

**TOWN OF SCHODACK - COUNTY OF RENSSELAER - STATE OF NEW YORK
ZONING BOARD OF APPEAL NOVEMBER 8, 2021
CALLED TO ORDER BY: CHAIRMAN CALARCO AT: 7:00 P.M.**

PRESENT

David Calarco, Chairman
Ed Brewer
Bob Loveridge
Anthony Maier
Lou Spada
Craig Crist, Esq.
Nadine Fuda, Director of Planning and Zoning
Melissa Knights, Assistant to Director

MEMBERS ABSENT

APPROVE OF DRAFT MINUTES DATED SEPTEMBER 13, 2021

Loveridge moved, Maier seconded that the draft minutes be approved, as amended, as the official minutes of this meeting.

5 Ayes. 0 Noes

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Oppose: None

Nadine Fuda, Director, read the hearing notice(s) as published in the Troy Record on the following variance application(s):

Keith and Laura Palmer published on October 30, 2021

public hearing open 7:02 p.m.

public hearing closed 7:05 p.m.

Keith and Laura Palmer
1506 Maple Crest
Proposed - area variance

Z801-21/R-20/210.1-10-12

Keith and Laura Palmer, applicants were present for this meeting.

Chairman Calarco stated this was sent to the **Rensselaer County of Economic Development** and Planning and after review they determined the proposal does not have a

major impact on any county plans and that local consideration should prevail.
This application received a Favorable recommend from the Planning Board.

Mrs. Palmer stated they are looking to add a sunroom on the side of their home to be able to have family dinners. She stated they go into the 30-foot side yard setback about 7 for 8 feet.

Mr. Brewer thanked the applicant for having the site staked out so they could see where the proposed structures will be.

Mr. Spada asked if the fence is on the property line.

Mrs. Palmer stated she believed so it is the neighbor's fence.

There were no public comment.

Brewer moved, Calarco seconded that the Zoning Board of Appeals be **LEAD AGENCY** relative to the variance only.

5 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Oppose: None

Brewer moved, Spada seconded that action be classified as a the **TYPE II** Action.

5 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Oppose: None

The Board members reviewed the area variance criteria.

AREA VARIANCE CRITERIA

- 1) Can the benefit be achieved by other means feasible to the applicant? NO
- 2) Will the granting of the variance create an undesirable change in the character of the neighborhood or to nearby properties? NO
- 3) Is the request substantial? NO
- 4) Will the request have an adverse physical or environmental effect? NO
- 5) Is the alleged difficulty self-created? YES

Maier moved Loveridge second to grant

6) Conditions:

- Like construction and materials

Maier moved, Loveridge seconded that the area variance be **GRANTED** this variance for a

sunroom with a side yard setback no less than 23 feet.

Brewer	Calarco	Loveridge	Maier	Spada
Yes	Yes	Yes	Yes	Yes

Nadine Fuda, Director, read the hearing notice(s) as published in the Troy Record on the following variance application(s):

Kenneth Morris published on October 30, 2021

public hearing open 7:09 p.m.

public hearing closed 7:36 p.m.

Kenneth Morris

Z802-21/RA/210.-4-7.11

94 Shufelt Road

Proposed - area variance

Chairman Calarco stated this was sent to the **Rensselaer County of Economic Development** and Planning and after review they determined the proposal does not have a major impact on any county plans and that local consideration should prevail.

This application received a Favorable recommend from the Planning Board.

Lou Spada recused himself from this application.

Kenneth Morris, applicant was present for this meeting.

Mr. Morris stated he is looking to build a 2-bay garage in front of his home for his wife is ill and the front is the only place it will if is the front the rest of the home is a walk-out basement.

Mr. Brewer asked about the 27 feet left from the proposed garage to the road, is that to the middle of the road or at the edge of pavement.

Mr. Morris stated at the edge of the road.

Chairman Calarco asked where the property line is.

Mr. Morris stated they moved the road a long time ago, back in the late 70's the road was moved closer to the home. The house was built in the 1700's

Chairman Calarco asked about the rock in the front yard, are you moving that. Currently what is the distance between the house and the rock.

Mr. Morris stated yes, he is moving the rock, right now the garage could be build right behind the rock but that would be inconvenient with landscaping.

