

VILLAGE OF WARWICK, NEW YORK
ZONING BOARD OF APPEALS

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In the Matter of the Application of
AMY B. SLITER,
Designated as Tax Map Section 213, Block 8, Lots 6, 7 & 9

DECISION

For Two Area Variances from the
Village of Warwick Zoning Board Of Appeals.

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THIS APPLICATION of Amy B. Sliter (hereinafter the “Applicant”) comes before the Village of Warwick Zoning Board of Appeals (“Board”) as a request for two (2) area variances from the minimum side yard setback requirement in the bulk requirements of the Zoning Code applicable to properties containing retail stores and service establishments other than of a personal nature in connection with a proposed lot line change to consolidate three tax lots into two lots.

PRELIMINARY STATEMENT

The Applicant is an owner of two parcels of land located at 18 Galloway Road, Warwick, New York and along the Clinton Avenue Extension, shown on the Village tax maps as Section 213, Block 8, Lots 7 and 9. The Applicant proposes a lot line change between these two parcels and an adjacent parcel located at 12 Galloway Road, Warwick, New York, and shown on the Village tax maps as Section 213, Block 8, Lot 6,¹ to consolidate the three tax lots into two lots.

Tax Lot 6 (12 Galloway Road) consists of approximately 0.98 acres and is improved with a preexisting florist shop, various greenhouses and a barn. Tax Lot 7 (18 Galloway Road) consists of approximately 0.26 acres and is improved with a single-family residence and accessory structures, and Tax Lot 9 consists of approximately 0.33 acres and presently contains a portion of a greenhouse structure and fence. The properties are located in the Residential (R) District.

The application before this Board, received on or about March 13, 2024, seeks two area variances to (1) reduce the required side yard setback from 10 feet to between 5.6 feet and 8.5 feet and (2) reduce the required side yard setback from 10 feet to 8.2 feet. The variances are sought for two greenhouse structures located on Tax Lot 6 (12 Galloway Road) in connection with the proposed lot line change.

¹ The Applicant is the President of Corwin Inc., the owner of the property located at 12 Galloway Road, and has submitted an Owner’s Endorsement from Corwin Inc., dated April 3, 2024, authorizing the within application.

PUBLIC HEARING AND SEQRA

The public hearing on this Application, upon a notice duly published, was held on April 23, 2024, when it was closed. In accordance with the State Environmental Quality Review Act (“SEQRA”), the Board determined that this application was a Type II action, requiring no further environmental review. 6 N.Y.C.R.R. § 617.5(c)(16).²

COUNTY GML § 239-l, -m or -n REPORT

This application has been referred to the Orange County Planning Department for review and report. The Board received the Planning Department’s report, dated April 22, 2024, which stated that it did not appear that intermunicipal or countywide impacts would result if the Board found that granting relief was warranted in this matter and recommended this matter be a local determination.

DECISION

Village Code § 145-41, Bulk Table, Table of Bulk Requirements – Minimum Side Yard: Area Variances

Village Code § 145-41 contains a Table of Bulk Requirements that sets forth the bulk regulations applicable to uses within each use group as designated in the Use Table. Pursuant to the Use Table – the Table of Use Requirements – retail stores and service establishments other than of a personal nature are in Use Group “k.”³ The Table of Bulk Requirements requires a minimum side yard of 10 feet for all uses in Use Group “k.”

The Applicant proposes a lot line change to consolidate three lots into two lots. As a result of the lot line change, two greenhouse structures located on the 12 Galloway Road property, which contains a preexisting florist shop, various greenhouses and a barn, will not comply with the required minimum side yard setback requirement. Specifically, one greenhouse will be located between 5.6 feet and 8.5 feet from the new lot line, and one greenhouse will be located 8.2 feet from the new lot line. The Applicant is thus requesting a variance of between 1.5 feet and 4.4 feet from the required side yard setback and a variance of 1.8 feet from the required side yard setback

² Under 6 N.Y.C.R.R. § 617.5(c)(16), the following is considered a Type II action under SEQRA: “granting of individual setback and lot line variances and adjustments.”

