

**ZONING BOARD OF APPEALS  
TOWN AND VILLAGE OF ARCADE  
17 Church Street, Arcade, New York 14009  
Village Office      585 492-1111  
Town Office        585 492-4685**

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At a meeting of the Zoning Board of Appeals of the Town and Village of Arcade held on Monday, November 18, 2013 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York:

**MEMBERS PRESENT:** Jeff Snyder, Paul Sanders, Lee Ameis, Doug Eigenbrod

**MEMBERS ABSENT:** Gordon Cramer

**OTHERS PRESENT:** Norman and Irene Dworzack, ZEO Marv Zielonka

The meeting was called to order at 7:00 P.M. by Chairman Snyder followed by introductions of Board members, Secretary and ZEO.

**APPROVAL OF MINUTES:**

**MOTION** by Lee Ameis, seconded by Paul Sanders and carried three yes votes to one abstention, to accept the Minutes of March 18, 2013. Doug Eigenbrod abstained as he was not present at that meeting.

**AREA VARIANCE APPLICATION, SBL NO. 175.-1-14.11, SUBMITTED BY NORMAN DWORZACK, REQUESTING DIVISION OF PROPERTY WHICH DOES NOT LEAVE MINIMUM SIDELINE SETBACK REQUIREMENTS IN AN AG DISTRICT AT PROPERTY LOCATED AT 2423 GENESEE ROAD:**

The Chairman explained the variance process, that the Board had 60 days to render a decision after the Public Hearing is held and that there is no guarantee that the decision would be in the applicant's favor.

The Chairman read the application and the Criteria for Area Variance (see Attachment A).

In discussion:

1. In answer to questions No. 5, the applicant indicated that the problem is self-created. The ZEO stated that although a yes answer on a Use Variance would be a cause for denial as per NYS law, the Board has some discretion when dealing with an Area Variance.
2. The applicant stated he wishes to keep the barn as it is used for storage and he recently

spent considerable money in upgrades. His realtor does not feel he can obtain sufficient profit in selling it with the house and garage.

3. The Board explained to the applicant that if he is to divide the property as shown on the survey, the lot to the west would also be non-compliant as to the side-yard setback for the barn. Another Area Variance would have to be submitted for that lot. The Board also stated that they did not know if the Zoning Board of Appeals could create a lot that was not in compliance. The Chairman will research this.
4. The Board explained to the applicant that if this is allowable, he could not divide the lot created to the east from the main body of the remaining acreage to the west for the purpose of building a home in the future as an accessory structure (the barn) cannot be placed in front of a home. There is insufficient footage to place a home in front of the barn as well as insufficient lot width. Also, the lot would have to maintain a contiguous "U" shape with the remaining property that they are keeping to the east.
5. The well for the home the applicant wishes to sell is at the barn he wishes to keep. The Board stated that banks might not grant a mortgage to prospective buyers because of this. The applicant may have to drill a new well on the lot with the house. If so, would this expense be worth keeping the barn?

In further discussion:

1. The Board completed the Site Plan Checklist (see Attachment B).
2. The Board completed Part II of the SEQR form and determined this application to be a Type II Action, Section 617.5 (C) 12.
3. This application does not need to be forwarded to the Wyoming County Planning Board as Genesee Road is a Town road. The application will be forwarded to the Arcade Planning Board for recommendation and comment.
4. The applicant will obtain the necessary signatures of the residents within 500 feet of their property and submit them to the Town Clerk by November 29<sup>th</sup>. They will also submit a full survey of their entire property, as per Board request.
5. As the applicant will be out of town, they will have their son attend the next meeting and they will be available by telephone if there are any questions at that time.

**MOTION** by Doug Eigenbrod, seconded by Paul Sanders and unanimously carried to accept as complete Area Variance Application, SBL No. 175.-1-14.11, submitted by Norman Dworzack, requesting division of property which does not leave minimum sideline setback requirements in an Ag district at property located at 2423 Genesee Road. Further, the Board directed the Secretary to forward the application to the Arcade Planning Board for recommendation and comment and to publish a Public Hearing to be held on Monday, December 16, 2013 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

**IN OTHER BUSINESS:**

The Secretary distributed information to the Board regarding an informational session to be held regarding the new SEQR forms. She indicated that some members of the Planning Board will be attending if they wish to carpool.

**ADJOURNMENT:**

There being no further business brought before the Board, the meeting adjourned at 7:42 P.M. upon **motion** by Doug Eigenbrod, seconded by Lee Ameis and unanimously carried. The next regular meeting of the Zoning Board of Appeals of the Town and Village of Arcade will be held on Monday, December 16, 2013 at 7:00 P.M. in the Village Boardroom, 17 Church Street, Arcade, New York.

Respectfully submitted,

Holly L. Almeter  
Secretary

**Applicants' Name** Norman Dworzack

**Permit No.**

**Date** Nov. 18, 2013

**SBL No.** 175.-1-14.11

**ARCADE ZONING BOARD OF APPEALS**  
**VARIANCE APPROVAL CHECKLIST**

**FOR BOTH RESIDENTIAL AND COMMERCIAL PROPERTIES:**

- 1. Fees paid for Variance Application and Certificate of Zoning Compliance. Both applications completed, signed and submitted.
- 2. Criteria for Area or Use Variance form completed INCLUDING explanations. One word answers of "yes" or "no" are unacceptable.
- 3. Tax map identifying adjacent properties and usages. If applicable: Agricultural Data Statement and Flood Hazard Permit. Survey is sufficient
- 4. Property Survey prepared by a registered NY State surveyor.
- 5. Drawing of proposed construction. No construction
- 6. Boundaries of the property plotted to scale; location and dimensions of setbacks; exact size and location of all existing buildings/structures on property; location of proposed building on lot drawn to scale with all dimensions; north arrow.
- 7. Existing watercourse and bodies of water.
- 8. Type of construction materials; exterior dimensions of all buildings; architectural Design features. On survey
- 9. Description of the method of sewage disposal and location of the sewage disposal facilities. Existing, on survey
- 10. Identification and description of the method, location, design and source of securing Public or private potable water. On survey, existing well will not be on the lot where home is located.
- 11. Any easements and/or deed restrictions.
- 12. Identification of any State or County permits required for the project's execution.
- 13. Appropriate State Environmental Quality Review form (SEQR) completed (Short or (Long form). Short form – Type II Action, Section 617.5 (C) 12

Attachment A  
ZBA Nov. 18, 2013

Permit #  
SBL# 175-1-14,11

### Criteria for AREA VARIANCE

Please complete the following questions in as much detail as possible.  
**PLEASE PRINT** Continue answers on other side if necessary.

1. Is it possible to achieve your project by any other feasible means? Please explain.

There is no other feasible means. We want to sell the house, garage and 2 acres of land. The garage is just 19 feet from the barn that we do not wish to sell.

2. Will your project cause an undesirable change in the characteristic of the neighborhood or to nearby properties? Please explain.

No it will not.

3. Is this a substantial (major) project? Please explain.

No. The survey shows the property to be split equally between the garage and barn. We do not wish to sell the barn due to us have a lot of things we store in them and realtor said we would not get our money's worth selling it, new metal roof & doors we put on.

4. Will your project have any negative physical or environmental effects? Please explain.

No it will not.

5. Have you caused the problem that you are requesting to change? Please explain.

Yes because we wish to split the property to sell 2.125 acres of it which includes the house and garage but we do not wish to sell the barn due to use use it for storage.

Nam D. L.  
Signature of Applicant

10-29-13  
Date