Mr. Loveridge asked if the entrance to the garage is to the side.

Mr. Morris stated correct you would drive past the house and pull in on the second drive.

Chairman Calarco asked why the garage was 32 feet width.

Mr. Morris stated it will be a two-bay garage, but the location of the garage depends on where roof of the hooks into the house . he wanted to be able move around the vehicles.

Chairman Calarco stated his concern is the property line is back from Shulfelt Rd. and if it is the 27 feet is really like 21 or 22 feet. With that and the size of the garage causes a problem with the setback issue.

Mr. Morris stated Mr. Keller owned both sides of the road before the road was moved closer to the house.

Mr. Maier asked if the proposed garage is going to be hooked onto the addition to the house.

Mr. Morris stated correct.

Chairman Calarco stated the application says the garage size will be 26x32 sq. ft. and without knowing what the true setback is he is not comfortable making a decision on this variance request, is there any way of getting more information regarding the setback. But the other option is if you were willing to scale back the garage a few feet from the 32 width.

Discussion on the front yard setback and if the property line is in the middle of the road, at the pavement edge or set further into the property.

Mr. Brewer stated that somehow, we have to be sure that the front setback is 50-feet, so they still have the 27-foot barrier between the garage and the road when it is complete.

Discussion on the road and where it originally was before it was moved. It was stated that the road was moved closer to the house.

Mr. Morris stated the town moved the road closer to the house back in 70's.

Mr. Brewer asked Mr. Morris when he actually bought the house.

Mr. Morris stated in the year 2000.

Mr. Brewer stated so your deed is after the road was moved. Wouldn't his deed be accurate

Attorney Crist stated the deed will show exactly where his property boundaries were if the road got moved , there are 2 types of roads, there are roads by dedication and the other is a user road which are most of the roads in a town like ours. He asked the applicant what he would like to do.

Mr. Morris stated he would like to get this started; he would like to start the foundation before winter sets in.

Chairman Calarco stated well here's the deal if we were to grant something that said no closer than 27 feet from your front property boundary you might not have a 32-foot garage. Once you find out and we would make that a condition saying you got to provide proof of the front property boundary, front property line and then when that's found out you got to keep this 27 feet from that property boundary. Without knowing you might have a 28-foot garage depth wise. You see without us having more information that would be the only way we could grant it, in my opinion the only we could grant this is to ensure that we haven't left this open ended.

Attorney Crist stated what your saying is that we are not looking for a whole survey. And it may provide you with certainty where you can build and not build.

Mr. Loveridge stated that the driveway entrance on the left is where you would drive in and enter the garage correct, the entrance on the right will be no longer used.

Mr. Morris stated the road is dangerous I have to go into the driveway on the left side.

Mrs. Fuda stated he would have to do a foundation location to show the garage and the property line with the correct approved setback. If you tell Mr. Morris, he has to have a 27-foot setback he has to prove it with the foundation location before he starts.

A discussion on the distance between the garage and the road or property line is 25 feet or 27 feet.

Mr. Morris stated the garage is 25 feet from the road.

Attorney Crist gave Mr. Morris the options he can choose from for tonight's meeting.

1. Would be to adjournment so you can get to survey
2. Ask the board to proceed with this application as drafted
3. Amend the application to ask for (a different setback-smaller garage) if want you to proceed tonight.

Calarco: if you get denied then that is the final word. There is no coming back with a different application.

Mr. Morris stated if you go up to 25 feet, he should have plenty of room to do what he needs to do.

Chairman Calarco stated if a variance is granted tonight and has a number in it that is what the building department has to abide by.

Maier moved, Calarco seconded that the Zoning Board of Appeals be **LEAD AGENCY** relative to the variance only.

4 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier

Recuse: Spada

Loveridge moved, Maier seconded that the Zoning Board of Appeals Classified the proposed action as a **TYPE II** Action.

4 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier

Recuse: Spada

The Board members reviewed the area variance criteria.

