

DETERMINATION OF THE ZONING BOARD OF APPEALS
OF THE VILLAGE OF WARWICK, NEW YORK

WHEREAS, MICHAEL & KERRY DEMETROULES have applied to this Board for a variance of the Bulk Area Requirements of the Code, and

WHEREAS, a public hearing on this application and the amended application of said applicants were held at 77 Main Street, Warwick, New York on 5/18/08 and continued on 9/16/08, 1/20/09, 6/15/09, 7/20/09 and 8/17/09, and

WHEREAS, at aid hearing(s) all interested persons were given an opportunity to be heard, the Board finds as follows:

FINDINGS OF FACT

1. The Estate of Welling Thomas is the owner of premises located at 9 Campbell Road, Warwick, New York, designated on the Village tax map as Section 213 Block 1 Lot 8.

2. The application has been made for a variance of the Zoning Law reducing lot area from 20,000 sq. ft to 9,000 sq. ft.; lot width from 100 ft to 65 ft.; total yard setback from 50 ft. to 35 ft.; street frontage from 80 ft. to 65 ft. for the purpose of construction of a 30 ft. X 44 ft. single family dwelling and reduction of side yard setback from 10 ft. to 6.9 feet and rear yard setback from 10 ft. to 3.6 ft. for an existing garage.

3. An inspection of the site, and the evidence and testimony as summarized from the meeting(s) show that:

The original application was filed by Kerry Demetroules to convert an existing garage on tax lot #8 to a single family dwelling (sfd). The garage was the sole structure on the lot and illegal because it was an accessory and not a principal use, and apparently, less than 10 feet from the rear and 1 side line. No survey was produced showing the garage "as built", the only survey produced showed the garage as "staked out".

It was determined that the lot was actually owned by the Welling Thomas Estate and permission for the variance request was ultimately filed by the Estate.

As the meetings progressed, the application evolved from conversion of the existing garage into a sfd to leaving the garage as is and constructing a 30 foot X 44 foot, 2-story sfd in the approximate center of the lot. Ultimately, the Board, applicant and concerned neighbors appeared to agree that the best plan would be to either remove the garage entirely and construct a sfd in the approximate center of the lot or move the garage to the approximate center of the lot and convert it to a sfd and perhaps expand it. The maximum footprint of the building was to be not more than 30 feet X 44 feet and a 2-story sfd was thought to be the best configuration. The time within which construction could begin was discussed and a 6 month extension of Section 145-152.L was deemed reasonable under the circumstances.

Under the final scenario, the following variances would be required: reduction of lot area from 20,000 sq. ft. to 9,000 sq. ft., lot width from 100 ft. to 65 ft., 1 side setback from 20 feet to 17 ½ (+/-) feet and total side yard setback from 50 ft. to 35 ft., and street frontage from 80 ft. to 65 ft.

There was concern that (+/-) was vague so that the Board decided to place a limitation of 6 inches.

A. An undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variances. The large (30 foot X 30 foot) existing garage which appears to have less than the required setbacks and an apparent detriment to the adjacent property owner will be removed. The character of the neighborhood will not be changed by allowing an additional sfd on the lot. Even though the lot area is less than required by the Code, it is typical of other lots in the neighborhood.

B. The benefit sought by the applicant (construction of a sfd) cannot be achieved by some method, feasible for the applicant to pursue, other than the variances. No other land is available to enlarge the lot.

C. The requested variances are numerically substantial. However, this is an existing lot and typical of many lots in the neighborhood.

D. The proposed variances will not have an adverse effect or impact upon the physical or the environmental conditions in the neighborhood or district.

E. The alleged difficulty is self-created. The lot line could be eliminated.

F. These area variances should be granted based upon a consideration of the benefit to the applicant as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

G. The minimum variances necessary and adequate and at the same time, will preserve and protect the character of the neighborhood and the health, safety and welfare of the community have been requested.

4. The proposed action is an Unlisted action and will not result in any significant adverse environmental impact for the reasons hereinbefore set forth.

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, that it is determined, based on the information and analysis presented to the Board, that the proposed action will not result in any significant adverse environmental impact.

The foregoing resolution was submitted by Pamela Arace and seconded by John Prego

For the Resolution Against the Resolution Abstaining Absent


John Graney				X
John Prego	X			
Pamela Arace	X			
Jonathan Burley	X			
Matthew Blaskovich	X			

NOW, THEREFORE, BE IT RESOLVED, that the application for the following Bulk Area variances be granted: reduction of lot area from 20,000 sq. ft. to 9,000 sq. ft., lot width from 100 ft. to 65 ft., 1 side setback from 20 feet to 17 ½ (+/- 6 inches) feet, total side yard setback from 50 ft. to 35 ft., and street frontage from 80 ft. to 65 ft.; and that a 6 month extension of Section 145-152.L be granted thereby giving the applicants 12 months from the date of granting the variances to commence construction. The variances are conditioned upon (1) the sfd having a footprint of not larger than 30 feet X 44 feet and being a 2-story building, and the side setbacks being 17 ½ (+/- 6 inches) feet on both sides and (2) the applicants razing the garage or moving it to the approximate center of the lot and converting it to a sfd, and thoroughly removing the concrete pad and restoring that area to its natural condition, and no CO shall be granted before the condition is satisfied.

The foregoing resolution was submitted by Matthew Blaskovich and seconded by Pamela Arace

	For Resolution	Against Resolution	Abstaining	Absent
John Graney				X
John Prego	X			
Pamela Arace	X			
Jonathan Burley	X			
Matthew Blaskovich	X			

Dated: Warwick, New York
August 17, 2009



JOHN PREGO, Asst. Chairman

Unless construction is commenced and diligently prosecuted within 12 months of the date of the granting of a variance, such variance shall become null and void.

Construction cannot commence until a building permit is issued.

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
☐ Yes ☒ No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.
☐ Yes ☒ No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

None

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

None

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?

☐ Yes ☒ No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

☐ Yes ☒ No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

☐ Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

☒ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.

Village of Warwick Zoning Board of Appeals

Name of Lead Agency

8/17/09

Date

Print or Type Name of Responsible Officer in Lead Agency

Asst Chairman

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

NGIS

Reset