

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

August 3, 2020

Present: Chairperson Jerry Wickett, Ron Schneider, Scott Stearns
Kathy Carroll, Chris Christensen

Absent:

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

Town Engineer: Joe Durand of TDK Engineering (absent)

Codes Officer: John Houser

The Zoning Board of Appeals of the Town of Marcellus met in regular session in the Marcellus Fire Hall for the Town of Marcellus, located at 4242 Slate Hill Rd, Marcellus, New York, on August 3, 2020 at 7:00pm.

The Chair, Jerry Wickett, stated that due to the Labor Day holiday he would like to make a motion to change the September Planning Board meeting to Thursday, September 10, 2020. Ron Schneider seconded and the motion carried with the following vote:

Jerry Wickett - aye

Ron Schneider – aye

Scott Stearns - aye

Chris Christensen - aye

Kathy Carroll - aye

SPECIAL PERMITS – PUBLIC HEARINGS

Tyler & Kristy Kudlick – 30' X 40' Accessory bldg.

A public hearing was held for a special permit to allow a 30' X 40' pole barn. The secretary, Karen Cotter, read the legal notice into the minutes. Mrs. Kudlick explained that the building will have a 10' overhang and be two (2) stories. They will use the building to fix equipment that they own as well as for personal storage of a tractor and lawn equipment, ATV's, bikes, etc. Mr. Kudlick advised there will be no business operated from it, they will have power, inside lights but no outside

lighting. They were advised that if they decide to place lights on the outside of the building, they must be downlighting with shields so the light does not leave the property onto neighbors. There will be no driveway access to the building – they will drive across the yard for construction. There was discussion regarding the large size of this building and the neighborhood it will be located in. This is a lot that is under an acre and close to neighbors. The Chair, Jerry Wickett, asked if anyone would like to speak in favor of the project and there were none. He then asked if anyone would like to speak in opposition of the project and Gary Vielle, 2551 Dublin Court, advised that he is very concerned about the size on a smaller size lot, the location and the noise that will go along with a building that size. He asked if it could be moved a little farther to the back of the lot so it wouldn't interfere with his view. Mr. Vielle asked if they are keeping the hedgerow along his property line and they advised that they would keep the bushes and trees. The Chair, Jerry Wickett, thanked Mr. Vielle for coming to the meeting. Chris Christensen voiced concern over placing this large of a building in a residential neighborhood where the lots are smaller. Hearing no further questions from the Board Jerry Wickett made a motion to close the public hearing and Mark Taylor seconded. The motion carried with the following vote:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - aye
Kathy Carroll - aye

Kathy Carroll made a motion to approve the building as presented as a public hearing was held and there was one (1) person in opposition; no business shall be operated from the building; it meets all of our setback regulations; the applicant needs to modify the application to 40' X 40' to include the 10' overhang. Jerry Wickett seconded and the motion carried with the following vote:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - nay
Kathy Carroll - aye

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The request of Tyler and Kristy Kudlick for a special permit in a Residential 1 zone to allow them to construct a 40' X 40' accessory building at their residence at 2553 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 August 3, 2020, 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 Residential 1 zone: 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 be 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.
3. The applicant must modify the size of the building on the application

Scott Hafler, 2532 Platt Rd – 30' X 48' pole barn

A public hearing was held for a special permit to allow a 30' X 48' pole barn. The secretary, Karen Cotter, read the legal notice into the minutes.

The applicant advised that he has removed the above ground pool and the old sheds as well as all of the trash that was around the area. He has already cleared the area where the pole barn will be located. This is for personal storage only, no business shall be operated from it, there are no plans for outside lights but he was advised he would need downlighting with shields to prevent the lights from going off site onto the neighbor's property. We received a letter from James and Andrea Carlton, 2534 Platt Rd. stating they were in favor of the project. The Chair, Jerry Wickett asked if anyone present was in favor or opposition of the project and there were none. Hearing no further questions from the Board Jerry Wickett made a motion to close the public hearing and Ron Schneider seconded. The motion carried with the following vote:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - aye
Kathy Carroll - aye

Kathy Carroll made a motion to approve the building as presented as a public hearing was held and there was no opposition and there was one (1) letter submitted from a neighbor in favor of the project; no business shall be operated from the building; it meets all of our setback regulations; and is in the character of the neighborhood. Ron Schneider seconded and the motion carried with the following vote:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - nay
Kathy Carroll - aye

The request of Scott Hafler for a special permit in a Residential 1 zone to allow him to construct a 30' X 48' accessory building at his residence at 2532 Platt 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 August 3, 2020, 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 Residential 1 zone: 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 be 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.

