

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

July 6, 2023

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

Absent:

Town Counsel: James 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 6, 2023, at 6:30pm.

Public Hearing – Special Permit & Area Variance

Allyson Schneider, 2181 Stump Rd. – 40’ x 60’ accessory building and area variance

A public hearing was held for a special permit to allow construction of a 40’x 60’ accessory building and for an area variance as the accessory structure will exceed 75% of the square footage of the primary structure. The secretary Joanna Clarke read the legal notices for both into the minutes. Ms. Schneider explained she would like to build a pole barn for personal use to store her tractors, four wheelers, toys, boat, trailer, and other large personal items. She has no plans to add electrical, plumbing, or any additional driveways. The entire property is close to seven (7) acres – all of which is mowed. The properties that would be closest to the barn are owned by her mother.

The Chair, Jerry Wickett, asked if there was anyone who would like to speak in favor or in opposition to the project and there was none. Chris Christensen made a motion to close the public hearing on the area variance and Ron Schneider seconded. The motion carried with the following vote:

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

Kathy Carroll made a motion to close the public hearing on the special permit and Ron Schneider seconded. The motion carried with the following vote:

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

Area Variance Resolution:

Kathy Carroll made a motion to approve the area variance as submitted as a public hearing was held and there was no opposition; it will be used for personal storage with no electrical, plumbing, or additional driveway access additions. The property is in excess of six (6) acres and the closest neighbor to the structure is a family member. Ron Schneider seconded, and the motion carried with the following vote:

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

The appeal of Allyson Schneider for an accessory structure that will exceed 75% of the square footage of the primary structure at their residence 2181 Stump 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, 22 E. Main Street, Marcellus, NY, on July 6, 2023 commencing at 6:30pm 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 2181 Stump Rd., Marcellus, New York.
2. The subject premises are zoned Residential 1, 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 an accessory structure that will exceed 75% of the square footage of the primary structure.
4. No one appeared in favor or in opposition to the variance.

5. The property is in excess of six (6) acres and nearest neighbor to the structure is a relative.

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.

Special Permit Resolution:

Kathy Carroll made a motion to approve the special permit submitted as a public hearing was held and there was no opposition; it will be used for personal storage with no electrical, no plumbing, and no driveway access additions. The property is in excess of six (6) acres and the closest neighbor to the structure is a relative. Ron Schneider seconded, and the motion carried with the following vote:

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

The request of Allyson Schneider for a special permit in a Residential 1 zone to allow her to construct a 40’ x 60’ accessory building at her residence for 2181 Stump 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 6, 2023, 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. Applicants 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.

Public Hearing – Area Variance

Elmer Richards & Sons, Schuyler Rd.– front and side yard

A public hearing was held for a front yard variance with a 53' reduction from 100' to 47' and a side yard variance with a 90' reduction from 100' to 10'. The secretary Joanna Clarke read the legal notice into the minutes. Marcus Richards was present to represent Elmer Richards & Sons. Mr. Richards explained the following:

- They would like to construct a new facility to house newborn dairy calves. The project includes a 480' x 36' barn and 48' x 48' connected building in the center that will house the electric service, water lines, and storage. The building will be set up to run north to south to allow for a constant flow of fresh air from the west.
- Approximately 120' south of the proposed barn is a natural spring that will be used to feed water to this building and currently feeds water to other buildings on the adjacent property. Moving the building further back would disturb that water source.
- The first 50' of the barn that's closest to the road would be used for storage only. This is approximately the same distance as the front yard variance request of 53'.
- The front of the building will also be approximately 50' further back then the existing barn across the street as well as 35' further back then the house and pole barn that's to the east of this property.
- The side yard variance on the east side is requested against a property that is owned by another entity of the Elmer Richards & Sons business.
- The dirt that was excavated from their property to the east is being used as fill to level the proposed barn to keep it flat. Once that's complete topsoil will be brought in to fill that area back in.

- They have started the subdivision process to combine the properties as indicated by a letter received from Mr. Richards attorney John Sidd. The properties listed to be included in the subdivision are tax parcel 023.-02-08.0, 023.-02-07.2, 023.-02-58.0, and 023.-02-09.2.
- Chris Christensen noted for the subdivision process, the owner to the west labeled as tax parcel 023.-02-07.1 may need to do a simultaneous subdivision.

The Chair, Jerry Wickett, asked if there was anyone who would like to speak in favor or in opposition to the project. Erica Leubner, 2901 Rose Hill Rd., spoke in favor stating that Richards & Sons are excellent at what they do. Scott Stearns made a motion to close the public hearing and Chris Christensen seconded. The motion carried with the following vote:

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

Chris Christensen made a motion to approve the variance as submitted as a public hearing was held and there was no opposition and Ms. Leubner spoke in favor. The property is in a rural area, is in keeping with the character of the neighborhood, and the properties around are entities owned by Elmer Richards & Sons. The location relative to the road is necessary to maintain their water source and the building setback is no closer than the house next to it and further back from adjacent buildings. There is also a planned subdivision to combine the properties. Kathy Carroll seconded, and the motion carried with the following vote:

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

Area Variance Resolution:

The appeal of Elmer Richards and Sons for a front yard reduction of 53’ from 100’ to 47 and a side yard reduction of 90’ from 100’ to 10’ in an Agricultural zone to allow a newly constructed building on Schuyler 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, 22 E. Main Street, Marcellus, NY, on July 6, 2023 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 is located at tax id 023.-02-08.0 on Schulyer Rd., Marcellus, New York.
2. The subject premises is in an Agricultural 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 front yard and side yard variance for a calve barn.
4. No one appeared in opposition and Erica Leubner appeared in favor of 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. 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.

Minutes:

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

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

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

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

The meeting was adjourned at 7:45 PM.

Respectfully submitted,

Joanna Clarke
Secretary