

## **The Town of Marcellus Zoning Board of Appeals**

**24 East Main Street  
Marcellus, New York 13108**

**September 6, 2012**

**Present:** Chairperson Michelle Bingham, Bob Ciota, Gerard Wickett, Chris Christensen  
**Absent:** Robert Oliver  
**Town Counsel:** Jim Gascon of Costello, Cooney, and Fearon  
**Town Engineer:** Jason Kantak of TDK Engineering  
**Codes Officer:** John Houser

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 September 6, 2012, at 7:00pm.

### **Kate Humiston, 2119 Old Seneca Turnpike – Area Variance**

A continuation of the public hearing was held for an area variance to allow Mrs. Humiston to place a 6' fence in her front yard. She presented pictures of the project and they indicated that the fence will go along the inside of the rock wall that was recently constructed. There is no survey on this property and as was discussed at the August meeting, it was suggested to the applicant that if they were to come before the ZBA with additional projects a survey would be required as we would want to make sure that all setbacks are met on the existing buildings. The Board wants to make sure this is not a non-conforming lot. However, for the purpose of this variance the Board has no issue with the fence or the location. The Chair, Michelle Bingham asked if anyone was present in favor or in opposition to the project and there were none. Chris Christensen made a motion to close 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

Chris Christensen moved to approve the area variance for the 6' height in the front yard *\*at the location requested in her submittal* as there was no opposition, the fence will be quite a distance off the road and there is no obstruction or issue with public safety. The applicant was advised that future projects will require a survey. 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 Kate Humiston for a front yard fence size from 4' to 6' height in the front yard *\*in the location requested in her submittal* R1 zone to allow a fence at her residence on 2119 Old Seneca Turnpike, 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 September 6, 2012 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 2119 Old Seneca Turnpike, 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 24, F2 to allow a front yard variance for a 6' front yard fence *\*in the location requested in her submittal*
4. No one appeared in favor or in opposition to the variance.

CONCLUSIONS OF LAW:

1. The project will comply with all 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.

**Andrew and Beth Aupperle, 4399 Annapolis Way – Special Permit**

A public hearing was held to allow a 28' X 30' pool house at their residence. The secretary, Karen Cotter, read the legal notice into the minutes. Mr. Aupperle explained that this is a pool house and not a permanent living space; the location is per the submitted map, he has added a fireplace inside the building and he plans on leaving as many of the existing trees as possible. The pool will be constructed within the next two (2) years. The Chair, Michelle Bingham, asked if anyone would like to speak in favor or in opposition to the project and there was none. The ZBA explained their concern is that this building never becomes a rental property. It is only to be used as a pool house. Jerry Wickett made a motion to close 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

Jerry Wickett made a motion to approve the project as presented with the stipulation that this building is to never be used as a permanent living space or dwelling or as rental space, Chris Christensen seconded and the motion carried with the following vote:

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

The request of Andrew and Beth Aupperle for a special permit in a R1 zone to allow them to construct a 28' X 30' pool house at their residence at 4399 Annapolis Way, 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 September 6 2012, commencing at 7:00pm, local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS: The applicant is located in a R1 district: and

WHEREAS: There will be no undesirable change in the character of the neighborhood or detriment to nearby properties: and

WHEREAS: The use shall be consistent with and subordinate to the principal use and may not be carried on independently of the principal residential use: and

WHEREAS: The special permit is used for the use specified on the application. Any change of use is subject to approval by the Zoning Board of Appeals: and

WHEREAS: The special permit conforms to side yard, front and rear setbacks.

THEREFORE BE IT RESOLVED that said special permit is granted upon the following condition:

1. Applicant must apply for a building permit that grants permission for construction.
2. The pool house is for personal use only and no business shall be operated from it.
3. This building is to never be used as a permanent living space or dwelling or as rental space.

**Jon Agricola, 2635 West Seneca Turnpike – 30' X 50'**

A public hearing was held to allow construction of a 30' X 50' garage. The secretary, Karen Cotter, read the legal notice into the minutes. Chris Christensen advised that the applicant is a neighbor but there is no conflict of interest in with the project. Mr. Agricola explained he would like use part of the garage for storage and it would have a work bench and all his tools will be located in it. It will be 24' high with a 2' cupola. There was a discussion as to the height of the building and where the garage will be located from the east line. Chris Christensen would like the garage to be placed at least 60' from the side lot line and no higher than 22' plus the cupola. Mr. Agricola stated he had no issue with that and would change the special permit to reflect the change. The building is to be used as a personal garage and storage and not for any type of business. Chris Christensen made a motion to close the public hearing and public testimony 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 moved to approve the project as 30' X 50' garage as presented with the stipulation that the height of the building will not exceed 25' and amend the location of the garage to 60' from the side line and that it is for personal use only, no business shall be operated from it. Jerry Wickett seconded and the motion carried with the following vote:

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

Michele Bingham - aye

The request of Jon Agricola for a special permit in a R1 zone to allow him to construct a 30' X 50' garage at his residence at 2635 West Seneca Turnpike., 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 September 6 2012, commencing at 7:00pm, local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS: The applicant is located in a R1 district: and

WHEREAS: There will be no undesirable change in the character of the neighborhood or detriment to nearby properties: and

WHEREAS: The use shall be consistent with and subordinate to the principal use and may not be carried on independently of the principal residential use: and

WHEREAS: The special permit is used for the use specified on the application. Any change of use is subject to approval by the Zoning Board of Appeals: and

WHEREAS: The special permit conforms to side yard, front and rear setbacks.

THEREFORE BE IT RESOLVED that said special permit is granted upon the following condition:

1. Applicant must apply for a building permit that grants permission for construction.
2. The garage is for personal use only and no business shall be operated from it.
3. The height of the building will not exceed 25' and the applicant amend the location of the garage to 60' from the side line.

The minutes of the August meeting stand as distributed.

The meeting was adjourned at 9:40 PM.

Respectfully submitted,

Karen Cotter  
Secretary

*\*Corrected at the October 1, 2012 meeting*