

The regular meeting of the Town of Chautauqua Zoning Board of Appeals

Opening:

The regular meeting of the Town of Chautauqua Zoning Board of Appeals was called to order at 3:30 pm, on Tuesday, October 18, 2022, by Zoning Chairman, Troy Smith.

Board Members Present:

Chairman Troy Smith, Rick Syper, L. James Hurley, Roberta Tenpas, Charlie Krause

Board Members Absent:

 Stan Marshaus

Others Present: Ken Shearer, Jeff Paddock, Nicole Yacklon, Bert and Mary Rappole, Ted Blanchard, Christian Shlesinger (Forefront Power), Mark McDevitt, Susan Showalter, John Kudlick, Joel Seachrist.

Agenda:

Case No. 1:

To act on the appeal concerns of Mark McDevitt and Gail Nelson to build a picnic pavilion where the size is larger than allowed in a Residential Lakeside district. Property is located at 6488 Galloway Road, Mayville, NY 14757, and is designated on the official Chautauqua County Tax map as Section 246.18 Block 1, Lot 75, which requires a variance for lot size, lot width and front yard setback.

Public Comments: None

Board Comments: None

Requirements for which Variance is Requested: Lot size, lot width and front yard setback.

Applicable Section(s) of Zoning Code: 143-17A & 143-17B

Findings and Decision were read out loud: By Chairman Troy Smith

No area variance will be granted without a consideration by the board of the following factors.

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Response is. **NO**

Reasons: **Pavilion will be in character of the neighborhood.**

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

Response is. **NO**

Reasons:

3. Whether the requested variance is substantial: Response is. **NO**

Reasons: **Due to size of lot.**

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:
Response is. **NO**

Reason: **Will not have any adverse impact on either of the conditions.**

5. Whether the alleged difficulty was self-created: Response is. **YES**

Reason: **Being requested by the owner.**

The ZBA, after taking into consideration the above five factors, finds that:

The Benefit to the Applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

Reason: **No adverse impact on either the physical or environmental conditions in the neighborhood.**

The ZBA further finds that a variance of **5025 sq. ft. lot size, 33.5 lot width and 30' front yard setback from Sections 143-17A & 143-17B** of the Zoning Code is the minimum variance that should be granted to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

CONDITIONS: The ZBA finds that the following conditions are necessary to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1: **NO permanent sides can be added to the pavilion. Must remain open.**

Adverse impact to be minimized: **To keep from building a storage structure.**

Condition No. 2: **N/A**

Adverse impact to be minimized:

Motion: Chairman Troy Smith to Approve

Second: Rick Syper

Vote: Chairman, Troy Smith – Yes
Member, Charlie Krause – Yes
Member, L. James Hurley – Yes
Member, Rick Syper – Yes
Member, Roberta Tenpas - Yes

Motion Carried

Case No. 2:

To act on the appeal of **John Kudlick and Susan Showalter** in a Residential District. Property is located at 6192 Terrace Avenue, Dewittville NY 14728, and is designated on the official Chautauqua County Tax map as Section 263.15, Block 2, Lot 5, which requires a Variance.

Public Comments: None

Board Comments: None

Requirements for which Variance is Requested: Lot size, front yard setback, and rear yard setback.

Applicable Section(s) of Zoning Code: 143-13 A, 143-13B, and 143-13D

Findings and Decision were read out loud: By Chairman Troy Smith

No area variance will be granted without a consideration by the board of the following factors.

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby

Response is. **NO**

Reasons: **Removing garage and replacing it with a single-story addition, no change in the character of the neighborhood.**

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

Response is. **NO**

Reasons: **Due to size of lot, utilizing approximately the same footprint.**

3. Whether the requested variance is substantial:

Response is **NO**

Reasons: **Due to size of lot.**

4. Would the variance have an adverse impact on the physical or environmental conditions in the Neighborhood.

Response is **NO**

Reason: **Will not have any adverse impact on either of the conditions.**

5. Whether the alleged difficulty was self-created: Response is. **Yes**

Reason: **Being requested by the owner.**

The ZBA, after taking into consideration the above five factors, finds that:

The Benefit to the Applicant **DOES** outweigh the Detriment to the Neighborhood or Community.

Reason: **No adverse impact on either the physical or environmental conditions in the neighborhood.**

The ZBA further finds that a variance of **12,819 sq. ft. lot size, 22' front yard setback and 14' rear yard setback** from Sections **143-13A, 143-13B and 143-13D of the zoning code** is the minimum variance that should be granted to preserve and protect the character of the neighborhood and the health, safety, and welfare of the community because.

CONDITIONS: The ZBA finds that the following conditions are necessary to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1: **Silt fence must be erected during construction.**

Adverse impact to be minimized: **To Keep debris and runoff from going into Chautauqua Lake.**

Condition No. 2:

Adverse impact to be minimized:

Motion: Chairman Troy Smith to Approve

Second: Charlie Krause

Vote: Chairman, Troy Smith – Yes

Motion: Carried

Member, Charlie Krause – Yes
Member, L. James Hurley – Yes
Member, Rick Syper – Yes
Member, Roberta Tenpas – Yes

Case No. 3:

The case for George Green / Forefront Power was tabled until the next meeting scheduled for January 17th, 2023.

Motion by Chairman, Troy Smith

Second by Rick Syper

All members unanimous to table until January 2023 meeting.