

**TOWN OF MANLIUS  
ZONING BOARD OF APPEALS  
August 20, 2020  
6:30 PM**

The Town of Manlius, Zoning Board of Appeals assembled on ZOOM for a virtual meeting with Chairman K.P. Kelly presiding and the following Board members present:

Member	Jim Campbell
Member	Clare Miller
Member	Judy Salamone
Member	Timothy Kelly
Secretary	Debi Witzel
Attorney	Jamie Sutphen
Codes Director	Randy Capriotti
Town Clerk	Allison Weber

Attendees: Kyle Marshall, Justin Cramer

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

**Minutes**

Member T. Kelly made a motion, seconded by Member Campbell, to approve the minutes of July 16, 2020 as submitted by Secretary Witzel.

The Board voted as follows:

Chairman KP Kelly	Aye
Member T. Kelly	Aye
Member Campbell	Aye
Member Miller	Aye
Member Salamone	Abstain

The motion was carried.

Member Campbell made a motion, seconded by Member Salamone, to approve the minutes of July 30, 2020 Special Meeting as submitted by Secretary Witzel.

The Board voted as follows:

Chairman KP Kelly	Aye
Member T. Kelly	Aye
Member Campbell	Aye
Member Miller	Aye
Member Salamone	Aye

The motion was carried.

### **Legal Notices**

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

Member T. Kelly made a motion, seconded by Member Campbell to open the public hearing at 6:36 PM and it was carried unanimously.

### **Kyle & Karen Marshall, 8236 Penstock Way, Manlius NY (tax map # 114.-03-20.0) a Public Hearing for an area variance for a 20' X 34' inground pool, with an existing rear yard setback of 25' they will need a variance of 15' to meeting required 40'.**

Mrs. Marshall stated she is trying to put a pool in and tried two different shaped pools and they cannot meet the rear yard setback requirement.

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? Mrs. Marshall answered no, property is not deep enough to build the desired inground pool in a location that would not require a variance.
- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? Mrs. Marshall answered no.
- 3) Whether the requested Variance is substantial? Mrs. Marshall answered yes
- 4) As to whether the Variance will have an adverse effect on physical or environmental conditions? Mrs. Marshall answered no, the finished grading will remain consistent with current drainage.
- 5) Whether the alleged difficulty was self-created? Mrs. Marshall answered yes, because of the choice of the placement of the pool with a fence.

### **Board Questions**

Member Campbell asked if any neighbors had an issue with the project. Mrs. Marshall answered no, and she did speak to all of them.

Member Miller asked if they would be taking down any trees. Mrs. Marshall answered there is one large pine tree in the neighbor's yard that may cause a problem with the fence but not the pool.

Town Clerk Weber stated there were no questions from the public.

Mr. Hanson a neighbor to the east of the Marshalls stated he had no concerns with the project.

Member Kelly made a motion, seconded by Member Salamone to close the public hearing at 6:43 PM and it was 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.

- 2) Whether the Variance will result in an undesirable change in the character of the neighborhood or to nearby properties? The board answered no, as there are four pools in the yards behind them
- 3) Whether the requested Variance is substantial? The board answered no, not for this neighborhood.
- 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 because the applicant 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 a 15' rear yard setback 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 asked when construction would start on the pool. Mrs. Marshall answered the pool will be installed in the spring.

Member Campbell made a motion, seconded by Member Salamone, to grant a variance to Kyle & Karen Marshall, 8236 Penstock Way, Manlius for the construction of an inground pool modifying the rear yard setback to 25 feet to meet the required 40 feet.

The Board voted as follows:

Chairman KP Kelly	Aye
Member T. Kelly	Aye
Member Campbell	Aye
Member Miller	Aye

Member Salamone

Aye

The motion was carried.

**Justin Cramer, 115 Kendall Dr. W., E. Syracuse 13057 (tax map # 065.-01-03.0) a public hearing for an area variance to construct a 14' X 28' inground pool, with an existing side yard setback of 10' they will need a variance of 5' to meet the required 15'.**

Mr. Cramer stated the pool is 13' from the water line to the property line and it should be 15'. Mr. Cramer stated the pool ended up in this location because the pool company had to go around a boulder in the yard.

Member T. Kelly made a motion, seconded by Member Campbell to open the public hearing at 6:52 PM and it was carried unanimously.

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

### **Board Questions**

Member Salamone asked if the neighbors were okay with the project. Mr. Cramer stated both his neighbor across the street and to the east of him had no problem with the project.

Town Clerk Weber stated there were no questions from the public.

Member Kelly made a motion, seconded by Member Campbell to close the public hearing at 6:57 PM and it was 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 not with the boulder found in 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 pool will not be visible from the street.
- 3) Whether the requested Variance is substantial? The board answered no
- 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 because the applicant 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 a   5' side 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

**SEORA 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 Kelly, to grant Justin Cramer, 115 Kendall Dr. W., E. Syracuse an area variance for the construction of an inground pool modifying the side yard setback to 5 feet to meet the required 15 feet.

The Board voted as follows:

Chairman KP Kelly	Aye
Member T. Kelly	Aye
Member Campbell	Aye
Member Miller	Aye
Member Salamone	Aye

The motion was carried.

**Discussion – Neighbor Notifications**

Chairman Kelly stated that having the applicant notify their neighbors can at time be awkward. Chairman Kelly stated the thought is to have the Zoning Board Clerk send the neighbor notifications and eliminate the requirement of the applicant having to notify neighbors.

Board Discussion ensued about current policy and the proposed new policy of the notifications.

Member Kelly made a motion, seconded by Member Campbell, to change the policy of the Zoning Board with respect to notification of neighbors so that official notices are mailed by the Town Zoning Board Clerk in advance of the meeting. The applicant does not have to mail any notices and further the applicant would be encouraged to but not required to personally speak to neighbors before the proceeding.

The Board voted as follows:

Chairman KP Kelly	Aye
Member T. Kelly	Aye
Member Campbell	Aye
Member Miller	Aye
Member Salamone	Aye

The motion was carried.

**Adjournment**

With there being no other business, Member Campbell made a motion, seconded by Member Kelly, and carried unanimously, to end the meeting at 7:12 PM

Respectfully submitted  
Debi Witzel, Secretary  
Zoning Board of Appeals