

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – March 30, 2017**

A meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Town Offices, 18 State Street, Brockport, New York on March 30, 2017, commencing at 6 p.m.

Members present: Frank Fisher, Kevin Johnson, Pauline Johnson, Peter Sharpe.

Absent: Mary Ann Thorpe.

Also present: Nat O. Lester, III, ZBA Counsel; Dave Mallo, Mallo Home Improvements, Inc.; Mark Schwan, applicant.

Acting Chairperson Pauline Johnson called the meeting to order at 6 p.m.

Application of Mark and Donna Schwan, 230 Hollybrook Road, Brockport, New York, for an area variance to construct a 4 ft. addition to the front of the garage changing the front setback from 51.2 ft. to 47.2 ft. *Town of Sweden Ordinance §175-37, R1-2S, Section D, (3) Required setbacks: (a) Front: states the required front setback is 50 ft.* The property is owned by Mark F. and Donna M. Schwan, tax account number 084.05-7-1.

Acting Chairperson Pauline Johnson introduced the Board Members and ZBA Counsel.

230 Hollybrook Road

Acting Chairperson Pauline Johnson stated, for the record, she is abstaining from tonight's vote due to being an immediate neighbor, but will run the meeting as acting chairperson and participate with questions.

Mr. Dave Mallo, contractor, and Mr. Mark Schwan, property owner, addressed the Board. Mr. Mallo explained that the purpose of the variance request is to extend the garage by 4 ft. in the front (closer to the road) in order to make an adjacent (behind existing garage) bedroom larger. The rear wall between the garage and bedroom will be removed. The addition to the front of the garage is needed so that the proposed garage will be the same size as the existing garage, and thus, can still be used to park vehicles.

The plans show that the request is minor in that the exterior of the house from the road will look the same, just 4 ft. closer to the road. Acting Chairperson Pauline Johnson asked Mr. Mallo to explain in more detail using the displayed map the actual scope of work. Mr. Fisher asked what the existing depth of the garage is. Mr. Mallo stated 20 ft.

Acting Chairperson Pauline Johnson asked if the Schwans had considered building to the east. Mr. Mallo stated yes, but they did not want to build on the side of the house. Mr. Schwan added that there is a large tree that would have to be removed to build to the side. Additionally, there is already a bump out on the side in the rear. Existing closets would have to be removed. A second bump out on the side would cause a large amount of extra work resulting in the total cost of construction being much higher.

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Mr. Fisher asked how the existing trusses run. Mr. Sharpe asked if the existing roof is a gable roof. Mr. Mallo stated additional structure would have to be built with another bump out to the side. All of this would add to the cost of the project.

Counsel Lester confirmed with Mr. Mallo that the enlarged bedroom could be built to the side without infringing on the required setback.

Acting Chairperson Pauline Johnson asked that the applicants address the criteria/tests for the granting of an area variance. Counsel Lester explained that the original permit application was denied by the Building Inspector for the front setback requirement. The applicant is requesting relief from the ZBA, and so the burden is on the applicant to help the ZBA make a determination by addressing each one of the tests.

Mr. Schwan explained that he often walks his dog in the neighborhood and has noticed quite a few houses with front setbacks shorter than his. Mr. Schwan wondered if the setbacks in the neighborhood were carved in stone or could be adjustable. His variance request is only for 2.8 ft. The other options were more costly due to tree removal and structural changes to the roof, and wouldn't provide as big of room as desired.

Counsel Lester asked if Mr. Schwan brought maps or documentation showing the neighborhood houses that are closer to the road. Mr. Schwan did not bring any maps. He addressed the tests as follows:

1. Based on the front elevation in the drawings, the 4 ft. addition would create very little visible change to the neighborhood. The front of the garage will look the same.
2. The benefit sought by the applicant, enlarging a 10 ft. by 7 ft. bedroom to an 11 ft. by 10 ft. bedroom is a reasonable request.
3. The variance is not substantial at 2.8 ft.
4. The proposed variance will not have an adverse effect on the physical or environmental conditions of the neighborhood.
5. The alleged variance is not self-created. Acting Chairperson Pauline Johnson stated it would be self-created because the house was purchased with the smaller room. Mr. Schwan indicated that the variance is being requested now because they have grandchildren who love to spend time at their house.

Mr. Fisher stated that even though the costs associated with the remodel were not submitted, the applicant/contractor stated that it would be more expensive to build to the side, plus it wouldn't blend in as well.

Counsel Lester asked if the addition could be built on the back of the house, whereby it wouldn't infringe on any setbacks. Mr. Schwan indicated that a stone patio would have to be removed. Mr. Mallo added that the existing windows in the living room would be blocked.

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Acting Chairperson Pauline Johnson confirmed with Mr. Mallo that an addition could be built on the back of the house without infringing on the any of the setbacks. She added it may be more expensive and not look as nice, but it could be done.

Acting Chairperson Pauline Johnson asked the Clerk how many notices to neighbors were mailed out, and if any comments were received. Thirteen neighbors were sent a notice and no one commented.

Acting Chairperson Pauline Johnson asked if there were any more comments or questions from the Board or applicant. Mr. Mallo reiterated that even though an addition could be built on the back of the house, it just doesn't make sense. Mr. Fisher added he understands, but the question has to be asked. Mr. Mallo stated the applicants did not want to change the look of the house, which has a beautiful aesthetic look from the street. Each Town varies with requirements based on the code. It's important to note that this area variance would run with the land. Mr. Mallo reiterated that 13 neighbors did not have any comments.

Acting Chairperson Pauline Johnson closed the public hearing. The Board has 62 days to make a decision. The Clerk will contact you as soon as one is made. Mr. Mallo would appreciate an expedited decision, if possible. Counsel Lester recommended the Board set a reconvene date in case a decision is not made tonight. The Board agreed and set Thursday, April 27, 2017, to reconvene.

Moved by Mr. Peter Sharpe, seconded by Mr. Kevin Johnson, to table a decision until the next meeting, Thursday, April 27, 2017, at 6 p.m.

Frank Fisher – Aye
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Mary Ann Thorpe – Absent

Moved by Mr. Peter Sharpe, seconded by Mr. Frank Fisher, that the minutes of January 19, 2017, be approved.

Frank Fisher – Aye
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Mary Ann Thorpe – Absent

The meeting was adjourned by motion at 7:20 p.m.

Respectfully submitted,
Phyllis Brudz
Zoning Board of Appeals Clerk