

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

September 8, 2022

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

Absent:

Town Counsel: Rich Andino 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 September 8, 2022 at 6:30pm.

Public Hearing – Area Variance/Special Permit

Gary and Lorraine Schwartz, 4519 NE. Townline Rd. – side yard variance
12' X 24' accessory bldg

A public hearing was held for a side yard variance with a 12' reduction from 15' to 3'. The secretary, Karen Cotter, read the legal notice into the minutes and advised certified mailing receipts are on file. Mr. Schwartz explained that due to the location of his septic system, leach fields and topography of his backyard it would be difficult to locate the 12' x 24' accessory structure in a different location. The rear of his property has quite a large slope down and he feels there is not enough room on the south side of the lot. This project would not affect any of his neighbors as the property closest to the proposed accessory structure is vacant land. Mr. Schwartz advised he had tried to contact the owner of the property and had not been able to reach them. This accessory structure is for personal use only and no business will be operated in/from it. The chair, Jerry Wickett, asked if anyone would like to speak in favor or in opposition to the project and there was none. Hearing no further questions Jerry Wickett made a motion to close the public hearing for both the area variance and special permit request.

Chris Christensen second and the motion carried with the following vote:

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

Area Variance

Kathy Carroll made a motion to approve the area variance as presented as a public hearing was held and there was no opposition; the structure could not be placed at a different location due to the location of the leach field, septic system, topography of the property – including the slope in the rear; and the property most affected by the variance is an empty field. Chris Christensen second and the motion carried with the following vote:

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

The appeal of Gary and Lorraine Schwartz for a side yard reduction of 12’ from 15’ to three’ in a residential one zone to allow an addition at their residence on 4519 NE. Townline 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 8, 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 4519 NE. Townline Rd., Marcellus, New York
2. The subject premises are Residential 1 zone, pursuant to the zoning map, which is part of the Zoning Ordinance of the Town of Marcellus.
3. The relief sought is: Section 235, attachment one to allow a side yard variance for an accessory structure
4. No one appeared in favor or in opposition to the variance.

CONCLUSIONS OF LAW:

1. The project will comply with front, rear and 1 side yard 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.

Special Permit

Kathy Carroll made a motion to approve the 12' x 24' accessory building. A public hearing was held and there was no one present in opposition to the project; it is consistent with the neighborhood; and it will be for personal use only no business shall be operated from it or in it. Ron Schneider second the motion carried with the following vote:

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

The request of Gary and Lorraine Schwartz for a special permit in a R1 zone to allow him to construct a 12' x 24' accessory building at their residence 4519 NE. Townline 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 8 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 R1 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 1 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 or in it.

Bill and Linda Viet, 2719 Otisco Valley Road – special permit located within a critical environmental area

Contractor Tim Frost, and septic designer Eric Buck were present to represent the project. The following was discussed:

- property was purchased from OCWA and will need to be subdivided to their existing lot- without the two lots being put together there is not enough property to construct a new house
- there was concern regarding the drainage that runs east and west and how that will affect the neighbors ditch as well as what will flood when the water is high
- they would like to raise the property approximately 6” to help with the runoff onto neighboring property they would like to construct a new house and it will be placed on a slab
- Chris Christensen stated there was an original house located on the slot – there may have been an old septic tank and leach field
- the surveyor needs to indicate where the floodplain is located on this property
- They need to be aware that no water can be moved onto neighboring property. There was additional discussion regarding the pipe under the driveway and not in the ditch
- we do not have a solid drain barrier plan – this is at the health department waiting for approval
- a new map was submitted at tonight’s meeting and has not been reviewed by the planning board
- Chris Christensen advised we need to address any impact this project may have on neighbors, Otisco Lake or CEA
- they do not know if they can use the existing septic system or if they will need a whole new system
- contours and additional topography need to be placed on maps

There was also discussion regarding future plans on the property; or example - will they be constructing a garage, can they meet all setbacks, and where is the ditch located – needs to be shown on map. Mr. Frost advise that both he and Mr. Buck will gather answers to the questions presented and come back with additional information to the planning board.

Minutes

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

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

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

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

The meeting was adjourned at 8:30 PM

Respectfully submitted,

Karen Cotter
Secretary