

ZONING BOARD OF APPEALS

The hearing on Tuesday August 18th, 2020 was called to order by Chairman Trzepacz at 7:00pm.

Members present: Ron Carey  
 John Johnston  
 Greg Kalinowski  
 Harry Kwiek  
 Don Trzepacz, Chairman

Also: Ray Balcerzak, Bldg Inspector  
 Phyllis Todoro, Town Atty.  
 Robert Schaefer

Appeals Case #1373 For Michael and Cindy Mehs of 93 Bartlett Road, East Aurora, NY who are requesting a variance to build a front porch with less than the required front yard setback §144-99 C4, Residential C.

Mr. Mehs was present and explained how the porch was built during covid. Mr. Trzepacz asked when they started the porch and when they came into the town hall and the reply was May. Mr. Trzepacz asked how close and was informed it is 7 feet closer to the road.

Mr. Carey asked when they came and was told it was at the beginning of covid and that their emails did not go through. The Amish were supposed to build the porch but could not, so he kept building.

Mr. Kalinowski asked how long they have lived in town and it is 1 ½ years. Mr. Mehs stated that they did take pictures of the holes and the depth. Mr. Trzepacz asked if they left messages with the building dept. and they did but they never received a call back.

Mr. Kalinowski stated he had no problem with what was done but the way it was done and that his history shows that he has done the right thing in the past.

No one spoke out for or against the project.

Mr. Mehs wife did not have the first email but had the second one that was sent to the building department.

Mr. Carey stated the variance is for a 7-foot variance and that it should be 50 feet but instead will be 43 feet.

Mr. Carey made the motion to approve appeals case #1373 For Michael and Cindy Mehs of 93 Bartlett Road, East Aurora, NY who are requesting a variance to build a front porch with less than the required front yard setback §144-99 C4, Residential C noting the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created in this case.

2<sup>nd</sup> by Mr. Kalinowski All-Yes

Appeals Case #1375 for David Melton of 1521 Porterville Road, East Aurora, NY who is requesting a variance to a build a two-story garage apartment §144-58A (1), §144-99A and §144-99C (4) sideline, Residential C.

The applicant was not present, Mr. Trzepacz said that the board will go with original plans submitted.

Mr. Kwiek made the motion to deny Appeals Case #1375 for David Melton of 1521 Porterville Road, East Aurora, NY who is requesting a variance to build a two-story garage apartment §144-58A(1), §144-99A and §144-99C(4) sideline, Residential C noting the following criteria:

- 1) An undesirable change would be known.
- 2) The benefit could be achieved another way.
- 3) The request is substantial.
- 4) The request would have an adverse physical or environmental effect.
- 5) The alleged difficulty is self-created in this case.

2<sup>nd</sup> by Mr. Kalinowski All-Yes

Appeals Case 1379 for Philip Kardas of 781 Jamison Road, Elma, NY who is requesting a variance for a 24x26 garage with less than the required side yard setback §144-99 C6, Residential C.

Mr. Kardas was present and explained that the builder was going to take care of the permits. Mr. Trzepacz asked if it is on footings and the reply was that it is anchored into the ground. The garage was put up without a permit and Mr. Trzepacz explained the code.

Mr. Carey asked when the garage was ordered, and Mr. Kardas replied at the beginning of COVID. Mr. Carey asked if he asked if a permit was present and the answer was no. Mr. Carey asked what was to the left and was told the septic was on that side.

Mr. Trzepacz asked if it is an existing septic system and was told that it is. Mr. Kardas commented that the garage is built on a floor with bolts and he is not sure if it can be moved. Mr. Trzepacz gave him a few choices

No one spoke for or against the variance.

Mr. Carey made a motion to approve Appeals Case 1379 for Philip Kardas of 781 Jamison Road, Elma, NY who is requesting a variance for a 24x26 garage with less than the required side yard setback §144-99 C6, Residential C noting the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created in this case.

2<sup>nd</sup> Mr. Johnston Yes-3 No-Mr. Kalinowski, Mr. Kwiek. Consideration of penalty 52.9

Appeals Case #1380 for James Wackowski and Amanda Walter of 3151 Bullis Road, Elma NY who are requesting a variance to build a pole barn with less than the required front yard setback §144-99 C4, Residential C.

Both were present and explained how Mr. Balcerzak came over to assist with putting up the pole barn and looking at the property.

Mr. Trzepacz asked about the driveway and how close they are to the bank ledge and about an easement. Mr. Wackowski gave Mr. Trzepacz a letter from the County and Mr. Trzepacz summarized the letter from the county giving them approved to build there.

The pole barn cannot be moved in line with the shed due to the terrain. Mr. Kwiek asked how close to the bank ledge the pole barn would be and it is close.