³ Although these uses are not permitted in the Residence District, the florist shop is a legal preexisting nonconforming use.

to allow a side yard of between 5.6 feet and 8.5 feet and a side yard of 8.2 feet for the two greenhouses.

Consistent with its statutory obligations under New York State Village Law § 7-712-b when considering an area variance, the Board balanced the benefit to the Applicant as weighed against the detriment to the health, safety and welfare of the neighborhood or community if the requested variances were granted. Further, as also required by statute, the Board took into consideration the following five issues in its balancing test:

1. Whether an undesirable change would be produced in the character of the neighborhood, or a detriment to nearby properties would be created, by the granting of the requested area variances.
2. Whether the benefit sought by the Applicant could be achieved by some method, feasible for the Applicant to pursue, other than area variances.
3. Whether the requested area variances were substantial.
4. Whether the requested area variances would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the difficulty claimed by the Applicant was self-created.

The Board was also aware of its obligation to grant the minimum variances that it deemed necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

The Board began by discussing whether an undesirable change would be produced in the character of the neighborhood, or a detriment to nearby properties would be created, by the granting of the requested area variances, and whether the requested area variances would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board considered the character of the neighborhood along Galloway Road, which is residential and also contains businesses. The Board considered the purpose of the proposed lot line change, which is to align the property lines with the existing improvements and uses on the lots. The three lots have historically been in the same ownership and the property boundaries have been neglected over the years, which resulted in various encroachments. After conducting a survey, the Applicant discovered that the porch of the house located on 18 Galloway Road encroached onto the florist shop property (12 Galloway Road) and that one of the greenhouses on the florist shop property encroached onto the third property involved in the proposed lot line change (SBL 213-8-

9). The proposed lot line change will fix these encroachments and relocate the two greenhouses to be entirely on the florist shop property. The Board noted that the greenhouses for which variances are sought are existing structures, and found there will be no discernable change from the granting of the variances. The Board noted that no new construction is proposed in connection with the variances and found that there are no adverse effects or impacts on the physical environment related to the side yard variances. The Board concluded that the variances requested would not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties and would not have an adverse impact on the physical or environmental conditions in the neighborhood.

The Board also weighed whether the variances requested were substantial. The Board determined that cumulatively, the variances were substantial, and that the variance for the greenhouse that will be located between 5.6 feet and 8.5 feet from the side lot line was substantial on its own. The Board found that the variance of 1.8 feet for the second greenhouse structure was not substantial on its own.

The Board also considered whether the alleged difficulty was self-created, and whether the benefit sought by the Applicant could be achieved by some alternative method feasible for the Applicant to pursue. The Board determined that the alleged difficulty was self-created, as the Applicant is seeking to reduce the side yard of the florist shop property (12 Galloway Road) in connection with a proposed lot line change. In considering whether the benefit sought could be achieved by another method feasible for the Applicant to pursue, the Board noted that the Applicant is seeking to align the property lines with the existing structures and uses on the lots. The proposed lot line change will fix encroachments that were created by the Applicant's predecessor(s) and properly organize the business and residential improvements. The Board noted that the greenhouse structures are existing and the new lot configuration was appropriate and the most feasible alternative given the location of the existing structures on the lots. The Board concluded that there was no other feasible alternative for the Applicant to pursue to achieve the benefit sought.

CONCLUSION

As a consequence of the Board’s discussions, the Zoning Board of Appeals hereby grants the requested area variances described and discussed above, to the extent noted above, conditioned upon the Applicant obtaining approval from the Planning Board for the proposed lot line change within six months of the date of this decision. The Board hereby finds that the variances as granted are 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.

On motion by Member _____, seconded by Member _____:

Chairperson John Graney

Member John Prego

Member Margaret Politoski.

Member Jonathan Burley

Member Wayne Greenblatt

Issued by Board: May 28, 2024

Written Decision Signed: May __, 2024

John Graney, Chairperson

I, Raina Abramson, Village Clerk, do hereby certify that the foregoing Determination was filed in the Office of the Village Clerk on _____, and copies provided to the Building Inspector and mailed to the Applicant.

RAINA ABRAMSON, CLERK
VILLAGE OF WARWICK, NEW YORK