Dennis Welch, 3132 Cherry Valley Turnpike – 40' X 36' addition

A public hearing was held for a 40' X 36' addition to his existing garage for personal use only to store his boat, jet ski and lawn equipment. This will be one (1) story with the same siding/roofing as the existing garage. There will be an additional garage door in the rear of the building. There is currently three doors and he will remove one (1) and replace it with a window. There will be no additional asphalt for the existing driveway and it will follow the same roofline as the existing house trusses. The Chair, Jerry Wickett, asked if anyone would like to speak in favor or opposition and there were none.

Hearing no further 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:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - nay
Kathy Carroll - aye

Kathy Carroll made a motion to approve the building as presented as a public hearing was held and there was no opposition; no business shall be operated from the building; it meets all of our setback regulations; and is in the character of the neighborhood. Scott Stearns seconded and the motion carried with the following vote:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - nay
Kathy Carroll - aye

The request of Dennis Welch for a special permit in a Residential 1 zone to allow him to construct a 40' X 36' addition to his existing garage at his residence at 3132 Cherry Valley 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 August 3, 2020, 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 Residential 1 zone: 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 be 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.

Michael Rogalia, 2114 Coon Hill RD – 20’ X 40’ pole barn

A public hearing was held for a 20’ X 40’ pole barn with 10’ open area with a roof. This will be for personal use only to store his lawn equipment, tractor and some farm equipment. The Chair, Jerry Wickett, asked if anyone would like to speak in favor or opposition and there were none. Hearing no further 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:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - nay
Kathy Carroll - aye

Kathy Carroll made a motion to approve the building as presented as a public hearing was held and there was no opposition; no business shall be operated from the building; it meets all of our setback regulations; and is in the character of the neighborhood.

Scott Stearns seconded and the motion carried with the following vote:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - nay
Kathy Carroll - aye

The request of Michael Rogalia for a special permit in an Agricultural zone to allow him to construct a 20' X 40' pole barn with open 10' covered deck at his residence at 2114 Coon Hill 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 August 3, 2020, 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 an Agricultural zone: 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 be 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.

AREA VARIANCES

Daniel & Linda Muters, 2809 Amber Rd – front yard

Guy Donahoe, Architect, was present to discuss the project. The applicant is requesting an 18' reduction from 35' to 17 feet for a front yard variance. They would like to construct a semi- attached garage with a covered porch onto the front of the house. They will also construct a mudroom, porch and foyer but those are all compliant with zoning. The following was discussed:

- Due to the location of a bedroom window the garage is angled so as to not block the window.
- The property behind the proposed garage slopes quickly and deeply and would require a great deal of fill to make it feasible to push the garage back from the road
- There will be a new driveway location that is already approved by OCDOT. The new location is a better/safer - ingress/egress that what currently exists. It creates a radius and turnaround without backing out onto the road.
- They have provided pictures that indicate four (4) out of seven (7) houses in the area are closer to the road then zoning allows.
- He tried to stay away from the existing propane tank
- Chris Christensen would like to see if the addition could be pushed back so that it doesn't have to go so close to the road.

Hearing no further discussion, the Chair, Jerry Wickett, asked the Board to review SEQR. Kathy Carroll made a motion based on the information and analysis as well as the supporting documentation that the proposed action will not result in any significant adverse environmental impacts.

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Scott Stearns seconded and the motion carried with the following vote:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - nay
Kathy Carroll - aye

This project will be sent to OCPB and to a public hearing in September

DISCUSSION

Tyler Estlinbaum, 2718 Falls Rd – special permit/area variance 40’ X 60’ accessory building

The size of this building requires a special permit in a Residential 1 zone. The issue is does this project require an area variance. The Codes Officer interpretation has been that anything larger than 75% of the existing house may not meet the description of an accessory structure and therefore an area variance would also be required. There was discussion among the Board, Applicant and Codes Officer as to whether he should keep the request as is or if he should drop it down to the 75% ratio. The application for this size building is as large as his existing house and therefore the question is how is this an accessory building? Chris Christensen stated that he is in favor of following what the codes department has historically done and would not necessarily be in favor of an area variance for this size building. Jerry Wickett also agreed with Mr. Christensen’s statement. This is an R1 zone, and it does not have a lot of acreage – just because an applicant may want something doesn’t mean that it is in compliance and may not be allowable at that location. Mr. Estlinbaum will think about if he wants to modify the size of the building or go forward with his current application. He will advise our office prior to the next ZBA meeting.

The ZBA will have a workshop meeting to discuss accessory buildings at 5:30 PM on August 6, 2020.

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Jerry Wickett made a made a motion to waive the reading of the January minutes and accept as distributed. Scott Stearns seconded and the motion carried with the following vote:

Jerry Wickett - aye
Ron Schneider – aye
Scott Stearns - aye
Chris Christensen - nay
Kathy Carroll - aye

The meeting was adjourned at 9:30 PM

Respectfully submitted,

Karen Cotter
Secretary