AREA VARIANCE CRITERIA

- 1) Can the benefit be achieved by other means feasible to the applicant? NO
- 2) Will the granting of the variance create an undesirable change in the character of the neighborhood or to nearby properties? NO
- 3) Is the request substantial? YES
- 4) Will the request have an adverse physical or environmental effect? NO
- 5) Is the alleged difficulty self-created? YES

Calarco moved, Maier seconded that the area variance be **GRANTED** this variance for a garage to be no closer than to the front property line than 25 feet.

6) Conditions: The front yard setback shall be surveyed and presented to evidence that the improvement to be constructed is to be no closer to the property line than 25 feet.

The garage shall be larger 896 sq. ft.

Brewer	Calarco	Loveridge	Maier	Spada
Yes	Yes	Yes	Yes	Recuse

Nadine Fuda, Director, read the hearing notice(s) as published in the Troy Record on the following variance application(s):

Laura and Geoffrey Dunn published on October 30, 2021

public hearing open p.m. public hearing closed p.m.

Laura and Geoffrey Dunn Z803-21/R20/177.12-5-12.19
2 Oakwood St.
Proposed - area Variance

Laura and Geoffrey Dunn, applicants were present for this meeting.

Chairman Calarco stated this was sent to the **Rensselaer County of Economic Development** and Planning and after review they determined the proposal does not have a major impact on any county plans and that local consideration should prevail.

This application received a Favorable recommend from the Planning Board.

Mr. Dunn stated the original deck on the house is about 40 years old, so they want to replace the deck with a bigger one, it is currently a 10-foot deck on the back of the house and the extension would be 6-feet on one side and 4 feet on the other side. The issue is they about the former dear field well on Oakwood Street they have purchased the property the small piece of property the well was on. They were looking to join the two lots, but the deeds were written differently, His name is spelling of his name it different. Right now, they would like to get the deck started before the snow flies, the house is at an angle and the proposed deck will be 1-foot closer to the property line of the property they already own, it is not developable because it is only 60-feet wide. There is plenty of room going to the back of the lot.

Chairman Calarco stated the tax map shows the piece of property they purchased from the town of Schodack.

Mr. Dunn stated they purchased the property 12 years ago.

ZBA 11/8/21

66-2021

Mr. Spada asked how big is the lot that you bought?

Mr. Dunn stated 60x235 sq. ft.

Mr. Maier asked to explain the deck increase

Mr. Dunn stated the deck wraps around the house. It currently 5-feet width is facing the former well lot but going from the back of the house, they want to make it 6 feet on one side and 4 feet on the side where the pool is located.

Mr. Brewer stated from looking on the plans it is not clear how close you will be to the property line.

Mr. Dunn stated the plans show the original deck which is 12.3 feet to the back of the existing deck. If they extend the deck another 6-feet, it will be about 11.4 so a little less than a foot.

Chairman Calarco stated that because they own the lot next door which is a non-buildable lot that gives them the extra footage needed for this variance. They just haven't gone through the formality of getting the boundary line removed and combining the land to their house lot.

Chairman Calarco stated there was no public in attendance to make comment.

Spada moved, Loveridge seconded that the Zoning Board of Appeals be **LEAD AGENCY** relative to the variance only.

5 Ayes, 4 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Oppose: None

Maier moved, Calarco seconded that the Zoning Board of Appeals classified the action as a **TYPE II** Action.

5 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Opposed: None

The Board members reviewed the area variance criteria.

AREA VARIANCE CRITERIA

1) Can the benefit be achieved by other means feasible to the applicant? NO

2) Will the granting of the variance create an undesirable change in the character of the neighborhood or to nearby properties? NO

- 3) Is the request substantial? NO
- 4) Will the request have an adverse physical or environmental effect? NO
- 5) Is the alleged difficulty self-created? YES

Loveridge moved, Maier seconded that the area variance be **GRANTED**.

Conditions: None

Brewer	Calarco	Loveridge	Maier	Spada
Yes	Yes	Yes	Yes	Yes

Nassau County True Value

Z799-21/HC/211.-2-15

3517 Rt. 20

Proposed - Before the board tonight only to Adopt the written resolution only

Spada moved, Calarco seconded Waive the reading of the following resolution.

