

**ZONING BOARD
VILLAGE OF WARWICK
MARCH 26, 2024**

Minutes

**LOCATION:
VILLAGE HALL
77 MAIN STREET, WARWICK, NY
7:00 P.M.
MAXIMUM OCCUPANCY- 40**

The Regular Meeting of the Zoning Board of Appeals of the Village of Warwick was held on Tuesday, March 26, 2024, at 7:00 p.m. in Village Hall, 77 Main Street, Warwick, NY. Present was: Chairman, John Graney, Board Members: John Prego and Margaret Politoski, absent was Jonathan Burley and Wayne Greenblatt. Also present, was Planning Board Secretary, Kristin Bialosky and ZBA Attorney, Ashley Torre. Others present: Pete and Laila Proulx, Lloyd Jeffords, Vanessa Mann, Vanessa Holland, Jeffrey Green, Fran & Neil Sinclair, Bob Krahulik, Esq., Jorome Lupin, Paul LeDuc, Barbara Katz, Joe Irace and Neal D. Frishberg, Esq.

The Zoning Board of Appeals Chairman, John Graney, called the meeting to order. The Planning Board Secretary held the roll call.

Applications

1. Public Hearing - M&L Equity Auto - Area Variance

<https://villageofwarwick.org/ml-equity-auto-zba-2/>

**ZONING BOARD OF APPEALS
VILLAGE OF WARWICK, NEW YORK**

A Public Hearing before the Zoning Board of Appeals of the Village of Warwick will be held on Tuesday, the 26th day of March 2024 commencing at 7:00 pm at 77 Main Street, Village of Warwick, New York to consider the following application:

APPLICATION OF M&L EQUITY AUTO LLC for property located at 42 Orchard Street and 18 Elm Street and, Warwick, New York, designated on the Village tax map as Section 210, Block 11, Lots 5 and 16.22, and located in the R (Residential) District and LI (Light Industrial) District), for a variance from the Bulk Area Requirements of the Zoning Code to reduce the minimum lot area of the property located at 42 Orchard Street from 20,000 square feet to 6,625 square feet. The variance is sought in connection with the proposed transfer of 5,962 square feet from the 42 Orchard Street property to the 18 Elm Street property.

The above application is available for inspection at the office of the Board of Appeals, 77 Main Street, Warwick, New York. Persons wishing to appear at such hearing may do so in person or by attorney or other representative. Communications in writing in relation thereto may be filed with the Board or at such hearing.

JOHN GRANEY
CHAIRMAN
DATED: MARCH 6, 2024

Discussion

Chairperson John Graney read the public hearing notice: APPLICATION OF M&L EQUITY AUTO LLC for property located at 42 Orchard Street and 18 Elm Street and, Warwick, New York, designated on the Village tax map as Section 210, Block 11, Lots 5 and 16.22, and located in the R (Residential) District and LI (Light Industrial) District), for a variance from the Bulk Area Requirements of the Zoning Code to reduce the minimum lot area of the property located at 42 Orchard Street from 20,000 square feet to 6,625 square feet. The variance is sought in connection with the proposed transfer of 5,962 square feet from the 42 Orchard Street property to the 18 Elm Street property.

Robert Krahulick the attorney representing the applicant introduced Paul LaDuc who is the owner of the Elm Street property – M&L Equity Auto and stated that the property owner Vanessa Mann was in the audience. Mr. Krahulick explained M&L Auto is currently utilizing about 30 feet of Vanessa Manns property for the car wash. Mr. Krahulick explained there would be no new construction proposed and no new change in any of the conditions that don't already exist on the property. The Village Building Inspector indicated that the carwash traffic crossing over onto Miss Man's property is a code violation as Ms. Mann's property is zoned as Residential. M&L carwash is zoned Industrial. This needs to be resolved so there is no violation of the zoning code. Mr. LaDuc wants M&L carwash to be compliant with local zoning codes. Therefore, M&L is proposing a subdivision of Ms. Mann's property. The back piece of her land will be added to the car wash property and Ms. Mann's property will be half the size it is now. Mr. Krahulic stated that in comparison to all other properties on Orchard Street this lot will be identical to the other lots. He stated there is case law that suggests that if you propose a subdivision with a substandard lot, you are entitled to relief if your lot conforms to all the other surrounding properties. He requested to seek a variance under the present code.

