

**TOWN OF PITTSFORD
ZONING BOARD OF APPEALS
AGENDA
August 15, 2022
7:00 PM**

APPLICATION FOR AN AREA VARIANCE

- 7 Buchanan Road, Tax # 178.07-1-82, Applicant is requesting relief from Town Code §185 - 17 I for a proposed shed located less than the required minimum rear setback. This property is zoned Residential Neighborhood – (RN).

**TOWN OF PITTSFORD
ZONING BOARD OF APPEALS
DRAFT MINUTES
July 18, 2022**

PRESENT

George Dounce, Chairperson; Barbara Servé, Vice Chair; Mary Ellen Spennacchio-Wagner, James Pergolizzi, Tom Kidera, Phil Castleberry, Jennifer Iacobucci

ALSO PRESENT

Kate Munzinger, Town Board liaison; Robert Koegel, Town Attorney; Bill Zink, Building Inspector; Doug DeRue, Director of Planning and Zoning; Susan Donnelly, Secretary to the Board

Proceedings of a regular meeting of the Pittsford Zoning Board of Appeals were held on Monday, June 30, 2022 at 7:00PM local time.

George Dounce, Chairperson called the regularly scheduled meeting of the Zoning Board of Appeals to order at 7:00PM.

The applications before the Board this evening are Type II Actions under 6-NYCRR §617.5 (c) and, therefore, are not subject to Environmental Review under SEQRA. The applications are exempt from review by the Monroe County Planning Department based on an agreement with Monroe County dated October 7, 2008.

PUBLIC HEARINGS FOR AN AREA VARIANCE - NEW

- 80 Barker Road, Tax # 178.09-1-27, Applicant is requesting relief from Town Code §185-113 B. (1) and 185 K. (2) for a proposed oversized accessory structure, shed in the side setback. Property is a corner lot and zoned RN - Residential Neighborhood.

George Dounce opened the Public Hearing.

Andrew Drebek was present to discuss the application with the Board.

Two letters of support have been received by the Town from neighbors regarding the project.

The Board inquired about the timeframe. The applicant would like to begin as soon as the permit is issued sometime this year as the family needs more storage space.

Phil Castleberry moved to close the Public Hearing.

Barb Servé seconded.

All Ayes.

- 354 Canfield Road, Tax # 191.04-2-3, Applicant is requesting relief from Town Code §185-113 B. (1), (2) for a proposed oversized and over height accessory structure, shed. Property is zoned RRSP – Rural Residential South Pittsford.

George Dounce opened the Public Hearing.

The homeowner, Dean Smith, was present.

Mr. Smith indicated that the height of the garage he is requesting has been changed to 26'. The construction will be for a 2 bay garage and carport.

The timeline for construction is this year if he can secure a contractor for the excavation.

There was no public comment.

George Dounce moved to close the Public Hearing.

Mary Ellen Spennacchio-Wagner seconded.

All Ayes.

- 263 East Street, Tax # 178.12-1-32, Applicant is requesting relief from Town Code §185-113 B. (1), (2) for a proposed oversized and over height accessory structure, garage. Property is zoned RN - Residential Neighborhood.

George Dounce opened the Public Hearing.

The homeowner, Michael Kelly, was present.

The proposed structure (garage) will be 24' x 24'. The current garage will be reclaimed as living space. Mr. Kelly stated that his neighbors have no problem with this proposed project.

The timeline would be to start summer of 2022.

There was no public comment.

Jennifer Iacobucci moved to close the Public Hearing.

Barb Servé seconded.

All Ayes.

- 7 Lusk Farm Circle, Tax # 164.15-1-86, Applicant is requesting relief from Town Code §185-119 A. (1) to place the pool filter and or heater equipment on the side of the home. This property is zoned Residential Neighborhood – (RN).

George Dounce opened the Public Hearing.

The homeowner Adam Dziorny and Jake Johnson of Oasis Pools was present.

Mr. Johnson discussed the reasons of not being able to place the pool equipment in the rear of the property. He indicated the equipment will be “barely” visible from the road.

Mr. Dziorny stated that he has not talked to his neighbors but there are no living areas in the adjacent property where the neighbor will be looking at the equipment.

George Dounce stated that the pump is very quiet.

There was no public comment or comment from Town staff.

There was no further discussion from the Board.

