

The Town of Marcellus
ZONING BOARD OF APPEALS
22 East Main Street
Marcellus, New York 13108

Date: July 7, 2025

Present: Chairperson Scott Stearns, Kathy Carroll, Chris Christensen, Jerry Wickett
Absent: Ron Schneider
Town Counsel: James Gascon of Costello, Cooney, and Fearon
Town Engineer: TDK Engineering (Absent)
Codes Officer: John Houser

The Zoning Board of Appeals of the Town of Marcellus met in regular session on July 7, 2025 at 6:30pm in the Marcellus Town Hall located at 22 East Main St., Marcellus, New York.

PUBLIC HEARING – SPECIAL PERMIT

Julio Colon & Dawn Thomas

3833 Slate Hill Rd.

30' x 30' accessory building

A public hearing was held for a special permit for a 30' x 30' accessory building. The secretary read the legal notice into the minutes. Julio Colon and Dawn Thomas were both present to discuss the application. Mr. Colon stated they would like to build a pole barn for personal storage. The building would be placed towards the front part of the property off the driveway, 50 feet from the street line. There is a line of trees along the front that would shield the building. The survey indicates there are electrical poles located near the proposed building. The applicants stated the poles are no longer in that area and moved closer to the road. Mr. Colon and Ms. Thomas are confident the placement of the proposed building would not be in or near any existing easements.

Chairman Stearns asked if there was anyone who would like to speak in favor or in opposition to the applications and there was none. Jerry Wickett made a motion to close the public hearing and Scott Stearns seconded. The motion carried with the following vote:

S. Stearns, K. Carroll, C. Christensen, J. Wickett – AYE

R. Schneider - Absent

Kathy Carroll made a motion to approve the Special Permit as a public hearing was held, and no one spoke in favor or opposition. The building is for personal storage, will not be used for business purposes, and power may be added in the future. The Code Officer is comfortable with the

placement with respect to the NYSEG easement, but the applicants assume the risk if the building is placed in the easement. Jerry Wickett seconded, the motion carried with the following vote:
S. Stearns, K. Carroll, C. Christensen, J. Wickett – AYE
R. Schneider - Absent

The request of Julio Colon and Dawn Thomas for a special permit in a Residential-1 zone to allow them to construct a 30' x 30' accessory building at their residence for 3833 Slate Hill Road, 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, 2025 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 building is for personal use only and no business shall be operated from or in it.
3. The applicants should verify if NYSEG has any easements in that area and assumes the risk if the building is placed in the easement.

DISCUSSION – SPECIAL PERMIT

Seth O'Brien

4000 Bishop Hill Rd.

Motorized vehicle racing

Seth O'Brien and Deborah O'Brien were both present for the discussion. Ms. O'Brien owns a lot with approximately 52 acres which contains a home and an active quarry. Mr. O'Brien, Deborah's son, stated he's been holding sand drag racing events at their quarry twice a year for the last five (5) years and was informed he will need a Special Permit to continue. The property is zoned Agricultural and motor vehicle racing is defined under outdoor recreational activities as an allowable use subject to Special Permit. The following was discussed:

- The race is conducted in the center of the quarry, side by side, with 4-wheel drive vehicles.
- The racing strip is approximately 250 feet long with an additional 700 feet for shut down. The lanes are 20 feet wide.

- Spectator area is around 15 feet above and 80 feet away from the racing strip. There is plenty of space for parking.
- There are around 250 people in total who are at the event. Porta potties and food is provided, and the event includes background music (bands).
- The fire department is notified, and Waves ambulance is present.
- Mr. O'Brien stated he requires all people on the premises (racers and spectators) to sign a Release of Liability Waiver, Assumption of Risk, and Identification Agreement.
- The event is run by the property owner, no corporation was formed, and there is no insurance.
- The noise from the racing is minimal since the event is approximately 80 feet below Bishop Hill Road and Mr. O'Brien, nor the Codes Officer has received any complaints. Chairman Stearns stated he has heard a complaint with regard to fire works from that event.

Town Counsel James Gascon has concerns with the event. Mr. Gascon stated Mr. O'Brien is charging a fee, is not incorporated, and is uninsured. Mr. Gascon stated that NYS does not always recognize these waivers with respect to spectators and these waivers have certain limitations. Mr. Gascon is not sure of the liability to the Town but stated we have an obligation to protect the health, safety and welfare of the residents regardless of any liability to the Town.

To move forward, Mr. O'Brien will need to submit a formal Site Plan and Special Permit application and should verify the legality of the waivers.

DISCUSSION – AGRICULTURAL AND MARKETS LAW

John Houser asked to move the discussion to executive session with Town Counsel.

MINUTES

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

S. Stearns, K. Carroll, C. Christensen, J. Wickett – AYE

R. Schneider - Absent

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

S. Stearns, K. Carroll, C. Christensen, J. Wickett – AYE

R. Schneider - Absent

The meeting adjourned at 7:55 PM.

Respectfully submitted,

Joanna Clarke

Secretary