M&L Equity Auto – Open the Public Hearing – Seeking Variances

A **MOTION** was made by John Prego, seconded by John Graney to Open the Public Hearing

The vote on the foregoing **motion** was as follows: **APPROVED**

John Graney Aye John Prego Aye Marge Politoski Aye

Comments:

Barbara Katz asked how Ms. Mann was being compensated currently. Mr. Krahulic stated the property has been rented for the past 40 years. It is a formal lease agreement that has been ongoing for decades.

Mr. Krahulic then stated to complete the process they have already been before the Planning Board, and they must go back. Assuming the Planning Board gives the approvals they then must go the Village Board and seek a change in the zoning classification for the little parcel of land, so it is also classified as an industrial zone district. Mr. Krahulic also stated it was a lot of work, but the applicant Mr. LaDuc wanted to make sure everything is in compliance. Board member Mr. Prego asked if the applicant would

have to come back to the Zoning Board again for a change of Use for the property. ZBA Attorney, Ashley Torre stated that when they seek a zoning amendment from the Village Board then that would be something they fill in to the grant by changing the zoning. If the Village Board did not grant the zoning amendment, they could ask the building inspector to determine whether that portion can be used as the carwash property. The ZBA attorney went on to say if there is evidence of a pre-existing nonconforming use then that could be presented to the Building Inspector. If the Building Inspector determines that it is not illegal use, then they could come back here for a use variance. Board member John Prego stated that is why he wanted to clarify. Mr. Krahulik stated if they were successful in getting the zoning classification changed, then historic use of the property does not matter. Once it is zoned industrial, we have the right to use it for commercial purposes. ZBA Attorney, Ashley Torre wanted to know if M&L had any discussions with the Village Board yet. Mr. Krahulik emphasized that the mayor was supportive of what they are doing, and everyone has been supportive throughout the process. ZBA Attorney, Ashley Torre stated M&L is applying for a lot area variance only and she would suggest that it be specifically conditioned on that portion only being used as is allowed under the zoning code. Chairman John Graney wanted to make sure this would not change the character of the neighborhood and he did not see that it would.

M&L Equity Auto – Close the Public Hearing

A **MOTION** was made by John Prego, seconded by John Graney to Close the Public Hearing

The vote on the foregoing **motion** was as follows: **APPROVED**

John Graney Aye John Prego Aye Marge Politoski Aye

M&L Equity Auto – Classify this as a Type II under SEQR requiring No Environmental Review

A **MOTION** was made by John Prego, seconded by Margaret Politoski to Classify this as a Type II under SEQR.

The vote on the foregoing **motion** was as follows: **APPROVED**

John Graney Aye John Prego Aye Marge Politoski Aye

The ZBA Attorney wanted to walk the board through the area variance balancing tests and one was already touched on which was the Character of the neighborhood. First, whether an undesirable change would be produced in the character of the neighborhood or detriment to nearby properties. Whether the benefits can be achieved by some other method feasible to pursue other than a variance. Whether the variance is substantial, yes. Whether it would have an adverse effect or impact on the physical environmental conditions in the neighborhood or district and whether the difficulty is self-created. If the board was going to entertain a motion to approve the variance, then it would be subject to a written decision. The ZBA Attorney suggested that it be conditioned both on the property only being used as permitted under the village code, including any amendments there to and on approval from the planning board.

M&L Equity Auto - A motion was made to approve subject to the above conditions

A MOTION was made by John Prego, seconded by Margaret Politoski to have the Village Attorney prepare the decision for the Zoning Board Chairperson to sign.

