

**TOWN OF MANLIUS
ZONING BOARD OF APPEALS
April 21, 2022
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>

Chairman Timothy Kelly presided, and the following Board members present:

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| | Member | K P Kelly |
| | Member | Clare Miller |
| Absent | Member | Karrie Catalino |
| | Member | Warren Linhart |
| | Secretary | Debi Witzel |
| | Attorney | Jamie Sutphen |

In Person Attendees: Denys Thompson, Fayetteville. Rod Ives, Napierala Consulting. Brian Scanlon, Manlius. J. A. and Marcia Morrison, Manlius.

Virtual Attendees: Barbara Henry, Fayetteville.

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 Linhart, to approve the minutes of March 17, 2022, as submitted by Secretary Witzel.

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

Nyes: 0 All in Favor. Motion Carries.

Legal Notices

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

Member K P Kelly made a motion, seconded by Member Linhart to open the public hearing at 6:32 PM and it was carried unanimously.

James & Marcia Morrison, 5007 F-M Road, Manlius NY (tax map # 103.-02-09.1) requesting one area variance to install a 10' X 16' shed. With an existing rear yard setback of 10' they will need a variance of 30' to meet the required 40' setback.

Mr. Morrison stated that one of their outbuildings needs to be replaced and updated.

Member KP Kelly asked if the shed could be put in a different spot in the yard. Mr. Morrison stated it could be, but it would make it inconvenient to get to. Member KP Kelly asked what the

shed would look like. Mr. Morrison stated it will be a 10' X 16' shed with double doors, wooden floor, 6" stone pad and the color will blend in with the trees.

Brian Scanlon neighbor to Mr. & Mrs. Morrison, stated he was attending the meeting because of the letter he received from the town, and he wasn't quite sure which building they are planning to replace.

Member Linhart made a motion, seconded by Member KP Kelly to close the public hearing at 6:48 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, the owners picked a good location to place the shed.
- 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 will be an improvement from the old shed.
- 3) Whether the requested Variance is substantial? The board answered yes, it is at thirty feet.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? The board answered no, as there are no power lines or drainage through this location.
- 5) Whether the alleged difficulty was self-created? The board answered yes, they want 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 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 thirty 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

Member Miller made a motion, seconded by Member Linhart 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

Member Miller made a motion, seconded by Member KP Kelly to grant an area variance to James & Marcia Morrison for the real property located at 5007 F-M Road, Manlius NY 13104. This variance is being granted for the sole purpose of permitting the construction of a 10 x 16 foot shed. There by modifying the 40-foot rear yard set back to that of ten feet leaving a variance of 30-feet.

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

Nyes: 0

All in Favor.

Motion Carries.

Marcus Morreale, 4760 Thatchwood Dr., Manlius NY (tax map # 105.-01-04.6) requested two area variances to install a 18' X 24' wood beam carport. With an existing front yard setback of 4' they will need a variance of 36' to meet the required 40'. With an existing front yard setback of 19' they will need a variance of 21' to meet the required 40'.

Member KP Kelly made a motion, seconded by Member Linhart to open the public hearing at 6:53 PM and it was carried unanimously.

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

Mr. Morreale stated he does not have a garage just a stone driveway and a lot of trees. Mr. Morreale stated he would like to build a 2-car carport with wood beams, metal rustic roof and gravel floor.

Member KP Kelly stated he would like a condition on the variance that the carport not be enclosed. Mr. Morreale stated he does not want it enclosed because it would block the views. Member KP Kelly stated the property should be staked to be sure the carport is placed in the correct location on the property.

Chairman T. Kelly stated if Mr. Morreale wanted to enclose the carport in the future, he would have to return to the Zoning Board for a decision.

Mr. Morreale stated the carport will be no more than 11 feet tall as he does not wish to take any trees down.

Member KP Kelly made a motion, seconded by Member Linhart to close the public hearing at 7:06 PM and it was carried unanimously.

Board Questions

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no because of the size of the lot.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no if the condition of not enclosing the carport is implemented.
- 3) Whether the requested Variance is substantial? Yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No if the condition of not enclosing the carport is implemented.
- 5) Whether the alleged difficulty was self-created? The board answered 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 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 for 36 feet on Thatchwood Dr. side and 21 feet on Highbridge St. side 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 carport can not be enclosed without approval from the Zoning Board.

SEQRA Review

Member KP Kelly made a motion, seconded by Member Miller 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 Miller made a motion, seconded by Member KP Kelly to grant an area variance to Marcus Morreale for the real property located at 4760 Thatchwood Dr., Manlius NY 13104. This variance is being granted for the specific purpose of permitting the new construction of an 18X24 wood beam carport. There by modifying the Thatchwood Dr. 40 yard front yard set back to that of fou6 feet leaving a variance of 30-feet and modifying the Highbridge St. 40 foot front yard set back to that of 17 feet leaving a variance of 23 feet. With the condition of the variance is that the carport not be closed in at anytime in the future without appearing before the Zoning Board to obtain an additional variance.

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

Nyes: 0

All in Favor.

Motion Carries.

Michael Papa – A&E & SNY Center, Medical Center Dr. & Avriel Dr., Fayetteville (tax map # 086.-01-03.9) requesting two area variances for a purposed new building.