Jim Pergolizzi moved to close the Public Hearing.

Mary Ellen Spennacchio-Wagner seconded.

All Ayes.

- 4 Millstone Court, Tax # 178.11-2-36, Applicant is requesting relief from Town Code §185 - 17 E for a proposed garden shed located less than the required minimum side setback. This property is zoned Residential Neighborhood – (RN).

George Dounce opened the Public Hearing.

There was no representative present but the Board felt comfortable going ahead with the review.

It was stated that the neighbor to the left also has a shed.

There was no public comment.

There was no further comment from the Board.

Jennifer Iacobucci moved to close the Public Hearing.

Tom Kidera seconded.

All Ayes.

APPLICATION FOR AREA VARIANCES – CONTINUED

- 14 Trotters Field Run Tax # 164.17-1-22.1, Applicant is requesting relief from Town Code §185 - 113 B. (3), for pool equipment and a sport court forward of the rear wall, §185 – 17 E. (1) for a sport court within the side setback, §185 – 17 H. for greater than 40% impervious lot coverage. This property is zoned Residential Neighborhood (RN).

This hearing was closed at the June 20th meeting.

The applicant and 6 members of the public were present for this discussion.

Town Attorney, Robert Koegel, announced that three separate emails had been sent to the Board directly from neighbors of 14 Trotters Field Run after the closing of the hearing on June 20th. Mr. Koegel stated that it is not proper procedure for comments to be sent directly to the Board and should always be directed to the Town staff first. Mr. Koegel then directed the Board to disregard any remarks that were communicated to the Board by the public after the hearing was closed. He indicated that the comments have no new merit and the Board should not base their decision on any comments sent after the hearing is closed. Furthermore, Mr. Koegel also informed that regarding the threat of litigation directed towards the Board by the public that the Board is not liable for their actions in their determinations and the Town of Pittsford would stand behind them in their official capacity as a member of the Zoning Board of Appeals.

The Board addressed the issues of the outdoor recreational court, impervious lot coverage and the pool equipment location.

Regarding the pool equipment, the Board felt comfortable with locating the pool equipment in its present location as long it is hidden by solid fencing or similar enclosure. The Board also determined that the 45.1% lot coverage where code allows 40% is not what is creating the drainage issue for the neighbor and as such acceptable.

Regarding the outdoor recreational court, if the Basketball pole and hoop are removed then there is no need for the variance requested under current Town code. Board members felt it was critical to consider the most affected neighbors noise issues with the outdoor recreational court in making their decision. It was noted that the applicant proposed fencing and arbor vitae plantings near the sport court area. It was determined that if the area is no longer an outdoor recreational court that an approximate 5% overage does not justify a fence and plantings. It was discussed that any further future concerns of the neighbors regarding noise and lighting of this area should be directed to the Town of Pittsford Code Enforcement Officer and is not in the purview of the Zoning Board of Appeals.

The majority of the Board felt comfortable with a discussion of the granting of the variance regarding the pool equipment and impervious lot coverage and the denial of the variances required for the surface to serve as a recreational sport court.

DECISION FOR 80 BARKER ROAD – AREA VARIANCE

A written Resolution to grant the area variance for 80 Barker Road was moved by Barb Servé and seconded by Board Member George Dounce.

George Dounce called for a roll call vote.

Servé	Aye
Pergolizzi	Aye
Spennacchio-Wagner	Aye
Castleberry	Aye
Kidera	Aye
Dounce	Aye
Iacobucci	Aye

The approved Resolution contains the following Specific Conditions:

1. This variance is granted only for the plans submitted and prepared by the Applicant dated May 26, 2022.
2. All construction is to be completed by December 31, 2023.

DECISION FOR 354 CANFIELD ROAD – AREA VARIANCE

A written Resolution to grant the area variance for 354 Canfield Road was moved by Tom Kidera and seconded by Board Member Mary Ellen Spennacchio-Wagner.

George Dounce called for a roll call vote.

Servé	Aye
Pergolizzi	Aye
Spennacchio-Wagner	Aye
Castleberry	Aye
Kidera	Aye
Dounce	Aye
Iacobucci	Aye

The approved Resolution contains the following Specific Conditions:

1. This variance is granted only for the plans submitted and prepared by the Applicant dated June 17, 2022.
2. All construction is to be completed by December 31, 2023.

