

**The Town of Marcellus Zoning Board of Appeals
24 East Main Street
Marcellus, New York 13108**

May 3, 2010

Present: Chairperson Michelle Bingham, Gerard Wickett, Chris Christensen,
Bob Ciota
Absent: Robert Oliver
Town Counsel: Jim Gascon of Costello, Cooney, and Fearon
Town Engineer: Jeffrey Nadge of Barton & Loguidice (absent)
Codes Officer: William Reagan

The Zoning Board of Appeals of the Town of Marcellus met in regular session in the Town Hall for the Town of Marcellus, located at 24 E. Main Street, Marcellus, New York, on May 3, 2010, at 7:00pm.

Tyler Estlinbaum, 4428 Limerick Street – side yard variance

A public hearing was held requesting a side yard variance with a 12' reduction from 15' to 3' and a side yard reduction of 3' from 15' to 12'. The secretary, Karen Cotter, read the legal notice and advised the certified mailing receipts were on file. Mr. Estlinbaum explained that he would like to construct a porch with a roof over an existing deck and the old hot tub has been removed. The Chair, Michelle Bingham, asked if anyone would like to speak in favor or in opposition and there were none. Chris Christensen moved to close the public testimony and the public hearing and Bob Ciota seconded. The motion carried with the following vote:

Bob Ciota - aye
Chris Christensen - aye
Jerry Wickett - aye
Michele Bingham – aye

Jerry Wickett moved to approve the variance as presented as this will not encroach onto the neighbors property anymore than what already exists and it is a pre-existing, non-conforming lot, a public hearing was held and there was no opposition and it is consistent with the character of the neighborhood. Bob Ciota seconded and the motion carried with the following vote:

Bob Ciota - aye
Chris Christensen - aye
Jerry Wickett - aye
Michele Bingham – aye

The appeal of Tyler Estlinbaum for a side yard reduction of 12' from 15' to 3' and a side yard reduction of 3' from 15' to 12' on an existing non-conforming lot in a R1 zone to allow a porch with a roof to be constructed at his residence on 4428 Limerick Street,

Marcellus, New York.

The Zoning Board of Appeals of the Town of Marcellus met in Regular Session in the Town Hall of the Town of Marcellus, 24 E. Main Street, Marcellus, NY, on May 3, 2010 commencing at 7:00pm. local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS, notice of public hearing for the above captioned project was duly published in the official newspaper of the Town of Marcellus at least five (5) days prior to the date of such public hearing, and an affidavit of such publication was produced at the beginning of said public hearing and was ordered to be filed: and

WHEREAS, all additional notice thereof was given as required by Section 267 of the Town Law and Marcellus Zoning Ordinance: and

WHEREAS, the ZBA duly held the public hearing thereon at the time and place aforesaid and all persons desiring to be heard having been heard; and

WHEREAS, all Zoning Board of Appeals members had due notice of said public hearing and meeting, and, that pursuant to Section 94 of the Public Officers Law (Public Meetings Law), said meeting was open to the general public and due and proper notice of the time and place thereof was duly given as required by law.

NOW THEREFORE BE IT RESOLVED that upon the application and upon the proofs and proceedings offered at the public hearing, which was or is hereby closed, the ZBA hereby makes the following:

FINDINGS OF FACT:

1. The subject premises are located at 4428 Limerick Street, Marcellus, New York
2. The subject premises are zoned R1 district, pursuant to the zoning map, which is part of the Zoning Ordinance of the Town of Marcellus.
3. The relief sought is: Section 6a to allow a front yard variance for a porch with a roof
4. No one appeared in favor or in opposition to the variance.

CONCLUSIONS OF LAW:

1. The project will comply with front and rear yard setback requirements according to the zoning ordinance
2. There will be no undesirable change in the character of the neighborhood or detriment to nearby properties.

