

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

**February 1, 2021**

**Present:** Chairperson Jerry Wickett, Ron Schneider, Scott Stearns  
Chris Christensen  
**Absent:** Kathy Carroll  
**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 Marcellus Town Hall for the Town of Marcellus, located at 24 East Main St., Marcellus, New York, on February 1, 2021 at 7:00pm.

**AREA VARIANCE SPECIAL PERMITS – PUBLIC HEARINGS**

**Kimberly Lunderman, 2651 Amber Rd –**  
**Area Variance – 75% of building size**  
**Special Permit – 32’ X 64’ accessory bldg.**

A public hearing was held for an area variance and special permit. The secretary, Karen Cotter, read both legal notices into the minutes. The applicant advised that they are moving to a property next to her parents and are constructing a new house. Their current location had a barn that was full and they would like to construct a new storage barn on this new property. The existing shed will be removed. The following was discussed:

- The building is for personal storage only – no business will be operated from this location and no business items stored inside it.
- It will have one (1) overhead door and one (1) man door
- At this time, they are not planning on any power inside the building
- They will have no large, or agricultural lights – they were advised that if at some time outdoor lighting is placed on the building it must be downlights only and cannot spill onto the neighboring properties.

- The new building will be barely visible to the neighbors
- The barn size will be larger than 75% of the new house
- There is an existing driveway and they plan to use that location for access and there will not be an additional access
- A portion of the property is leased to a farmer and the farm access is on the south side of the property
- The building will be at least 30' from the side lot line

The Chair, Jerry Wickett, asked if anyone would like to speak in favor or in opposition to the project and there were none present. The secretary, Karen Cotter, advised that a neighbor, Jeff Vandersluth, 2657 Amber Rd., submitted a FOIL to look at the project. He advised that he was very concerned with the outdoor lighting and wants to make sure there will not be any large fluorescent lights or lights coming onto his property. This was discussed during the review and the applicant understands his concerns and Ms. Lunderman stated that there will be no large outdoor lights and understands that she must have downlighting on any lights that are installed. Due to COVID-19, Mr. Vandersluth did not want to attend the meeting but wanted to make sure his lighting concerns were addressed.

Hearing no further questions, the Chair, Jerry Wickett made a motion to close both of the public hearings and Chris Christensen seconded. The motion carried with the following vote:

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

#### **AREA VARIANCE -**

Jerry Wickett made a motion to approve the size percentage area variance as a public hearing was held and there was no opposition and our office received and responded to the lighting concern of a neighbor; the project is in an Agricultural zone and will meet all setbacks and; it will be used for personal use only and; an as built survey needs to be submitted after the project is completed.

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

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

The appeal of Kimberly Lunderman for a size area variance of an accessory building larger than 75% of the principal structure in an Agricultural zone to allow an accessory building at 2651 Amber Rd., 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 1, 2021 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 2651 Amber 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 size variance
4. No one appeared in favor or in opposition to the variance but a neighbor completed a foil to review the project and his lighting concerns were addressed

CONCLUSIONS OF LAW:

1. The project will comply with front, 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.
3. The garage is for personal use only and no business shall be operated from or stored in the building
4. All outdoor lighting must be down lighting and can not spill onto neighboring properties
5. An as built survey must be completed and submitted to the Town

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.

**SPECIAL PERMIT –**

Jerry Wickett made a motion to approve the special permit as there was a public hearing held and there was no opposition, however; a neighbor at 2657 Amber Rd. completed a FOIL and reviewed the project and was concerned with the lighting of the project; and the building will be for personal use only and no business shall be operated from or stored in it and; an area variance was granted as it is larger than 75% of the principal structure and; it 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 – aye

The request of Kimberly Lunderman for a special permit in an Agricultural zone to allow construction of a 32' X 56' accessory building at 2651 Amber Rd., 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 1, 2021, 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. All requirements from the Area Variance must be completed
4. If there is any outdoor lighting it must be downlighting and not spill onto the neighboring properties

**MINUTES -**

Jerry Wickett made a made a motion to waive the reading of the November minutes and accept as distributed. Chris Christensen seconded and the motion carried with the following vote:

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

The meeting was adjourned at 9:00 PM

Respectfully submitted,

Karen Cotter  
Secretary