

The Town of Marcellus Zoning Board of Appeals

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

October 7, 2013

- Present:** Chairperson Michelle Bingham, Gerard Wickett, Bob Ciota, 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 October 7, 2013, at 7:00pm.

David & Shirley Cartner, 2556 Dublin Rd – side/front yard area variance

A public hearing was held for a front yard variance with a 5’ reduction from 35’ to 30’ to replace an existing front porch to help with water problems. They are also requesting a side yard variance with a 2’ reduction from 15’ to 13’ to replace an existing one (1) car garage with a two (2) car garage. The secretary, Karen Cotter, read the legal notice into the minutes and advised that the certified mailing receipts were on file. Mr. Cartner explained that they have had water issues with water coming into their house. They spoke to a contractor who suggested they try and move the water away from the foundation. They will use the existing driveway for the proposed two car garage. A letter was received from Sarah Lee Richie, 2558 Dublin Court in favor of the project. The Chairperson, Michelle Bingham, asked if anyone would like to speak in favor or in opposition to the project and there was none. Hearing no questions from the Board 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 requested variances as the distances they are requesting are minimal, it is consistent with the neighborhood and a letter from the neighbor to the east (who would be most affected) was in favor of the project. Chris Christensen also noted that this represents a reduction from the requested variance in 1998.

Chris Christensen seconded the motion and it carried with the following vote:

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

The appeal of David and Shirley Cartner for a front yard reduction of 5' from 35' to 30' in a R1 zone to allow a front porch and a side yard reduction of 2' from 15' to 13' to construct a two (2) car garage at their residence on 2556 Dublin Court, 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 October 7, 2013 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 2556 Dublin Court, 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 front porch and a side yard variance for a two (2) car garage.

4. No one appeared in favor or in opposition to the variance but a letter in favor of the project was received and read into the minutes.

CONCLUSIONS OF LAW:

1. The project will comply with one side yard and rear 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.

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.

Discussion -

Marilyn Villa, 4474 Dublin Road

Mrs. Villa would like to construct a new house on her property while continuing to live in her existing house that also is located on this lot. She would remove the existing house after the new house is completed. After much discussion, the Town Attorney, Jim Gascon, advised that this is not allowable under our zoning regulations.

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The minutes of the September meeting stand as distributed.

The meeting was adjourned at 8:00 PM.

Respectfully submitted,

Karen Cotter
Secretary