The vote on the foregoing **motion** was as follows: **APPROVED**

John Graney Aye John Prego Aye Marge Politoski Aye

2. 9 Cambell Road - Area Variance – Laila and Peter Proulx

<https://villageofwarwick.org/9-campbell-rd-zba/>

**ZONING BOARD OF APPEALS
VILLAGE OF WARWICK, NEW YORK**

A Public Hearing before the Zoning Board of Appeals of the Village of Warwick will be held on Tuesday, the 26th day of March 2024 commencing at 7:00 pm at 77 Main Street, Village of Warwick, New York to consider the following application:

APPLICATION OF LAILA AND PETER PROULX for property located at 9 Campbell Road, Warwick, New York, designated on the Village tax map as Section 213, Block 1, Lot 8, and located in the R (Residential) District, for variances from the Bulk Area Requirements of the Zoning Code to (1) reduce the minimum lot area from 20,000 square feet to 8,125 square feet; (2) reduce the minimum lot width from 100 feet to 65 feet; (3) reduce the front yard setback from 35 feet to 31 feet; (4) reduce the side yard setbacks for the proposed residence from 20 feet to 12 feet and 18 feet; (5) reduce the total side yard setback for the proposed residence from 50 feet to 30 feet; (6) reduce the side yard for the garage from 10 feet to 6 feet, 7 inches; (7) reduce the rear yard for the garage from 10 feet to 5 feet; (8) reduce the street frontage from 80 feet to 65 feet; (9) increase the maximum development coverage from 35% to 43%, (10) increase the floor area ratio from 0.25 to 0.27; and (11) to reduce the required setback distance between a principal and accessory building under Village Code § 145-62.B from 22 feet to 16 feet. The variances are sought for the purpose of constructing a single-family residence and to keep an existing garage that does not comply with the Zoning Code.

The above application is available for inspection at the office of the Board of Appeals, 77 Main Street, Warwick, New York. Persons wishing to appear at such hearing may do so in person or by attorney or other representative. Communications in writing in relation thereto may be filed with the Board or at such hearing.

JOHN GRANNEY
CHAIRMAN
DATED: MARCH 5, 2024

Discussion

Chairman John Graney introduced the applicants Laila and Peter Proulx and read the Public Hearing Notice: APPLICATION OF LAILA AND PETER PROULX for property located at 9 Campbell Road, Warwick, New York, designated on the Village tax map as Section 213, Block 1, Lot 8, and located in the R (Residential) District, for variances from the Bulk Area Requirements of the Zoning Code to (1) reduce the minimum lot area from 20,000 square feet to 8,125 square feet; (2) reduce the minimum lot width from 100 feet to 65 feet; (3) reduce the front yard setback from 35 feet to 31 feet; (4) reduce the side yard setbacks for the proposed residence from 20 feet to 12 feet and 18 feet; (5) reduce the total side yard setback for the proposed residence from 50 feet to 30 feet; (6) reduce the side yard for the garage from 10 feet to 6 feet, 7 inches; (7) reduce the rear yard for the garage from 10 feet to 5 feet; (8) reduce the street frontage from 80 feet to 65 feet; (9) increase the maximum development coverage from 35% to 43%, (10) increase the floor area ratio from 0.25 to 0.27; and (11) to reduce the required setback distance between a principal and accessory building under Village Code § 145-62.B from 22 feet to 16 feet. The variances are sought for the purpose of constructing a single-family residence and to keep an existing garage that does not comply with the Zoning Code.

Joe Irace presented the project as he is representing Mr. and Mrs. Proulx's for 9 Campbell Rd. The Proulx's were also present. Joe Irace stated his clients want to build a house on the property that would be similar in scale and character to the other homes. The Proulx's bought the lot with an existing garage that was built without permits. They are seeking mercy to build a house and leave the garage. If we have to alter the garage or pull it away from the property line three feet the applicants are willing to make concessions to get approval. Board member John Prego stated this came before the board previously regarding the garage. It is a very large garage that was built on a non-conforming lot with no house attached and it was illegal from the start. The property size has not changed from years ago. Mrs. Proulx stated that they have owned the lot for about one year and have cleaned the property up and they are maintaining the property and doing their best to be good neighbors. Mr. Proulx wants to only improve the aesthetics of the neighborhood. They own a landscaping company that does high end work. Mr. Irace stated they want the house to fit the neighborhood. Mr. Irace would like to see what the board would like to be able to obtain the area variance. Chairman John Graney asked what year the existing garage was built, and it was determined after 1985 as Board member John Prego pointed out any structure built before 1985 could be turned into an auxiliary apartment. That is not the case, and the applicants are not asking for that.

