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4988 Route 22, AMENIA, NY 12501  
TEL: 845-373-8860, x118 FAX: 845-373-9147

**TOWN OF AMENIA ZONING BOARD OF APPEALS**

Resolution # 5 for 2015

**Resolution Approving Area Variances Allowing the Expansion of a Single-Family Home  
Located at 426 Bog Hollow Road**

**July 20, 2015**

**WHEREAS**, Anthony Masina (the "Applicant") is the owner of a single-family home with an attached garage located at 426 Bog Hollow Road in the Town of Amenia, New York (the "Property"). Bog Hollow Road is also known as County Route 3; and

**WHEREAS**, the Property is predominately located in the Rural Agriculture (RA) Zoning District and located adjacent to NYS Freshwater Wetland AM-26 and within its 100' adjacent area buffer; and

**WHEREAS**, in May 2015, the Applicant requested a building permit from the Town of Amenia Building Inspector to build a 10'x 30' addition to his garage; and

**WHEREAS**, on May 29, 2015, the Town's Code Enforcement Officer determined that area variances were needed from the Town of Amenia Zoning Board of Appeals (the "ZBA") to allow the garage to encroach into the 30' side-yard, 60' front-yard and 50' rear-yard setback requirements contained in the Town's Zoning Code; and

**WHEREAS**, pursuant to Section 121-59(D)(1) of the Zoning Code, "the Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Official, to grant area variances from the area or dimensional requirements" of the Zoning Code; and

**WHEREAS**, the Applicant appealed the CEO's determination to the ZBA seeking area variances to allow the proposed garage to encroach into the required set-backs noted above (the "Project"); and

**WHEREAS**, the documents submitted by the Applicant consisted of, among other things: (1) an Area Variance Application; (2) a copy of the NYSDEC Freshwater Wetlands Permit authorizing the construction of the garage expansion in the buffer area of Freshwater

Wetland AM-26; (3) a site survey; and (4) the requisite filing fee (collectively the "Application"); and

**WHEREAS**, the ZBA determined that the Project is a Type II action under the State Environmental Quality Review Act ("SEQRA") and therefore not subject to environmental review because it involves an application for area variances related to a single-family residence; and

**WHEREAS**, on July 6, 2015, the ZBA deemed the variance application to be complete for purposes of referring the Application to the Dutchess County Department of Planning and Development ("County Planning Department") as required by Section 239-m of the NYS General Municipal Law, respectively, and thereafter caused the necessary referrals to be made to the County Planning Department; and

**WHEREAS**, the County Planning Department responded to the referral by issuing a report dated July 10, 2015 providing the matter is of local concern; and

**WHEREAS**, the ZBA, with the assistance of its consultants engaged in a detailed review of the Application; and

**WHEREAS**, on July 20, 2015, a properly noticed public hearing was held to gather comments on the Project and the ZBA considered the verbal and written comments submitted by the public, if any. The hearing was closed the same day; and

**WHEREAS**, in accordance with Section 121-59(D) of the Zoning Code, the ZBA has considered the benefit to the Applicant if the variances are granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the reasons set forth in the attached findings, the ZBA has determined that the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community; and

**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. The ZBA hereby grants the area variances for the garage expansion as follows:

- Side yard variance of 23'
- Rear yard variance of 22.3'
- Front yard variance of 31.9'

2. Before issuance of a building permit for the Project, the Applicant shall pay the outstanding fees for the ZBA's consultants incurred in connection with reviewing and processing this Application; and

3. As required by law, the ZBA issues the findings attached hereto to demonstrate how the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community; and

4. As required by Section 121-59(I) of the Zoning Code, a copy of this resolution shall be filed in the Town's Clerk's office and mailed to the Applicant within five business days after this resolution is adopted.

The foregoing resolution was voted upon with all members of the ZBA voting and signing as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>	<u>Signature</u>
Jeff Barnett-Winsby, Chairman	✓	_____	_____	_____	<i>Jeff Barnett-Winsby</i>
Terry Metcalfe	✓	_____	_____	_____	<i>Terry Metcalfe</i>
Paula Pelosi	✓	_____	_____	_____	<i>Paula Pelosi</i>
Dave Menegat	✓	_____	_____	_____	<i>Dave Menegat</i>
Kevin Cassone	✓	_____	_____	_____	<i>Kevin Cassone</i>

Dated: July 20, 2015  
 Amenia, New York

*Jeff Barnett-Winsby* @  
 Jeff Barnett-Winsby, Chairman  
 Town of Amenia Zoning Board of Appeals

## FINDINGS IN SUPPORT OF VARIANCE APPROVAL

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the ZBA considered 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 of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. The residential lot has an existing garage attached to the house and it is merely being expanded to allow for additional space.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

The garage will benefit the applicant, however, there is no other method to expand or locate the garage elsewhere on the Property due to environmental constraints (wetlands).

(c) Whether the requested area variance is substantial;

The area variance is not substantial. The garage will encroach on the rear-yard setback by 4 feet, the side-yard setback by 21 feet, and the front-yard setback by seven feet.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The area variance for the garage will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. As mentioned above, the house is located in a residential district and already has an existing garage. Moreover, the Applicant received a NYSDEC Freshwater Wetlands permit for minor disturbances to the wetland buffer allowing the construction of the garage expansion. Moreover, there are no adjacent or neighboring houses located next to the garage. As a result, no impacts will occur to neighboring properties.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The alleged difficulty is self-created but does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.