

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – December 12, 2024

A regular meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Sweden Town Offices, 18 State Street, Brockport, New York on December 12, 2024, commencing at 6 p.m.

Members present: Robert Carges; Kevin M. Johnson; Mark Sealy.

Absent: Pauline Johnson; Nat O. Lester, III, ZBA Counsel.

Also present: Margaret Ryan

Chairperson Carges called the meeting to order at 6 p.m. and asked everyone to say the Pledge of Allegiance.

Moved by Mr. Sealy, seconded by Mr. Johnson, that the reading of the legal notice be waived.

Chairperson Carges – Aye
Mr. Kevin M. Johnson – Aye
Mrs. Pauline Johnson – Absent
Mr. Mark Sealy – Aye

Application of Margaret Ryan, 5569 Brockport-Spencerport Road, Brockport, New York, for two (2) area variances. The requested area variances for the existing garage and deck are as follows: 2.2 ft. garage side setback (7.8 ft. provided, 10 ft. required) and 4.9 ft. deck side setback (5.1 provided, 10 ft. required).

Town of Sweden Ordinance §175-26 Accessory buildings. No barn or accessory building shall be constructed nearer to the highway line than is permitted for a residence building, nor to any side or rear lot line than 10 feet. A garage attached to a residence building shall be deemed an accessory building for the purposes of this chapter, and when such structure is planned to be attached to the side of a residence building it shall not be nearer than 10 feet to the side lot line. The property is owned by Margaret M. Ryan and Vicky Willis, tax account number 084.02-2-13.

Moved by Mr. Sealy, seconded by Mr. Johnson, that the minutes of June 6, 2024, be approved.

Chairperson Carges – Aye
Mr. Kevin M. Johnson – Aye
Mrs. Pauline Johnson – Absent
Mr. Mark Sealy – Aye

5569 Brockport-Spencerport Road

Chairperson Carges asked the applicant to explain her request for the proposed variances. Ms. Ryan stated when she purchased the property the garage was already built. She added a deck to the back of the garage. When she made an application for a building permit for the roof over the deck, the building inspector discovered that the garage was built as a two-car garage, not a one car garage. The building inspector issued the permit for the roof because the footprint was not changing and there was proof that the garage and deck were pre-existing structures and noncompliant. The building inspector suggested that if Ms. Ryan wanted a clean title, she should apply for a variance in the future.

TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – December 12, 2024

Ms. Ryan further explained that by building a two-car garage, it shifted the back of the garage out of alignment with the property line to the east. The deck was built to the garage which then became out of alignment as well. When Ms. Ryan applied for a roof permit over the existing deck, the Building Department realized what had happened and explained everything to her. She added that the Building Department was very helpful.

Chairperson Carges stated it is a good idea to straighten out the existing pre-existing, nonconforming conditions prior to selling the property.

Chairperson Carges asked the Board if it had any additional questions. Mr. Johnson asked if anyone from the public stopped in the Town with any questions or comments. The Clerk stated one person stopped for further clarification but had no comments or issues. It was determined that the house was built in the 1950s, and the garage built in 1970.

Chairperson Carges offers the following motion and moves for its adoption:

Having reviewed the application and Short Environmental Assessment Form of Margaret Ryan, 5569 Brockport Spencerport Road, Brockport, New York for two (2) area variances: 2.2 ft. garage side setback (7.8 ft. provided where 10 ft. is required); and 4.9 ft. deck side setback (5.1 ft. provided where 10 ft. is required) will not have a significant adverse impact on the environment which constitutes a negative declaration.

Seconded By Mr. Sealy and duly put to a vote, which resulted as follows:

Vote: Chairperson Carges – Aye
Mr. Kevin M. Johnson – Aye
Mrs. Pauline Johnson – Absent
Mr. Mark Sealy – Aye

Motion carried.

The Zoning Board of Appeals is aware the garage, deck and roof encroachments have been recognized by the Building Department and the Assessor's Office in the past and has determined it would be unjust to tear down these structures. The two variances are approved only for the existing garage, deck, and roof. Further additions or improvements to these structures (i.e., enclosed three-season room) are not approved as part of this variance approval.

Chairperson Carges offers the following resolution and moves for its adoption: That the application of Margaret Ryan, for two (2) area variances for the existing garage, deck and roof located at 5569 Brockport Spencerport Road, Brockport, New York, in R1-2S One-Family Residential Zoning District. The requested variances are as follows:

1. 2.2 ft. garage side setback (7.8 ft. provided where 10 ft. is required); and
4.9 ft. deck side setback (5.1 ft. provided where 10 ft. is required) be approved for the following reasons:

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – December 12, 2024**

Area Variance #1 –2.2 ft. garage side setback

1. An undesirable change will not be produced in the character of the neighborhood as the house is located on a heavily traveled main road;
2. The benefit sought by the Applicant cannot be achieved by another feasible method other than an area variance as it is not practical to tear down the existing garage;
3. The proposed side setback area variance of 2.2 ft. for the garage is not substantial;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood; and
5. The alleged difficulty is not self-created. In 1969, the Town issued a building permit with a plot plan showing a 13 ft. setback, but when the garage was constructed, it was built closer to the lot line and left as is. No Certificates of Compliance were issued. The current owner/applicant purchased this property on April 24, 1989.

Seconded By Mr. Johnson and duly put to a vote, which resulted as follows:

Vote: Chairperson Carges – Aye
Mr. Kevin M. Johnson – Aye
Mrs. Pauline Johnson – Absent
Mr. Mark Sealy – Aye

Motion carried.

Area Variance #2 –4.9 ft. deck and roof side setback

1. An undesirable change will not be produced in the character of the neighborhood as the house is located on a heavily traveled main road;
2. The benefit sought by the Applicant cannot be achieved by another feasible method other than an area variance as it is not practical to tear down the existing deck and roof;
3. Although the proposed side setback area variance of 4.9 ft. for the existing deck and roof is substantial, it is necessary because the deck is constructed at an angle and is not parallel to the lot line;
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood; and
5. The alleged difficulty is not self-created. Permits for decks were not required in the Town of Sweden prior to August 2004. The deck is noted on the Assessor's property card as constructed in 1989 and has less than the required 10 ft. side setback. In 2014, the Town's Building Department issued a building permit for the roof with the condition that "as long as the roof construction will not encroach further into the setback, we will accept the existing setback."

Seconded By Mr. Sealy and duly put to a vote, which resulted as follows:

Vote: Chairperson Carges – Aye
Mr. Kevin M. Johnson – Aye
Mrs. Pauline Johnson – Absent
Mr. Mark Sealy – Aye

Motion carried.

The meeting was adjourned by motion at 6:35 p.m.

Respectfully submitted,
Phyllis Brudz
Zoning Board of Appeals Clerk