

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

July 7, 2022

Present: Chairperson Jerry Wickett, Chris Christensen,
Kathy Carroll, Ron Schneider
Absent: Scott Stearns
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 Town Hall for the Town of Marcellus, located at 22 East Main St., Marcellus, New York, on July 7, 2022 at 6:30pm.

PUBLIC HEARING – SPECIAL PERMIT

Richard and Lucy Myers, 3260 Route 174 – 14’ x 24’ accessory building

A public hearing was held for special permit to allow construction of a 14’ x 24’ accessory building. The secretary, Karen Cotter, read the legal notice into the minutes. Mr. Myers advised that he had tools, lawnmower, kayak and garden equipment that will be stored in the building. The building will have no power and no additional access or new driveway; no lighting; and no sign; it will have solar lights. There will be no business operated from or in the building. The Chair, Jerry Wickett, asked if anyone would like to speak in favor of /or in opposition to the project and there was none. Hearing no further questions, Kathy Carroll made a motion to close the public hearing. Ron Schneider second and the motion carried with the following vote:

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

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Kathy Carroll made a motion to approve the project as presented as a public hearing was held and no one was in opposition to the project; no business will be operated in and/or from the building – it will be for personal use only; there will be no lighting or sign or new driveway. Ron Schneider second the motion and it carried with the following vote:

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

The request of Richard and Lucy Myers for a special permit in a residential one zone to allow her to construct a 14' x 24' accessory building at his at 3260 Route 174, Marcellus, NY.

The Zoning Board of Appeals of the Town of Marcellus met in Regular Session in the Town Hall of the Town of Marcellus, 22 E. Main Street, Marcellus, NY, on July 7 2022, commencing at 6:30 pm, local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS: The applicant is located in a residential one 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 side yard, front and rear setbacks.

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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 structure is for personal use only and no business shall be operated from and/or in it.

David Card, 4000 Rockwell Rd. – 10’ x 32’ accessory building

A public hearing was held for a 10’ x 32’ accessory building and a 16’ x 52’ accessory building. The 10’ x 32’ building will be attached to the rear of his existing garage and will be used to store snowmobile, lawnmower, and for garden equipment. The 16’ x 52’ accessory structure will be attached to the rear of his existing barn that he currently stores boats, snowmobiles and a car in the existing structure the new portion will be used as a pool house. It will have power as they plan on having a fan and TV in the structure. No business shall be run from either of the new structures. Chris Christensen stated that Mr. Card was given an area variance several years ago for the original 30’ x 54’ accessory building as there were some very large trees that would have been expensive and difficult to be removed. These trees have now been removed and Mr. Christensen was questioning the need for the original variance. Mr. Card explained that these were all ash trees and had to be removed due to ash bore disease and therefore had no choice but to remove the trees as they were dying. Mr. Card was again asked if any business is being operated out of the existing buildings and he stated that there are no businesses being operated in them. The chair, Jerry Wickett, then asked if anyone would like to speak in favor or in opposition to the project and there were none. Kathy Carroll made a motion to close both the public hearings and Ron Schneider second. The motion carried with the following vote:

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

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Kathy Carroll made a motion to approve the 10' x 32' accessory building as it is in the character of the neighborhood, no separate access will be required, meets all setbacks, a public hearing was held and there was no opposition, and no business shall be operated in it and/or from it. Ron Schneider second in the motion carried with the following vote:

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

The request of David Card for a special permit in a residential one zone to allow him to construct a 10' x 32' accessory building at his at 4000 Rockwell Rd., Marcellus, NY.

The Zoning Board of Appeals of the Town of Marcellus met in Regular Session in the Town Hall of the Town of Marcellus, 22 E. Main Street, Marcellus, NY, on July 7 2022, commencing at 6:30 pm, local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS: The applicant is located in a Residential 1 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 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 structure is for personal use only and no business shall be operated from and/or in it.

Kathy Carroll made a motion to approve the 16' x 52' accessory building as it is in the character of the neighborhood, no separate access will be required, meets all setbacks, a public hearing was held and there was no opposition, and no business shall be operated in it and/or from it. Ron Schneider second in the motion carried with the following vote:

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

The request of David Card for a special permit in a residential one zone to allow him to construct a 16' x 52' accessory building at his at 4000 Rockwell Rd., Marcellus, NY.

The Zoning Board of Appeals of the Town of Marcellus met in Regular Session in the Town Hall of the Town of Marcellus, 22 E. Main Street, Marcellus, NY, on July 7 2022, commencing at 6:30 pm, local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS: The applicant is located in a Residential 1 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 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 structure is for personal use only and no business shall be operated from and/or in it.
3. Mr. Card stated to the Zoning Board of appeals and confirms that there is no business being operated from the existing original accessory structures and no business will be operated out of any of the new approved structures.