9 Cambell Road - Area Variance – Open the Public Hearing – Seeking Variances

A **MOTION** was made by John Prego, seconded by John Graney to Open the Public Hearing

The vote on the foregoing **motion** was as follows: **APPROVED**

John Graney Aye John Prego Aye Marge Politoski Aye

Public Comments:

1. Vanessa Holland 12 Campbell Road she stated she would like to see any drawings that the applicants may have or drawings of the house they are proposing to put up. Mrs. Holland stated that the barn/garage has been an eyesore on Campbell Road. She was excited to hear the property was purchased but stated the applicants had said the barn/garage was going to be taken down. She wanted to see what was going to become of that and is concerned that the pathway between homes is very small. The applicant's architect responded, and Mr. Irace stated it is going to look like a farmhouse.
2. Neil Frishberg, Esq. represents Mr. and Mrs. Sinclair to the right of the property. Mr. Frishberg sent a letter to the board. He was concerned that the Board should consider the variances at all as the barn was illegal and that had never been corrected over the past 15 years. There was a decision order dated August 17, 2009, that stated to either raise the barn or move into the approximate center of the lot and that has not been done. He felt the Board should not consider the variance at all until the order was complied with. The applicants bought the property with the knowledge that the barn should be knocked down. Mr. Frishberg felt the new home would not fit the character of the neighborhood as some of the homes were built in 1930 and 1890. He referred to his letter regarding variances. Mr. Frishberg said he thought the applicants were going to build the house and rent it out as an Air B n B. Chairperson Graney stated that is not our concern. Mr. Frishberg was reminded to keep on track. He referred to more traffic into the neighborhood, additional sewer, meant greater strains on the services that the Village of Warwick provides. Finally, Mr. Frishberg suggested to the ZBA; deny the application or tell the applicants to move or raise the barn, which was decided on Aug. 17, 2009, by the ZBA.

The ZBA Attorney, Ashley Torre explained that the property had a key decision that was expired that was conditioned upon removing the barn or moving the barn to the center and converting that into a house and that was in effect until 2009 and good for one year. The prior owner at the time never took any steps to comply with that. Therefore, the barn is in violation but that is an enforcement matter.

3. Jeffrey Green 11 Campbell Road - echoed what Mrs. Holland said and stated they have been good new neighbors and have done a great job of cleaning up the property since 2020. The one concern is the gap between homes being 12 feet apart. Mr. Prego stated that the homes are 18 feet between the houses. The setbacks off the road are comparable to other homes. Chairperson Graney stated the big problem is the barn and the barn is not going to become a residence at any point in time and can never become a dwelling. Chairperson Graney also wants all the neighbors to be happy about the proposed new home.

4. Mr. Jeffords - 32 Welling Rd. stated he would like the barn to be torn down to get it out of the way to build a house that will conform. He is concerned that the applicants own a landscaping business and the applicant's suggested building a brick or stone wall and Mr. Jeffords said that no one in the neighborhood had that. Mr. Jeffords would like the proposed house to conform to the lot size. ZBA Attorney wanted to note that the barn, if moved, to comply with the 10-foot setbacks, it would still trigger the need for the lot coverage variance. It was not something that was sought or proposed back in 2009. In 2009 it was proposed to move the barn or remove it. The 2009 applicants wanted to make the barn a residence. The ZBA said yes to that as long as the barn was moved. This was never done in 2009 and the variance expired after one year. Ashley Torre said it was appropriate to ask the applicant to come back with an alternative to granting the variance and suggested to seek less variances or reduce the size of the variances. Ms. Torre indicated that the applicants indicated they would be willing to be flexible in the design and perhaps present another modified plan that would make it more conforming than what is proposed.