5 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Oppose: None

RESOLUTION/DECISION OF ZONING BOARD OF APPEALS
APPROVAL ON AREA VARIANCE APPLICATION FOR MARK GARDNER/NASSAU
COUNTRY TRUE VALUE

WHEREAS, the Town of Schodack Zoning Board of Appeals had received an Area Variance/Sign Application from MARK GARDNER/NASSAU COUNTRY TRUE VALUE to replace the existing sign with a sign of the same size (approx. 64 square feet) but which would contain a portion that would be digital and illuminated and the digital portion would change one time per calendar day.

WHEREAS section 219-40 of the Town Code provides that "Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights

WHEREAS, section 219-40 of the Town Code provides that the Zoning Board of Appeals may allow any sign not specifically allowed by Article VI of the Town Code.

APPLICANT/S NAME AND ADDRESS: NASSAU COUNTRY TRUE VALUE/MARK GARDNER, 3517 US Rt 20, Nassau, NY 12123.

PROPERTY OWNER/S NAME AND ADDRESS: MARK GARDNER, 3517 US Rt 20, Nassau, NY 12123.

ZBA 11/8/21

68-2021

PROJECT NAME: Z799-21

LOCATION: 3517 US Rt 20, Nassau, NY 12123.

TAX MAP NO: 211.3-2-15

ZONING DISTRICT: HC LOT SIZE: 2.70 acres

WHEREAS, on October 25, 2021 a MOTION was made by Calarco, SECONDED by Brewer and approved by a vote of 5 to 0 to grant approval of the Area Variance Application/Sign Application to allow the replacement of the existing sign (approximately 64 square feet) with a sign to be illuminated and digital in part, that would change the message on the digital portion of the sign one time per calendar day (does not include the sign going into sleep mode from 11:00 p.m. to 6:00 a.m.);

BE IT RESOLVED THAT the Board has determined that the size of the subject sign, based in part on the unrebutted testimony of the Town Planning Director, which is approximately 64 square feet and having been located at said location since 1964, enjoys pre-existing, non-conforming status.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town of Schodack Zoning Board of Appeals, after due consideration of said Area Variance Application, and the requirements of the Code of the Town of Schodack and New York State Town Law 267-b, does hereby grant APPROVAL of the Area Variance Application hereinabove stated and identified as submitted, noting the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Notably:

1. *Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.*

It is the determination of this Board that no undesirable change will be produced in the character of the neighborhood nor will a detriment to nearby properties be created by the granting of the area variance. It is noted that the sign has been there since 1964 and that the illuminated digital portion of the sign will only change one time per day.

2. *Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.*

Although the sign could be replaced with one that does not have illumination and a changing digital portion, the Board finds that the only way the desired sign could be located on the subject property is via a variance.

3. *Whether the requested area variance is substantial.*

The Board finds that it is not substantial; it is noted that the only a portion of the sign is illuminated, and that portion will only change once per calendar day.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*

It is the determination that it will not. With the message changing only one time per day especially, there is no adverse effect by adding this updated technology.

5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance.*

As with most matters that come before this Board, the variance is needed because Applicant desires to construct/build at variance with existing requirements. However, see the discussion in factor 2, above.

CONDITION OF APPROVAL: OTHER THAN WHEN THE SIGN CHANGES INTO NIGHT MODE FROM 11:00 P.M. TO 6:00 A.M. , THE ILLUMINATED DIGITAL PORTION OF THE SIGN WILL ONLY HAVE THAT MESSAGE CONTAINED THEREON CHANGE ONE TIME PER DAY.

PLEASE NOTE, the Zoning Board of Appeals has no authority to alter or determine the ownership of property and that the decision of the Board herein is not a determination of the underlying ownership of the subject property.

DATED: _____, 2021

David Calarco, Chairman, Town of Schodack Zoning Board of Appeals

I AGREE TO ALL OF THE FOREGOING:

Mark Gardner

Approve and adopt the above resolution

Calarco moved; Brewer seconded to approve the above resolution.

5 Ayes, 0 Noes, Motion carried.

Ayes: Brewer, Calarco, Loveridge, Maier, Spada

Oppose: None

ADJOURN

Loveridge moved, Spada seconded that the meeting be adjourned. There being no objections, Chairman Calarco adjourned the meeting at 8:04 p.m.

Respectfully submitted,

Nadine Fuda

Director of Planning & Zoning