William DeCook, 4785 Howlett Hill Rd. – 20' x 28' accessory building

A public hearing was held for the request of a 20' x 28' accessory building. The building will be located behind the garage and will be used to store snowmobiles, lawnmower, kidsteer, and a winterized car. It will be attached to the existing garage and have three new walls. It will not be accessed from the existing garage. The building will have power, no heat, and an outside light over the door. Mr. DeCook was advised any lighting must be down lighting so that it does not spill onto neighboring properties. The chair, Jerry Wickett, asked if anyone would like to speak in favor and/or opposition to this project and there were none. Hearing no questions from the board Ron Schneider made a motion to close the public hearing and Chris Christensen second.

Motion carried with the following vote:

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

Kathy Carroll made a motion to approve the 20' x 28' accessory building as a public hearing was held and there was no opposition, any lighting on the exterior of the building must be down lighting, and no business shall be operated in or from the building. Ron Schneider second in the motion carried with the following vote:

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

The request of William DeCook for a special permit in a residential one zone to allow her to construct a 20' x 28' accessory building at his at 4785 Howlett Hill Rd., Marcellus, NY.

The Zoning Board of Appeals of the Town of Marcellus met in Regular Session in the Town Hall of the Town of Marcellus, 22 E. Main Street, Marcellus, NY, on July 7 2022, commencing at 6:30 pm, local time at which time and place the following Resolution was moved, seconded and passed.

WHEREAS: The applicant is located in a Residential 1 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 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 structure is for personal use only and no business shall be operated from and/or in it.

PUBLIC HEARING - AREA VARIANCE

Jeffrey Smith, 2828 Rose Hill Rd. – side yard variance

A public hearing was held for a side yard setback of 6' from 20'to 14'. The secretary, Karen Cotter, advised mailing receipts are on file. Mr. Smith would like to construct an addition onto his house that would include adding a bedroom and additional living space. Jerry Wickett read an email dated July 5, 2022, from Dorothy and Russell Snell, located at 2834 Rose Hill Rd. into the minutes. The letter advised that the neighbors had no issue with Mr. Smith going closer to their property line. The chair, Jerry Wickett, asked if anyone would like to speak in favor or in opposition to the project and there were none. Hearing no questions from the board Kathy Carroll made a motion to close the public hearing and Chris Christensen second. The motion carried with the following vote:

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

Kathy Carroll made a motion to approve the side yard area variance as a public hearing was held and there was no opposition to the project, an email from the neighbor was received in favor of the project, and the project is consistent with the neighborhood.

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Ron Schneider second in the motion carried with the following vote:

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

The appeal of Jeffrey Smith for a side yard reduction of 6’ from 20’ to 14’ in an agricultural zone to allow an addition at his residence on 2828 Rose Hill 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 July 7, 2022 commencing at 6:30 PM. 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 2828 Rose Hill Rd., Marcellus, New York
2. The subject premises are 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 side yard variance for an Addition to his exiting house
4. No one appeared in favor or in opposition to the variance. One email Was submitted and read into the minutes in favor of the project

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. 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 complied with and a Certificate of Occupancy is issued by the CEO.
3. 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.

Lynda Smalley, 2320 Wilson Dr. – exceeded 1000 sq ft

A public hearing was held for an area variance to allow construction of a three-car garage totaling 1080 sq. ft. Mrs. Smalley advised she had a small attached garage where she has removed the existing garage doors and the space is used for storage only. The garage will have power, will be attached and have access to the house, and she was advised any external lighting must be down lighting. The applicant will meet all setback requirements and will have three individual garage doors, a man door in the rear and front of the building. The chair, Jerry Wickett asked if anyone would like to speak in favor or opposition to the project and there were none. Hearing no further questions from the board Chris Christensen made a motion to close the public hearing and Ron Schneider second. The motion carried with the following vote:

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

Kathy Carroll made a motion to approve the side yard area variance as a public hearing was held and there was no opposition to the project, an email from the neighbor was received in favor of the project, and the project is consistent with the neighborhood. Ron Schneider second in the motion carried with the following vote:

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

The appeal of Lynda Smalley for an area variance allow an addition of a garage at her residence on 2320 Wilson Dr, 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 July 7, 2022 commencing at 6:30 PM. 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 2320 Wilson Dr., Marcellus, New York
2. The subject premises are 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 variance for a 1080' attached three car garage
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:

3. Applicants must proceed to the Town Hall for a building permit and follow all Town Zoning Ordinance.
4. 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.
5. 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.

Minutes

Jerry Wickett made a made a motion to waive the reading of the June minutes and accept as distributed. Ron Schneider seconded and the motion carried with the following vote:

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

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Jerry Wickett made a motion to adjourn the meeting and Ron Schneider seconded.
The motion passed with the following vote:

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

The meeting was adjourned at 8:30 PM

Respectfully submitted,

Karen Cotter
Secretary