No one spoke in favor or against the variance.

Mr. Kwiek made the motion to approve Appeals Case #1380 for James Wackowski and Amanda Walter of 3151 Bullis Road, Elma NY who are requesting a variance to build a pole barn with less than the required front yard setback §144-99 C4, Residential C noting the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created in this case.

2<sup>nd</sup> Mr. Kalinowski Yes- All

Appeals Case #1381 for James and Ellen Vesper of 2270 Jamison Road, Elma, NY who are requesting a variance to build an addition on the house with less than the required front yard setback §144-99 C4, Residential C.

Both were present and explained how the addition would be 13x23 and 41 feet back. Mr. Trzepacz stated that no matter what is done they would need a variance.

Mr. Kalinowski asked what the other grey area is on the drawings and was informed that it is another project later that will be done. Mr. Kwiek asked if they are new owners and the reply was since March of this year.

No one spoke for or against the variance.

Mr. Kalinowski made the motion to approve Appeals Case #1381 for James and Ellen Vesper of 2270 Jamison Road, Elma, NY who are requesting a variance to build an addition on the house with less than the required front yard setback §144-99 C4, Residential C noting the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created in this case.

2<sup>nd</sup> Mr. Kwiek Yes-All

Appeals Case #1382 for Thomas and Frances Banas of 1181 Girdle Road, Elma NY who are requesting a variance to split the property at 181 Girdle Road and create two non-conforming lots §100-3, Residential C.

Ralph Lorigo is the Attorney representing the Banas's and was present. Mr. Lorigo cited several codes from the town's code book §144-99; §144-32 corner lot could confirm and §100-3 lots beyond the split rule and 11-15 NY subdivision law.

Mr. Trzepacz asked if the town can make the state law more restrictive and it can.

Mr. Lorigo said the Banas's would like to sell their existing house to their son and build a smaller house for themselves. Mr. Trzepacz asked how close it is to the corner and the light. Mr. Lorigo said it is not going to be closer to the corner.

189 feet frontage on the original house, 305 x 225 for the new house would be the size of the lot.

Mr. Carey asked if there are sketches of the layout of the house and Mr. Lorigo did not have any but stated that it would be closer to the son's house. Mr. Carey asked if an in-law apartment has been considered and it has not.

Mr. Kwiek asked if they knew it was one lot and yes that in 2006 a neighbor received a variance for the exact same thing. Mr. Banas mentioned the flooding has been addressed at both corners. Building Inspector Balcerzak spoke about the center of the road.

There is a 75-foot minimum set back from the centerline. Mr. Lorigo said they could meet all the criteria.

Mr. Trzepacz asked if the town attorney agrees with the lots beyond the four split rule. Mr. Kalinowski stated the only change from the past three times the Banas's were before the board for a variance is that this time, Mr. Lorigo is present to represent the Banas's.

Mr. Trzepacz asked about the drawings of the new house and its location and Mr. Kalinowski commented that it would have been helpful having a drawing.

Mr. Lorigo said he would be willing to be postpone and come back.

Mr. Carey said to expand on the fifth lot and a brief description of what is looking to be done. Mr. Kwiek stated section was reviewed from the code book.

In Favor: Donna 1021 Girdle Road  
 Anthony Salvo 1190 Girdle Road  
 John Miller 1199 Girdle Road  
 Kathy Millens 83 Hickory Hill  
 Letter from Chad Barry

Against: Mary Alice Kraft

Mr. Kalinowski made the motion for a continuance for additional information that should be submitted 10 days before meeting of September 8<sup>th</sup>.

2<sup>nd</sup> Mr. Carey All-Yes

Appeals Case #1383 for Moog Employees Federal Credit Union of 7181 Seneca Street Elma, NY who are requesting a variance to install eight parking lots signs §144-102.1 B(e), Industrial.

Mr. Trzepacz asked which signs they are looking to install. The signs will help the senior crowd with direction of where to go.

Mr. Johnston made the motion to approve Appeals Case #1383 for Moog Employees Federal Credit Union of 7181 Seneca Street Elma, NY who are requesting a variance to install eight parking lots signs §144-102.1 B(e), Industrial. noting the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created in this case.

2<sup>nd</sup> Mr. Kwiek All-Yes

Motion was made by Mr. Kalinowski and seconded by Mr. Carey to approve the July 21<sup>st</sup>, 2020 minutes. Ayes:5

The meeting was adjourned at 8:36PM. Motion made by Mr. Johnston seconded by Mr. Kwiek. Ayes: 5

Respectfully submitted,



Kerry A. Galuski  
 Secretary-Clerk