- **Front yard setback on Medical Center Dr. they are required to have 50 ft., they have 40 ft., and are requesting 10ft.**
- **Rear yard setback between this property and the Retirement Center they are required to have 50ft., they have 25ft, and are requesting 25ft.**

Chairman T. Kelly introduced the application and outlined what variances they are requesting. Chairman T. Kelly stated that the application came from the Planning Board and will go back to the Planning Board.

Rod Ives, Napierala Consulting is here representing the applicant Michael Papa and A&E &SNY Center. Mr. Ives stated the application started with the Town Board as Mr. Papa requested a Zone Change from RA (Restricted Agricultural Districts) to CA (Commercial District), the Town Board referred it to the Planning Board. Mr. Ives stated the Planning Board felt that in this area a CA zoning would allow businesses not fitting in this neighborhood and recommended a zoning of NS (Neighborhood Shopping). Mr. Ives stated the change to NS zoning would cause them to lose quite a bit of land and would require them to get variances. The Town Board did change the zoning to NS and now the applicant is seeking two variances.

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

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

Mr. Ives stated it was decided to locate the building as far from the Starview homes as possible. Mr. Ives showed pictures of the architectural style for the buildings and stated that all sides of the building would show this style. Mr. Ives stated they will be asking for a variance of 50 feet for the service area which would allow for delivery of equipment and the collection and pick up of garbage.

Chairman T. Kelly stated the dumpster location and setbacks will be referred to the Planning Board so that can decide this issue in the site plan review.

Denys Thompson, Star Gaze Circle asked if the trees behind his home would be affected. Mr. Ives stated the trees are going to stay as they are part of the town center site plan approval.

Town Clerk Weber read aloud comment from Barbara Henry stated she is president of the Starview Homeowner Association which will be directly affected by the construction of the A&E Center on Medical Center Drive. Our neighborhood is comprised of 46 homes, eight of which have a view of the resort living community on the corner of North Burdick St. and Medical Center Dr. As a neighborhood we voiced our concerns regarding increased traffic and

overall aesthetics a few years ago when the medical center was proposed. What we have not envisioned and anticipated was the overall size of the building in relation to the size of the building lot, which it would be constructed. While we had no point of reference and we were not aware of variances or setbacks that were permitted by the town, we are very concerned about the setback variances being requested by A&E Center. We as taxpayers believe this new project should not be allowed to be built ten feet closer to Medical Center Dr., the 50-foot setback should be adhered to. We are also opposed to the new buildings and the parking lot areas being twenty-five feet closer to the resort living center. These setback allowances exist for a reason. The Town should not allow another partial project to be squeezed onto a building lot that is too small. The result will appear to be haphazard, disorganized, and unprofessional. As you can see by the overview sitemap shown the resort living community building appears to have been squeezed onto the land where it exists.

Mr. Ives went through the different options the company reviewed for the building placement.

Member Linhart made a motion, seconded by Member KP Kelly to close the public hearing at 7:54 PM and it was carried unanimously.

Chairman T. Kelly stated the landscape buffer which is under the design guideline and the service area will go back to the Planning Board.

Board Questions for the 10-foot variance on Medical Center Drive

Mr. Ives stated the benefit to the applicant is that they can have sunlight in the downstairs physical therapy without having to excavate into the hillside and increase erosion.

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered no
- 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 of the design of building which will enhance the neighborhood.
- 3) Whether the requested Variance is substantial? No not for 10 feet.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No because they are working with the existing grade of the land.
- 5) Whether the alleged difficulty was self-created? The board answered 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 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 for 10-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

SEORA Review

Member Linhart made a motion, seconded by Member KP 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 Miller made a motion, seconded by Member KP Kelly to grant an area variance to Walnut Grove LLC, Michael Papa and A&E & SNY Center for the real property located at Medical Center Dr. at the intersection with Avriel Dr. northeast corner. This variance is being granted for the specific purpose of permitting the construction of a building. Thereby modifying the 50-foot front yard setback that is 40 feet leaving a variance of 10 feet.

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

Nyes: 0

All in Favor.

Motion Carries

Board Questions for the 25-foot variance on the east side of the lot

- 1) Whether the benefit sought by the Applicant can be achieved by some other feasible method? The board answered yes, they could place the building in a different location on the lot.
- 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 of the physical barrier wall between the two properties.
- 3) Whether the requested Variance is substantial? Yes, but it is less of an impact because of the topography.
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? No because they are working with the existing grade of the land.
- 5) Whether the alleged difficulty was self-created? The board answered Yes because they want to build a building.

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 for 25 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 25-foot variance is granted, but limited to the area on the easterly property line and proceeding up 500 feet from Medical Center Dr.*

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 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 Miller made a motion, seconded by Member KP Kelly to grant an area variance to Walnut Grove LLC, Michael Papa and A&E & SNY Center for the real property located at Medical Center Dr. at the intersection with Avriel Dr. northeast corner. This variance is being granted for the specific purpose of permitting the construction of a building. Thereby modifying the 50-foot rear yard setback on the eastly side of the lot between the Town Center Retirement community and the proposed building to that of 25-feet, leaving a variance of 25-feet limited to the area running from Medical Center Dr. up 500-feet of the easterly property line.

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

Nyes: 0

All in Favor.

Motion Carries

Adjournment

With there being no other business, Member Miller made a motion, seconded by Member KP Kelly, and carried unanimously, to end the meeting at 6:52 PM

Respectfully submitted,
Debi Witzel, Secretary
Zoning Board of Appeals