NOW THEREFORE in consideration of the above, the applicant's request for an area variance is hereby granted with the following contingencies:

1. Applicants must proceed to the Town Hall for a building permit and follow all Town Zoning Ordinance.

2. No use or occupancy is to be permitted until all conditions/and/or codes are complied with and a Certificate of Occupancy is issued by the CEO.
3. BE IT FURTHER RESOLVED that such approval is contingent upon compliance with: 1. Applicant complies with the Planning Board resolution of February 2, 1987 regarding runoff:

That in all developments in the Town of Marcellus, the peak runoff flow rate of discharge from a proposed site after development shall not exceed the peak runoff flow rate that prevailed prior to development. In general, this requirement will necessitate the design and construction of detention/retention facilities of various types. The design frequency should be that of a twenty-five year storm with an overflow facility to handle a one hundred year storm with no erosion

Dean and Mary DeSantis, 2620 Abend Point - rear and side yard variance

A public hearing was held requesting an area variance for a rear yard reduction of 8' from 35' to 27' and a side yard reduction of 6' from 10' to 4' on an existing non-conforming lot to construct a 24' X 28' garage. The secretary, Karen Cotter, read the legal notice and advised the certified mailing receipts were on file. The garage will be narrower than the existing house and will not obstruct the neighbor's view of the lake. Both properties on either side of the property are currently vacant with no structures. There was additional discussion regarding the amount of the side yard variance needed. According to the survey presented the rear of the house is closer to the lot line than the front. The Chair, Michelle Bingham, asked if anyone would like to speak in favor or in opposition and there were none. Chris Christensen made a motion to close the public testimony and public hearing and Jerry Wickett seconded. The motion carried with the following vote:

Bob Ciota - aye
Chris Christensen - aye
Jerry Wickett - aye
Michele Bingham - aye

Bob Ciota made a motion to approve the area variance as requested as the lot is an existing non-conforming lot, there was no one present in oppositions and it is consistent with the neighborhood. Chris Christensen seconded and the motion carried with the following vote:

Bob Ciota - aye
Chris Christensen - aye
Jerry Wickett - aye
Michele Bingham - aye

The appeal of Dean and Mary DeSantis for a side yard reduction of 6' from 12' to 4' and a rear yard reduction of 8' from 35' to 27' on an existing non-conforming lot in a R2 zone to allow a garage to be constructed at their residence on 2620 Abend Point, Marietta, New York.

The Zoning Board of Appeals of the Town of Marcellus met in Regular Session in the Town Hall of the Town of Marcellus, 24 E. Main Street, Marcellus, NY, on May 3, 2010 commencing at 7:00pm. local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS, notice of public hearing for the above captioned project was duly published in the official newspaper of the Town of Marcellus at least five (5) days prior to the date of such public hearing, and an affidavit of such publication was produced at the beginning of said public hearing and was ordered to be filed: and

WHEREAS, all additional notice thereof was given as required by Section 267 of the Town Law and Marcellus Zoning Ordinance: and

WHEREAS, the ZBA duly held the public hearing thereon at the time and place aforesaid and all persons desiring to be heard having been heard; and

WHEREAS, all Zoning Board of Appeals members had due notice of said public hearing and meeting, and, that pursuant to Section 94 of the Public Officers Law (Public Meetings Law), said meeting was open to the general public and due and proper notice of the time and place thereof was duly given as required by law.

NOW THEREFORE BE IT RESOLVED that upon the application and upon the proofs and proceedings offered at the public hearing, which was or is hereby closed, the ZBA hereby makes the following:

FINDINGS OF FACT:

1. The subject premises are located at 2620 Abend Point, Marietta, New York
2. The subject premises are zoned R1 district, pursuant to the zoning map, which is part of the Zoning Ordinance of the Town of Marcellus.
3. The relief sought is: Section 6a to allow construction of a garage
4. No one appeared in favor or in opposition to the variance.

CONCLUSIONS OF LAW:

2. The project will comply with front and a side yard setback requirements according to the zoning ordinance
2. There will be no undesirable change in the character of the neighborhood or detriment to nearby properties.

NOW THEREFORE in consideration of the above, the applicant's request for an area

variance is hereby granted with the following contingencies:

1. Applicants must proceed to the Town Hall for a building permit and follow all Town Zoning Ordinance.
2. No use or occupancy is to be permitted until all conditions/and/or codes are complied with and a Certificate of Occupancy is issued by the CEO.

