

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

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

**December 1, 2014**

**Present:** Chairperson Michelle Bingham Bob Ciota,  
Gerard Wickett, Robert Oliver  
**Absent:** Chris Christensen  
**Town Counsel:** James Gascon of Costello, Cooney, and Fearon  
**Town Engineer:** Jason Katak 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 December 1, 2014 at 7:00pm

### **Ronald & Cynthia Dumond, 3860 South Street Rd – Front yard variance**

A continuation of a public hearing was held for Ronald & Cynthia Dumond to request a front yard area variance to allow construction of a 2 car garage. A new survey was completed and submitted to the ZBA as requested. Jim Gascony was concerned that the power easement and the leach fields were not indicated on the new survey. The applicant advised they moved the project back five (5) feet and the correct dimensions are indicated on the new survey. They are now requesting a 24' reduction (as measured from the center of the road) from 68' to 44'. They will meet both side yard and rear setbacks. The applicant advised he could not go back any further due to the location of the leach fields. Bob Ciota commented on how the project is consistent with other properties in the neighborhood and Kathy Carroll stated she didn't see any other way this project could be done. Jason Katak stated due to the location of the septic this seemed to be the only viable location. Hearing no further questions/comments from the Board Jerry Wickett moved to close the public hearing and Michelle Bingham seconded. The motion carried with the following vote:

Bob Ciota - aye  
Robert Oliver - aye  
Jerry Wickett - aye  
Michele Bingham – aye

Bob Ciota made a motion to approve the project as modified as a public hearing was held and there was no one present in favor or in opposition to the project. This project will meet the side yard setback that was a concern of the neighbors Joyce and Steve Potuchuk; the project is consistent with other structures in the neighborhood; will improve vehicle access; and the applicant agrees to remove the overhead door from the existing garage and it will no longer be used as a garage.

Jerry Wickett seconded and the motion carried with the following vote:

Bob Ciota - aye  
Robert Oliver - aye  
Jerry Wickett - aye  
Michele Bingham – aye

The appeal of Ronald & Cynthia Dumond for a front yard reduction of 24' from 68' to 44' , as measured from the center of the road, in a R1 zone to allow a garage to be constructed at his residence on 3860 South Street Rd., 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 December 1, 2014 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 3860 South Street Rd. 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 an accessory building
4. The applicant agrees to remove the overhead door on the existing garage and it will no longer be used as a garage.

**CONCLUSIONS OF LAW:**

1. The project will comply with both sides 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.

**Andrew Aupperle, 4399 Annapolis Way – Special permit**

A public hearing was held for Andrew Aupperle who is requesting a special permit to allow a 40' X 40' storage building to be constructed on his property. The secretary, Karen Cotter, read the legal notice into the minutes. The building is for personal use and no business shall be operated from it. Mr. Aupperle explained that the back of the building will be constructed into the hill and not much of it will be visible to the neighbors. It will be constructed with materials similar to the existing house. There will be power and a unit heater. Chris Christensen (who was not present but sent questions via Jerry Wickett) had concerns with drainage. Jason Kantak advised the TDK Engineers has worked with and for Mr. Aupperle and doesn't see any issues with drainage. Jerry Wickett advised that our regulations state that a residence in the R1 zone is allowed to have one (1) garage not to exceed three(3) bays. His drawings conflict to what is allowable. Mr. Wickett advised that we are consistent with the regulations on the garages. Mr. Aupperle agreed to change the design to show only 1 large garage door and will place windows on either side of the door. He will store snow mobiles, corvette, pool, outdoor furniture and grilles in the building. Mr. Aupperle advised that this will not be used for his business and no business shall be operated out of it. The Town Attorney, Jim Gascon, asked that it be indicated in the minutes that he strongly disagrees with allowing the applicant to construct a building that is 10 times the regular size in a development. He stated that it doesn't set a good precedent. There was concern from some of the Board Members that the neighbors were not notified by mail about the size of this accessory building. Jerry Wickett made a motion to close the public hearing and Bob Ciota seconded. The motion carried with the following vote:

Bob Ciota - aye  
Robert Oliver - aye  
Jerry Wickett - aye  
Michele Bingham – aye

Jerry Wickett made a motion to approve the project with the modifications to be submitted to our office within seven (7) days; no business shall be operated from the building and the Town Engineer stated that he sees no drainage issues.

Bob Ciota seconded and the motion carried with the following vote:

Bob Ciota - aye  
Robert Oliver - aye  
Jerry Wickett - aye  
Michele Bingham – aye

The request of Andrew Aupperle for a special permit in a R1 zone to allow him to construct a 40' X 40' accessory building at his 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 December 1, 2014, 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 both 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 accessory building is for personal use only and no business shall be operated from it.

The November minutes will stand as corrected.

The meeting was adjourned at 8:30 PM.

Respectfully submitted,

Karen Cotter, Secretary

