

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

**September 9, 2020**

**Present:** Chairperson Jerry Wickett, Ron Schneider, Scott Stearns  
**Absent:** Kathy Carroll, Chris Christensen  
**Town Counsel:** Wendy Loughnot 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 September 9, 2020 at 7:00pm.

**SPECIAL PERMITS /AREA VARIANCE - PUBLIC HEARINGS**

**Tyler & Maggie Estlinbaum 2718 Falls Rd – Area Variance/Special Permit**

A public hearing was held for an area variance and special permit. He is requesting approval for an accessory structure to be larger than the approved 75% allowed by the Town of Marcellus Codes Dept. The building will be 40' X 60' and is as large or larger than his principal structure. Mr. Estlinbaum explained that the building will be used as a woodshop, storing personal items and to service his personal equipment such as his tractor. The Chair, Jerry Wickett asked if anyone would like to speak in favor of the area variance and/or special permit and there were none. Scott Stearns made a motion to close the public hearings for the area variance and special permit and Ron Schneider seconded. The motion carried with the following vote:

Jerry Wickett - aye  
Ron Schneider – aye  
Scott Stearns – aye

**Area Variance –**

Scott Stearns made a motion to approve the variance as presented as a public hearing was held and there was no one present in opposition; and the 40' X 60' accessory building is larger than the primary structure. Ron Schneider seconded and the motion carried with the following vote:

Jerry Wickett - aye  
Ron Schneider – aye  
Scott Stearns – aye

The appeal of Tyler and Maggie Estlinbaum for a size variance in a R1 zone to allow an accessory structure be larger than 75% of his principal structure at his residence on 2718 Falls Road, 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 9, 2020 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 2718 Falls Road, 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 structure more than 75% larger than Their principle structures
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. No building permit shall be issued until the subdivision is completed and filed with the County and filing receipt is 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 Completed a Certificate of Occupancy is issued by the CEO.
4. BE IT FURTHER RESOLVED that such approval is contingent upon
5. 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.

6. The Subdivision must be completed and filed with the County

**Special Permit –**

Scott Stearns made a motion to approve the special permit for a 40' X 60' accessory building as it will be for personal use/personal storage only; a public hearing was held and there was no opposition. Ron Schneider second and the motion carried with the following vote:

Jerry Wickett - aye  
Ron Schneider – aye  
Scott Stearns – aye

The request of Tyler and Maggie Estlinbaum for a special permit in a Residential 1 zone to allow them to construct a 40' X 60' accessory building at their residence at 2718 Falls 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 September 9, 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 or stored in it
3. The subdivision must be completed and filed with the County.

**Michael Kaczor, 3100 Brewer Rd. – Special Permit**

A public hearing was held for a 30' X 50' accessory building located at his residence in an Agricultural zone. The secretary read the legal notice into the minutes. Mr. Kaczor advised that the accessory building will be for personal use only, no business will be operated from it. He would use it to store his tractor and implements. You would not see the building from the road and it will meet all setbacks. There will be no power or outdoor lighting at this time but if added he was advised that outdoor lights must be downlighting only and can not go off his property. The Chair, Jerry Wickett, asked if anyone would like to speak in favor or opposition to the project and there were none. Scott Stearns 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

The Chair, Jerry Wickett, asked if anyone would like to make a motion on the special permit. Scott Stearns made a motion to approve the special permit as a public hearing was held and there was no opposition; the building will be used for personal use only and no business shall be operated from it; and if outdoor lighting is added they must be down lighting and must stay on site.

Ron Schneider seconded and the motion carried with the following vote:

Jerry Wickett - aye  
Ron Schneider – aye  
Scott Stearns – aye

The request of Michael Kaczor for a special permit in an Agricultural zone to allow him to construct a 40' X 50' accessory building at his residence at 3100 Brewer 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 September 9, 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 accessory building is for personal use only and no business shall be operated from it or stored in it

3. If outdoor lighting is added it must be downlighting and cannot leave his property

**Dan & Sandy Duger, 4409 Limeledge Rd – Special Permit**

A public hearing was held for a 40' X 50' accessory building. The building will be located in the rear of the house and will not be visible from the road. It will be for personal storage only and no business shall be operated from it. He would like to store his boat, snowblower, lawnmower, Mustang and other personal items. He will access the building from the existing driveway/farm cut that is already there and not adding anything additional. There will be power and he was advised that if he has outside lights it must be downlighting and cannot leave his property. His drawings indicated two (2) overhead doors and he was advised that the Board has consistently only allowed one (1) overhead door. Mr. Duger agreed to change the plans and will have one (1) overhead door not larger than 16'. The Chair, Jerry Wickett, asked if anyone would like to speak in favor or opposition to the project and there were none. Ron Schneider made a motion to close the public hearing and Scott Stearns seconded. The motion carried with the following vote:

Jerry Wickett - aye  
Ron Schneider – aye  
Scott Stearns – aye

Scott Stearns made a motion to approve the special permit for a 40' X 50' accessory building as it will be for personal use/personal storage only; a public hearing was held and there was no opposition; no additional access; any outdoor lighting must be downlighting and the applicant agreed to change his project from two (2) overhead doors to one (1) overhead door. Ron Schneider second and the motion carried with the following vote:

Jerry Wickett - aye  
Ron Schneider – aye  
Scott Stearns – aye

The request of Dan and Sandy Duger for a special permit in a Residential 1 zone to allow them to construct a 40' X 50' accessory building at their residence at 4400 Limeledge 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 September 9, 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 or stored in it
3. Any outdoor lighting must be downlighting and cannot leave their property
4. Applicant agrees to change number of overhead doors from two (2) doors to one (1) overhead door.



**AREA VARIANCE – PUBLIC HEARING**

**Daniel & Linda Muters, 2809 Amber Rd – front yard**

A public hearing was held for a front yard variance. The secretary, Karen Cotter, read the legal notice into the minutes and advised mailing receipts are on file. 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. Mr. Donahoe explained in the beginning of this project he explored different options. He advised that this past spring he shot dimensions to create difference in elevations and found the land falls away very quickly away from the road. He thinks that given the type of construction and with the new driveway, the position of the new building won't have to alter the driveway and actually it makes it so they do not have to back up into the road. The Chair, Jerry Wickett, read the legal notice Z-20-253, dated September 2, 2020 into the minutes and then asked if anyone would like to speak in favor or opposition to the project and there were none. Ron Schneider made a motion to close the public hearing and Scott Stearns seconded. The motion carried with the following vote:

Jerry Wickett - aye  
Ron Schneider – aye  
Scott Stearns – aye

Scott Stearns made a motion to approve the project as presented as a public hearing was held and there was no opposition; the requested garage is consistent with the neighborhood and OCPB had no issue with the project. Ron Schneider seconded and the motion carried with the following vote:

Jerry Wickett - aye  
Ron Schneider – aye  
Scott Stearns – aye

The appeal of Daniel and Linda Muters for a front yard variance of 18' from 35' to 17' in a R1 zone to allow a new garage at 2809 Amber 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 September 9, 2020 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 2809 Amber Road, Marietta, 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
4. No one appeared in favor or in opposition to the variance.

CONCLUSIONS OF LAW:

1. The project will comply with side 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 Completed 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.

Jerry Wickett made a made a motion to waive the reading of the September 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

The meeting was adjourned at 8:30 PM

Respectfully submitted,

Karen Cotter  
Secretary