the applicant is looking to subdivide their parcel and will be adding a driveway to the new parcel which will need a variance of 13.76 feet to meet the required 200 feet of frontage.

Jamie Sutphen, Attorney for the Board stated this public hearing will be held open because they are waiting for a response from the Onondaga County Planning Board.

Mr. Mastroianni and the board discussed the proposed driveway, the road frontage and changes to the property involved.

Paula Ellenberg, trustee of the Emmons property next door to the proposed new driveway. Ms. Ellenberg asked about the request for the variance and the special use permit. Ms. Ellenberg asked if this will affect the character of the neighborhood if she must see up to 50 cars a day going by her Livingroom window.

Chairman T. Kelly explained that the variance for the road frontage is the only item in this project that the Zoning Board will decide on, if granted they can then subdivide if denied the proposed subdivision cannot go forward.

Dirk Oudemool, Attorney for the neighbor Ms. Emmons spoke about several items to consider when deciding on the proposed variance.

1. Town Law (267a) says that if something else can be done which will avoid the necessity for a variance then the board must deny the variance regardless of the cost.
2. If this variance is approved, it will open the opportunity for a subdivision which might include a mobile home to be placed on the lot and various business occupations.
3. The septic system proposed would be a raised system which is used when you have poor percolation.
4. The board can place conditions on a variance, such as using exiting driveway, placing the doggy day care at the back of the lot.

Danielle Ewert stated that the portion of her property available to use is located behind the Emmons property so they will need an access road to get that portion of the property. Ms. Ewert stated they are proposing to build a fence on the side of the new driveway entrance so there will be no way to see into their Livingroom. Ms. Ewert stated they cannot put any business on the land as they must go through the special permit process. Ms. Ewert wanted the board to know that they have support from the local community.

Chairman T. Kelly stated they cannot decide on the variance until the board hears back from the Onondaga County and the determinations they make on the application.

Mr. Mastroianni stated if the proposed building was moved back further on the lot it would make the building and septic system more visible.

Liz Morgenthien & John Palmer, 8341 East Seneca Turnpike, stated their property directly abuts the property where the structure would be built, and they wanted this board to know that they do oppose any special use (commercial use) of the land.

Jamie Sutphen, ZBA Attorney, did review items that the board should consider before the next meeting and any decision is made.

The Public Hearing will be held open to the May 18, 2023, meeting.

Tim & Diane Goode, 7119 Carstairs Circle, E. Syracuse NY (tax map # 076.-10-27.4) Public Hearing for one rear yard variance to construct an 8' X 26' addition on the back of the house, with an existing rear yard setback of 15' they will need a variance of 10' to meet the required 25' rear yard setback.

Member KP Kelly made a motion, seconded by Member Linhart, to open the public hearing at 7:33 PM and it was carried unanimously.

Tim Goode stated they would like to put an 8' X 26' addition on the back of their home replacing the existing deck. Mr. Goode stated the addition will have a new foundation and will match the original build and color of the house. Mr. Goode stated he will provide new architectural drawings to include the new foundation.

Member Linhart made a motion, seconded by Member KP Kelly to close the public hearing at 7:42 PM and it was carried unanimously.

Board Questions

Chairperson T. 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 the addition will expand a room.
- 2) Whether the Variances will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no.
- 3) Whether the requested Variances is substantial? The board answered no.
- 4) As to whether the Variances 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 as they want the addition.

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 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 10 feet off the rear property line 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: *Single Story and a continuous roof line off the gable.*

SEQRA Review

Chairperson T. 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 findings of the Board, Member Linhart made a motion, seconded by Member Miller to grant a 10 foot rear yard variance to Mr. Goode for the property located at 7119 Carstairs Circle, E. Syracuse (tax map # 076.-10-27.4) for the construction of an 8' X 26' room addition with the condition that the addition be single story and a continuous roof line off the gable.

Ayes: Chairperson T. Kelly, Member KP Kelly, Member Linhart, Member Miller

Nays: 0

All in Favor.

Motion Carries.

Dawn & Kevin Smalley, 8278 Glen Eagle Dr. Manlius NY (tax map # 117.-12-09.0) Public Hearing for two variances to install a 16' X 36' inground pool. With an existing side yard (West Back Corner) setback of 13' they will need a variance of 7' to meet the required 20' side yard setback. With an existing rear yard (South back Corner) setback of 13' they will need a variance of 27' to meet the required 40' rear yard setback.

Member KP Kelly made a motion, seconded by Member Linhart, to open the public hearing at 7:45 PM and it was carried unanimously.

Mr. Smalley submitted letters of support from the neighbors at 4702 Enders Rd. and 4704 Enders Rd. Mr. Smalley stated the location in the yard was chosen because it has less of a pitch to the land and the pool will be visible from the kitchen windows for security.

Member Linhart made a motion, seconded by Member KP Kelly to close the public hearing at 7:51 PM and it was carried unanimously.

Board Questions

Chairperson T. 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 due to the pitch of the land.
- 2) Whether the Variances will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no.
- 3) Whether the requested Variances is substantial? The board answered no.
- 4) As to whether the Variances will have an adverse effect on physical or environmental conditions? The board answered no, as many neighbors have pools.
- 5) Whether the alleged difficulty was self-created? The board answered yes, they want 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 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 variances of 7 feet side yard and 27 feet 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:

SEQRA Review

Chairperson T. 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 findings of the Board, Member Linhart made a motion, seconded by Member Miller, to grant two area varinces to Kevin and Dawn Smalley, 8278 Glen Eagle Dr., Manlius, NY 117.-12-09.0. for the installation of a 16' X 36' inground pool. With an existing side yard (West Back Corner) setback of 13' they will need a variance of 7' to meet the required 20' side yard setback. With an existing rear yard (South back Corner) setback of 13' they will need a variance of 27' to meet the required 40' rear yard setback.

Ayes: Chairperson T. Kelly, Member KP Kelly, Member Linhart, Member Miller

Nays: 0 All in Favor. Motion Carries.

Adjournment

With there being no other business, Member Linhart made a motion, seconded by Member Miller, and carried unanimously, to end the meeting at 7:59 PM

Respectfully submitted,
Debi Witzel, Secretary
Zoning Board of Appeals