

ZBA

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drain in his direction. Mr. Colf said he provided a letter from the Comella's stating they have no objection to his plans. Mr. Michalak asked if there is any way to move the garage over. Mr. Colf said no because his well is there and the driveway would be on it if it was moved. Mr. Lawson said if the foundation is on the property line there will be at least a 1' overhang onto the neighboring property. Mr. Thomas said it would be good if the foundation was at least 2' off the property line and the overhang should be no more than 1'. Mr. Colf agreed to move the building foundation back to 2' from the property line. Mr. Lawson said a variance is also needed for the road side setback. The ZBA requested that the building be no less than 30' from the road side. Mr. Michalak asked if anyone wished to speak regarding the application. Mr. Barton read into the record Town Law Section 267 b.; Area Variances 1. – 5. Responses to the questions were as follows: 1) no 2) no 3) yes 4) no 5) yes.

Mr. Michalak motioned to grant Area Variances to Jerry & Mary Colf to construct a detached 16'x28' garage at property located at 3588 Watson Rd., Specifically Section 332.16-1-36, with the following conditions:

- **Setback from Watson Rd. be no less than 30'**
- **Foundation to be at least 2' from the south property line and the overhang not to exceed more than 1'**
- **No habitable space to be created**
- **Height not to exceed 18' and gutters used to control runoff**

Mrs. Emick seconded. Aye (5); Emick, Thomas, Michalak, Silzle, Barton. No (0). CARRIED.

3. Marya Johnson requesting a Special Permit and an Area Variance to construct a 6' fence high fence closer to the road side setback than allowed at property located at 6335 Magnolia-Stedman Rd., Mayville, NY, 14757, Specifically Section 314.00-2-11 (Old # 2-1-24).

Ms. Johnson said she owns the Stedman Corners Cafe and would like to put in a 6' fence where the front porch ends to create an outdoor seating area for the restaurant. Ms. Johnson said they and the neighbor have always assumed the property line is the ditch that runs beside the building. She said the edge of the road to where the fence will be located is 20' and from the center of the road to the fence is 32'. Mr. Lawson said zoning states that fences shall be set back a minimum of 10' from the edge of the road and not to be located within the legal roads ROW. Mr. Lawson said it is undetermined, but his best guess is if it is back by the well cap as the applicant states, then it is not within the road ROW. He said he believes a portion of the existing porch is in the road ROW. Mr. Lawson said that they must follow the letter of NYS code as to distance to the road ROW and that would be determined by the county as it is a county road. There was discussion of the current deck which is estimated to be 20' x 40' in size. Mr. Michalak asked if there were any questions regarding the application. Mr. Barton read into the record Town Law Section 267 b.; Area Variances 1. – 5. Responses to the questions were as follows: 1) no 2) no 3) yes 4) no 5) yes.

Mr. Michalak motioned to grant a Special Permit and an Area Variance to Marya Johnson to construct a 6' fence high fence closer to the road side setback than allowed at property located at 6335 Magnolia-Stedman Rd., Mayville, NY, 14757, Specifically Section 314.00-2-11 (Old # 2-1-24) with the following conditions:

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- **Fence must be in compliance with Zoning Sec. 618**
- **Fence must be a minimum of 2' from the property line with finished side to the neighbor/road**
- **Fence shall be set back no less than 10' from the road edge and not located in the highway ROW as determined by Chautauqua County**

Mr. Silzle seconded. Aye (5); Emick, Thomas, Michalak, Silzle, Barton. No (0). CARRIED.

The hearing was adjourned at 8:55 PM.

Nancy Thomas
Town Clerk