

**TOWN OF BETHANY
ZONING BOARD OF APPEALS
29 AUGUST 2018
7:30 PM**

Meeting called to order by Chair Burke at 7:30 pm.

Board Members Present:

Nancy Burke, Chair
Janet Berkemeier
Patti Famiglietti
Josh Wells

Pam Sojda, Secretary
Mary Miller
George Larish

Town Officials Present:

Thomas Douglas, ZEO/CEO

David DiMatteo, Town Attorney

Attendees:

Gino Maniace
Susan Meyers

Lynn Maniace

Public Hearing – Area Variance SA18006 – Gino and Lynn Maniace – Opened at 7:30 pm

- The Maniaces are requesting an Area Variance on their property located at 10553 Bethany Center Road. The purpose of the variance would be to allow for the for the stabling of two horses in the residential zone and within 100 feet of the residential zone.

Public Hearing – Use Variance SA18005 – Gino and Lynn Maniace – Opened at 7:30 pm

- The Maniaces are requesting a Use Variance on their property located at 10553 Bethany Center Road. The purpose of the variance would be to allow for the construction of a lean-to for horses on an existing accessory structure allowing the horses to get out of the weather and for feeding.
- CEO Douglas explained Use Variance and that the burden of proof of need is on the applicant.
- Attorney DiMatteo explained Lead Agency and the role that the ZBA would play in that process.
- The applicants asked the Town Board to consider a zoning change twice. The Town Board voted not to consider the zoning change as it would be a substantial change to the neighborhood. The applicants wish to proceed with the variance.
- Lead Agency notices will be mailed to the effected parties by the Attorney's office. The agencies notified will have 30 days to respond from the date of the mailing.

- Manure affecting area wells should be considered. Also a back-flow preventer would be needed on the watering trough to prevent well contamination.
- The ZBA has 62 days from the closing of the public hearing to make their decision.
- The applicant wishes to construct a 50' x 12' lean-to on an existing 3 car garage. The existing accessory structure (3 car garage – 48' x 36') was constructed by the previous owner in 2008.
- Attorney DiMatteo reviewed all requirements for both Area and Use Variances.
- The applicant gave a history of his wife's condition.
- Emotional Support Animals rules only apply to the Fair Housing Act and to landlords, not town zoning.

**TOWN OF BETHANY
ZONING BOARD OF APPEALS
RESOLUTION**

Adopted: August 29, 2018

The Zoning Board of Appeals of the Town of Bethany met at a regular board meeting at the Town Offices of the Town of Bethany on the 29th day of August 2018, commencing at 7:30 p.m., at which time and place the following members were:

<u>Present:</u>	Chairman	Nancy Burke
	Member	Pamela Sojda
	Member	Janet Berkemeier
	Member	Mary Miller
	Member	Patricia Famiglietti
	Member	George Larish
	Member	Joshua Wells

Absent: _____

WHEREAS, all Board Members, having due notice of said meeting, and that pursuant to Article 7, §104 of the Public Officers Law, said meeting was open to the general public and due and proper notice of the time and place whereof was given as required by law; and

WHEREAS, the Zoning Board of Appeals has received a Use Variance application to construct a lean-to for horses on an existing accessory structure located at 10553 Bethany Center Road, East Bethany, New York in the residential zone; and

WHEREAS, the Zoning Board of Appeals of the Town of Bethany believes it is most appropriate for the Board to seek lead agency under State Environment Quality Review Law; and

WHEREAS, the proposed action is classified as an Unlisted Action under Section 617.4 of the New York State Environmental Quality Review Regulations, (6 NYCRR part 617); and

WHEREAS, pursuant to and in accordance with the provision of Section 617.6 (Initial Review of Actions and Establishing Lead Agency) of the New York State Environmental Quality Review Regulations, (6 NYCRR part 617) the Zoning Board of Appeals of the Town of Bethany declares its intention to seek lead agency status for purposes of SEQRA review and shall advise all other involved and/or interested agencies as follows:

1. Town of Bethany Town Board
2. Town of Bethany Planning Board
3. Genesee County Planning Board
4. Genesee County Agricultural Farmland Protection Board
5. New York State Department of Agriculture & Markets
6. Genesee County Health Department
7. New York State Department of Health – Environmental Health
8. New York State Department of Transportation (Route 20 proximity)

NOW ON MOTION OF Nancy Burke which has been duly seconded by Patricia Famiglietti, be it

RESOLVED, the Zoning Board of Appeals of the Town of Bethany will seek lead agency; and be it further

RESOLVED, by the Zoning Board of Appeals of the Town of Bethany that the Zoning Board of Appeals shall advise all other involved and/or interested agencies as follows:

1. Town of Bethany Town Board
2. Town of Bethany Planning Board
3. Genesee County Planning Board
4. Genesee County Agricultural Farmland Protection Board
5. New York State Department of Agriculture & Markets
6. Genesee County Department of Health
7. New York State Department of Health – Environmental Health
8. New York State Department of Transportation (proximity to Route 20)

Ayes: 6

Nays: 1

Quorum Present: Yes No

The Public Hearings for Area Variance SA18006 and Use Variance SA18005 are Adjourned until October 11, 2018 at 7:30 pm.

The meeting Adjourned at 9:30 pm on motion of Mary Miller, duly seconded by Nancy Burke.
Motion passed with all in favor.

Dated: September 10, 2018

Pamela Sojda, Secretary