DECISION FOR 263 EAST STREET – AREA VARIANCE

A written Resolution to grant the area variance for 263 East Street was moved by Jim Pergolizzi and seconded by Board Member Phil Castleberry.

George Dounce called for a roll call vote.

Servé	Aye
Pergolizzi	Aye

Spennacchio-Wagner	Aye
Castleberry	Aye
Kidera	Aye
Dounce	Aye
Iacobucci	Aye

The approved Resolution contains the following Specific Conditions:

1. This variance is granted only for the plans submitted and prepared by the Applicant dated June 9, 2022.
2. All construction is to be completed by December 31, 2023.

DECISION FOR 7 LUSK FARM CIRCLE – AREA VARIANCE

A written Resolution to grant the area variance for 7 Lusk Farm Circle was moved by George Dounce and seconded by Board Member Tom Kidera.

George Dounce called for a roll call vote.

Servé	Aye
Pergolizzi	Aye
Spennacchio-Wagner	Aye
Castleberry	Aye
Kidera	Aye
Dounce	Aye
Iacobucci	Aye

The approved Resolution contains the following Specific Conditions:

1. This variance is granted only for the plans submitted and prepared by the Applicant dated June 3, 2022.
2. All construction is to be completed by December 31, 2022.

DECISION FOR 4 MILLSTONE COURT – AREA VARIANCE

A written Resolution to grant the area variance for 4 Millstone Court was moved by Jennifer Iacobucci and seconded by Board Member Jim Pergolizzi.

George Dounce called for a roll call vote.

Servé	Aye
Pergolizzi	Aye
Spennacchio-Wagner	Aye
Castleberry	Aye
Kidera	Aye
Dounce	Aye
Iacobucci	Aye

The approved Resolution contains the following Specific Conditions:

1. This variance is granted only for the plans submitted and prepared by the Applicant dated June 2, 2022.
2. All construction is to be completed by December 31, 2023.

DECISION FOR 14 TROTTERS FIELD RUN – AREA VARIANCE

A written Resolution to grant the area variance for 14 Trotters Field Run was moved by Phil Castleberry and seconded by Board Member George Dounce.

George Dounce called for a roll call vote.

Servé	Aye
Pergolizzi	Aye
Spennacchio-Wagner	Nay
Castleberry	Aye
Kidera	Aye
Dounce	Aye
Iacobucci	Aye

The approved Resolution contains the following Specific Conditions:

1. Variances are granted only for Town Code Sections 185 – 119 A.(1) for pool equipment forward of the rear wall; and 185 – 17 H. to allow 45.1% impervious lot coverage where 40% is allowed as indicated on the application submitted to the Zoning Board of Appeals, dated May 14, 2022, and the attached survey.
2. The spotlight on the north side of the applicant’s house shall be removed, and no other lighting shall be installed or used to illuminate the former outdoor recreational court area in violation of Town Code.
3. Effective immediately, the area previously used as an outdoor recreational court shall not be used as such and the basketball hoop and pole and the spotlight on the north side of the applicant’s house shall be removed by September 19, 2022.
4. Solid fencing or a similar enclosure shall be installed around the sides of the pool equipment and 6 inches +/- above the equipment (not necessarily covering the top), to reduce noise by December 31, 2022.
5. Failure to comply with any or all of the terms and conditions of this resolution will be deemed to be a violation of the Town zoning code and will be enforceable by the Town as such.

POINT PERSONS FOR August 15 MEETING

7 Buchanan Road – Barb Servé

ADJOURNMENT/MINUTES APPROVAL

Chairman George Dounce motioned to approve the minutes of May 16, 2022 with a correction. Following a unanimous voice vote, the minutes were approved as written.

The meeting was adjourned at 9:05 pm.

