

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

February 4, 2019

Present: Chairperson Michelle Bingham Jerry Wickett, Kathy Carroll,
Chris Christensen, Ron Schneider

Absent:

Town Counsel: Jim Gascon of Costello, Cooney, and Fearon

Town Engineer: Joe Durand 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 February 4, 2019 at 7:00pm.

Steve Casselbury, 2971 Smith Rd. – Side Yard Area Variance

A public hearing was held for a side yard area variance for a 13’ reduction from 20’ to 7’. The secretary, Karen Cotter, read the legal notice into the minutes and advised that the certified mailings had been received. They would like to construct a master bedroom and Mr. Casselbury explained that it could only be placed on that side of the house. The applicant also submitted approval of the proposed project from the Onondaga County Health Dept. to allow them another bathroom. A letter from James Master, 2971 Masters Rd. was submitted advising they were in favor of the project. Their home is located on the side of the proposed addition. The following called the office advising they were in favor of the project:

1/24/19 - Mary Pat Annable, Smith Rd

1/31/19 – Tom Taylor, 2961 Smith Rd

1/31/19 - Richard Niles, 2935 Smith Rd

Hearing no questions from the ZBA, Ron Schneider made a motion to close the public hearing and Chris Christensen seconded.

The motion carried with the following vote:

Jerry Wickett - aye
Michele Bingham – aye
Chris Christensen - aye
Ron Schneider – aye
Kathy Carroll – aye

Kathy Carroll made a motion to approve the project as a public hearing was held and there was no one opposed to the project and one (1) letter from a neighbor and three (3) phone calls from neighboring properties were in favor of the project; there will be no negative impact to the neighbors; and an approval letter from the OCHD was also submitted. Chris Christensen seconded and the motion carried with the following vote:

Jerry Wickett - aye
Michele Bingham – aye
Chris Christensen - aye
Ron Schneider – aye
Kathy Carroll – aye

The appeal of Steve Casselbury for a side yard reduction of 13’ from 20’ to 7’ in an Agricultural zone to allow a bedroom addition at his residence on 2971 Smith Road, 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 February 4, 2019 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 2971 Smith Rd., Marietta, New York
2. The subject premises are zoned Agricultural 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 an Additional bedroom
4. No one appeared in opposition and four (4) neighbors advised they were in favor of the variance.

CONCLUSIONS OF LAW:

1. The project will comply with one (1) side, rear and front 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. No building permit shall be issued until the original filing receipts are submitted to the Planning Board.
2. Applicants must proceed to the Town Hall for a building permit and follow all Town Zoning Ordinance.
3. 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.
4. 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 –

Vance Gorke, 2500 Cherry Valley Turnpike – zone change

Mr. Gorke was present for additional conversation regarding a zone change on his property – he had a microphone present to tape the conversation. Town Attorney, Jim Gascon, advised Mr. Gorke since no application has been submitted, we will be having an informal discussion and any zone change request must be submitted and approved by the Town Board and not the Zoning Board of Appeals. Mr. Gorke stated that he understood.

Mr. Gorke again asked the ZBA what the reasoning was to not include his property in the Overlay Zone. Chris Christensen stated that the Comprehensive Plan Committee met for over two (2) years and discussed several topics and issues. One of the topics was regarding our roads and highways and if changes are made what will be the long term affects. They held several meetings regarding Route 20 and the farming community. The question was how do we help the farmers in Marcellus, who want to use their land towards their retirement, and still keep the Route 20 corridor and surrounding properties as it was intended to be. The idea of a scenic overlay was discussed and approved with very specific allowable uses that kept the integrity of the surrounding area.

Mr. Gorke would like to extend the highway overlay zone 1000' to incorporate the intersection and four corners. He questioned why the zone stops where it does and feels it was an oversight and should be corrected.

Jerry Wickett stated that a discussion was had with Helen Stevens (who also sat on the Comprehensive Plan Committee) She stated that there was an in-depth

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discussion with a draft overlay presented and discussion regarding the environmental impact. She agreed that the overlay zone was created to help our local farmers and there were several follow up conversations after the initial draft where changes were made. It made good sense to stop the Overlay Zone where it does as there were no additional farm properties *and the agricultural zone ended at that location*; concerns for ingress/egress along the hill; Clintonville was at the top of the hill; and to protect the existing residences. Those were the major reasons for the dividing point and why it made no sense to the committee to continue it any further.

Chris Christensen advised we had some pre-existing, non-conforming uses and the Light Industrial Zone covered those uses that were already there.

Jerry Wickett stated to change zoning for one (1) lot is not good planning; it's a dangerous and busy intersection; and access off of Route 20 on that hill would be very dangerous.

Chris Christensen advised that the Overlay Zone has very specific uses and if we are to make any changes it should be a topic of the Comprehensive Plan – we would need to look at what has changed to make the ZBA override the conclusion of the Comprehensive Plan? We need to maintain the view shed and overall integrity of the area.

Mr. Gorke disagreed and Jim Gascon reiterated that this was a discussion with no application or request before either Boards.

The minutes of the January meeting stand as distributed.

The meeting was adjourned at 9:00 PM

Respectfully submitted,

Karen Cotter
Secretary

**Corrected at the March 4, 2019 meeting*