3. BE IT FURTHER RESOLVED that such approval is contingent upon compliance with: 1. Applicant complies with the Planning Board resolution of February 2, 1987 regarding runoff:

That in all developments in the Town of Marcellus, the peak runoff flow rate of discharge from a proposed site after development shall not exceed the peak runoff flow rate that prevailed prior to development. In general, this requirement will necessitate the design and construction of detention/retention facilities of various types. The design frequency should be that of a twenty-five year storm with an overflow facility to handle a one hundred year storm with no erosion

Nicole Cross, 44040 Limerick Street – side yard area variance

A public hearing was held requesting a side yard variance with a 10' reduction from 15' to 5'. The secretary, Karen Cotter, read the legal notice and advised the certified mailing receipts were on file. Ms. Cross would like to construct a 22' X 26' garage. The Chair, Michelle Bingham, asked if anyone would like to speak in favor or in opposition and there were none. A letter from her neighbor Thomas and Margaret Esterguard, dated April 10, 2010, stating they have no issues with the proposed garage, was read into the minutes. Bob Ciota moved to close the public testimony and the public hearing and Chris Christensen seconded. The motion carried with the following vote:

Bob Ciota - aye
Chris Christensen - aye
Jerry Wickett - aye
Michele Bingham – aye

Chris Christensen moved to approve the variance as presented as it is a pre-existing, non-conforming lot, a public hearing was held and there was no opposition, there was a letter from the neighbor in favor of the project, and it is consistent with the character of the neighborhood. Bob Ciota seconded and the motion carried with the following vote:

Bob Ciota - aye
Chris Christensen - aye
Jerry Wickett - aye
Michele Bingham – aye

The appeal of Nicole Cross for a side yard reduction of 10' from 15' to 5' on an existing non-conforming lot in a R1 zone to allow a garage to be constructed at her residence on 4400 Limerick Street, Marcellus, New York.

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WHEREAS, all additional notice thereof was given as required by Section 267 of the Town Law and Marcellus Zoning Ordinance: and

WHEREAS, the ZBA duly held the public hearing thereon at the time and place aforesaid and all persons desiring to be heard having been heard; and

WHEREAS, all Zoning Board of Appeals members had due notice of said public hearing and meeting, and, that pursuant to Section 94 of the Public Officers Law (Public Meetings Law), said meeting was open to the general public and due and proper notice of the time and place thereof was duly given as required by law.

NOW THEREFORE BE IT RESOLVED that upon the application and upon the proofs and proceedings offered at the public hearing, which was or is hereby closed, the ZBA hereby makes the following:

FINDINGS OF FACT:

1. The subject premises are located at 4400 Limerick Street, Marcellus, New York
2. The subject premises are zoned R1 district, pursuant to the zoning map, which is part of the Zoning Ordinance of the Town of Marcellus.
3. The relief sought is: Section 6a to allow a side yard variance for a garage No one appeared in favor or in opposition to the variance but one letter was received in favor of the project

CONCLUSIONS OF LAW:

1. The project will comply with front, one side and rear yard setback requirements according to the zoning ordinance
2. There will be no undesirable change in the character of the neighborhood or detriment to nearby properties.

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NOW THEREFORE in consideration of the above, the applicant's request for an area variance is hereby granted with the following contingencies:

1. Applicants must proceed to the Town Hall for a building permit and follow all Town Zoning Ordinance.
2. No use or occupancy is to be permitted until all conditions/and/or codes are complied with and a Certificate of Occupancy is issued by the CEO.

3. BE IT FURTHER RESOLVED that such approval is contingent upon compliance with: 1. Applicant complies with the Planning Board resolution of February 2, 1987 regarding runoff:

That in all developments in the Town of Marcellus, the peak runoff flow rate of discharge from a proposed site after development shall not exceed the peak runoff flow rate that prevailed prior to development. In general, this requirement will necessitate the design and construction of detention/retention facilities of various types. The design frequency should be that of a twenty-five year storm with an overflow facility to handle a one hundred year storm with no erosion

The minutes of the April meeting stand as distributed.

The meeting was adjourned at 8:20pm

Respectfully submitted,

Karen Cotter
Secretary