Respectfully submitted,

Susan Donnelly
Secretary to the Zoning Board of Appeals

DRAFT

Zoning Board of Appeals Referral Form Information

Property Address:

7 Buchanan Road PITTSFORD, NY 14534

Property Owner:

Fogarty, Ron
7 Buchanan Rd
Pittsford, NY 14534

Applicant or Agent:

Fogarty, Ron
7 Buchanan Rd
Pittsford, NY 14534

Present Zoning of Property: RN Residential Neighborhood
Area Variance - Residential and Non-Profit

Town Code Requirement is:

Right Lot Line:
Left Lot Line:
Front Setback:
Rear Setback: 20'
Height:
Size:

Proposed Conditions:

Right Lot Line:
Left Lot Line:
Front Setback:
Rear Setback: 10'
Height:
Size:

Resulting in the Following Variance:

Right Lot Line:
Left Lot Line:
Front Setback:
Rear Setback: 10.0'
Height:
Size:

Code Section(s):

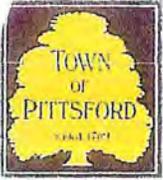
Description: Applicant is requesting relief from Town Code §185 - 17 I for a proposed garden shed located less than the required minimum rear setback. This property is zoned Residential Neighborhood – (RN).

July 18, 2022



Date

Bill Zink -



TOWN OF PITTSFORD ZONING BOARD OF APPEALS APPLICATION FOR AREA VARIANCE

Submission Date: _____ Hearing Date: _____

Applicant: Ron Fogarty

Address: 7 Buchanan Rd.

Phone: 585-303-1303 E-Mail: ronfogarty@rochester.rr.com

Agent: _____
(if different than Applicant)

Address: _____

Phone: _____ E-Mail: _____

Property Owner: _____
(if different than Applicant)

Address: _____

Phone: _____ E-Mail: _____

(If applicant is not the property owner please complete the Authorization to Make Application Form.)

Property Location: _____ Current Zoning: _____

Tax Map Number: 178.07-1-82

Application For: Residential Commercial Other

Please describe, in detail, the proposed project:

Place a Pre-built Garden/storage Shed 18'wide x 10'Deep in the southwest corner of backyard. Set on a 4" base of crushed stone

SWORN STATEMENT: As applicant or legal agent for the above described property, I do hereby swear that all statements, descriptions, and signatures appearing on this form and all accompanying materials are true and accurate to the best of my knowledge.

Ron Fogarty
(Owner or Applicant Signature)

July 14, 2022
(Date)



NEW YORK STATE STANDARDS FOR THE GRANTING OF AREA VARIANCES TOWN LAW SECTION § 267-b-3(b).

TESTS FOR GRANTING AREA VARIANCES

In making its determination, the zoning board of appeals shall take into consideration 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. In making such determination, the board shall also consider the following:

(Please answer the following questions to the best of your knowledge)

1. Please explain why you feel the requested variance will not produce an undesirable change in the character of the neighborhood and why a detriment to nearby properties will not be created by the granting of this area variance:

- The placement of this Shed is not visible to neighbors our backyard visibility is limited by neighbors trees + bushes.
- This is a high quality - Good looking Shed w/style + color similar to our home
- many of our neighbors have sheds in their backyard.

2. Please explain the reasons why the benefit sought by the owner/applicant cannot be achieved by some method other than an area variance:

The proposed location of this Shed will "fit" the backyard aesthetics and leave room for the yard swale, maintaining the lawn and servicing of Utility pole and power lines.

TESTS FOR GRANTING AREA VARIANCES (Continued)

3. Please explain whether the requested area variance is minimal or substantial:

This variance is minimal:
current setback calls for 10' from side property line.
we are asking for 15' - just 5' additional feet. This will allow access to utility pole and also line up with the home.
current BACK property line setback calls for 20'
we are asking for 10' from back property line.

4. Please explain why you feel the requested area variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or zoning district:

We are not changing any landscape, trees or foliage
Placing the Shed 15' from side property line will not interfere with yard swale.

• NOTE: Consideration of the following question shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of an area variance:

5. Is the alleged difficulty self-created?

No: the proposed location of the Shed will "fit" the yard better than the current zoning of 10' side & 20' Back Setbacks