Board member John Prego said to cut 5 feet off the back to have a proper backyard and 10 feet on the side to make it conform and the setbacks between the structures.

Mrs. Sinclair said if they built a small conforming house everyone would love that. It's the barn that is huge for the small non-conforming lot and is the issue. A structure that is big in the back and a 2500 square foot house in the front, on that little piece of property is going to take away from the block. The structure in the back is huge and was supposed to be raised years ago and has been illegal.

Barbara Katz 17 Campbell Rd. stated a cute little house would be great there but was concerned about the number of variances that are requested. Ms. Katz stated that she has an existing garage and that she could make that into an apartment, but she would not want to do that to her neighbors as it would clearly affect the neighborhood. Ms. Katz understood that changes would happen, however she didn't want the number of variances considered and to make it conform as much as possible.

An audience member questioned the board if they knew what the barn looked like, and Chairman Graney confirmed they did.

Mr. Fishberg, Esq. stated that the board should abide by the August 17th, 2009, decision as nothing has changed to date. He felt the applicants were trying to reverse or modify that decision without a change in circumstance. The architect explained that the applicants are not trying to change the barn into a residence, just a garage. They are trying to build a home on the property as well.

Ms. Torre suggested the applicant submit a revised plan for the board to consider reducing the number of variances and that the Board would benefit from seeing a revised plan and to continue the public hearing.

Mr. Jeffords 32 Welling stated his property is substantially larger than the proposed finished size of 9 Campbell Rd. and he doesn't have a garage on his property because his land will not support it. He requested of the Board not to turn Campbell Rd. into Queens with barely enough room to squeeze through the buildings. Mr. Jeffords wanted the barn taken down.

The Prolux's stated they are not parking any commercial vehicles at 9 Campbell Rd.

Mr. Irace stated they were before the ZBA for guidance. The applicants wanted the garage to match the new home. Board member John Prego said his position is that the garage must be conforming, so either take it down or make it conform and they will address the area as well. Mr. Prego stated he was in construction and new homes can be made to look like a home from the 1800's. He stated that the setback is the same as all the other houses in the neighborhood. He further stated the job of the Zoning Board of Appeals is to provide relief to undersized lots that were created before the zoning was changed. He had no problem with the house and no problem with the setbacks as it is in keeping with the neighborhood. Mr. Prego also stated he lives in Warwick and cares about Warwick, however in his opinion the garage must conform. He would like to see a new plan to shrink it down and propose to make the garage conform along with the lot coverage. He needs to see another plan and have the public see this again and stated if we were in NJ or anywhere in New York City this garage would have been facing fines daily until it was taken down. So, we are in a great town in Warwick, and this needs to be addressed first and foremost.

The barn has been a thorn in everyone's side for years. It should have been taken down. The barn needs to be addressed.

Finally, the neighbor's expressed Warwick is a great place, and their neighborhood was great as well, that they just don't want it to look like Queen's. The applicants said they want the same thing.

9 Cambell Road - Area Variance – Adjourn the Public Hearing to April 23rd 2004– Seeking Variances

A **MOTION** was made by John Prego, seconded by Marge Politoski to **Adjourn the Public Hearing to April 23rd 2004**

The vote on the foregoing **motion** was as follows: **APPROVED**

John Graney Aye John Prego Aye Marge Politoski Aye

Correspondence

1. Email from Kerry and Stephen Boland, regarding 9 Campbell Rd.

2. Letter from Neil Frishberg, Esq.

Executive Session, if applicable

Adjournment

A **MOTION** was made by John Prego, seconded by Marge Politoski, and carried to adjourn the regular meeting at approximately 8:15 p.m.

The vote on the foregoing **motion** was as follows: **APPROVED**

John Graney Aye John Prego Aye Marge Politoski Aye

Kristin A. Bialosky, Planning Board Secretary