TAPE LOCATION MAP

Date October 31, 1964

Showing SPLIT LEVEL FRAME DWELLING WITH GARAGE ATTACHED

Lot No. 46 Subdivision BOCKER FARM SECTION 2

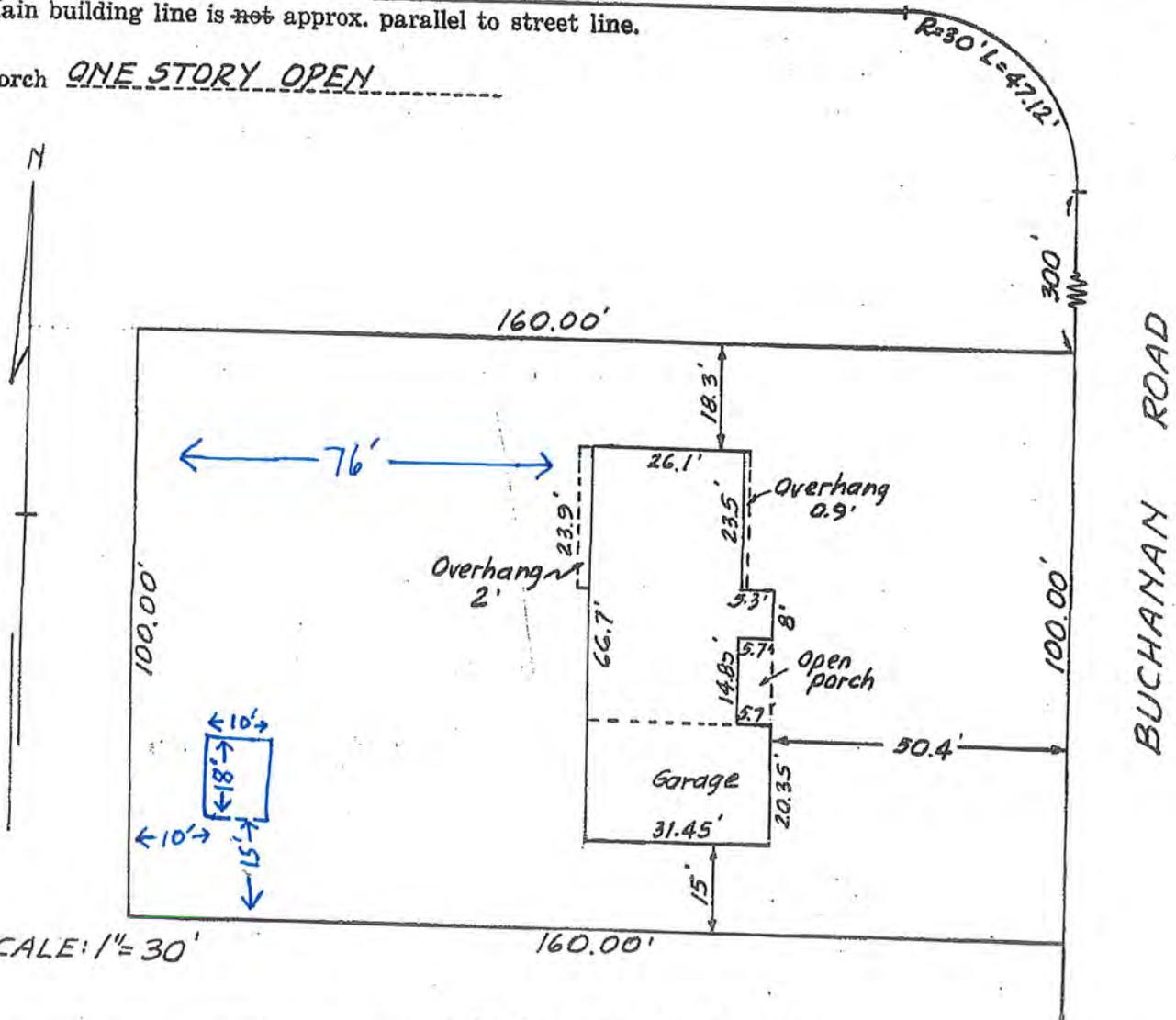
City—Town—Village PITTSFORD Liber. 161 of Maps, Pg. 27

Monuments Used NOT MONUMENTED

Distance from WARDER DRIVE to NORTH line of property was actually measured. WARDER DRIVE

Main building line is ~~not~~ approx. parallel to street line.

Porch ONE STORY OPEN



This map was made at the request of CALDWELL & COOK to show general location of structures on the lot. It must not be used for any other purposes, such as locating property lines, fences or driveways. It is not an instrument survey map.

PAUL SLAPELIS
 Licensed Land Surveyor
 65 Broad Street, Room 514
 Rochester, N. Y. 14614
 Tel. HA 6-7080

By Paul Slapelis

PAUL SLAPELIS
 License No. 92480

