

## ZONING BOARD OF APPEALS

The hearing on Tuesday, March 8, 2022, was called to order by Chairman Kalinowski at 7:00pm.

Members present: Ron Carey

Shawn Pralow

Robert Schafer, Alternate

Gregory Kalinowski

John Johnston

Also: Ray Balcerzak, Bldg. Inspector

Phyllis Todoro, Town Atty.

Absent: Harry Kwiek

Appeals Case #1403 for JDCS Celebration, Inc./Niagara Produce of 3131 Transit Road, Elma, NY who is requesting a variance to install a new digital/LED sign § 144-102.1 A, B (1)b, e; § 144-102.1 H, I (2), (8), (9), C-3.

Attorney Ari Goldberg was present to represent Niagara Produce and asked the board if they received a copy of the email that was sent to the building department saying that Niagara Produce was in agreement with the 15 seconds for the guideline for the time that the sign could change.

Mr. Kalinowski stated the sign is 56 square feet and Attorney Goldberg confirmed the measurement. Mr. Kalinowski mentioned the other criteria on the guideline proposal to make sure everything would be followed. Mr. Pralow said he is comfortable with all the information and Mr. Johnston also agreed.

Mr. Schafer said he thought that 15 seconds was not acceptable and that it should be more. Attorney Goldberg asked the board if Niagara Produce would be receiving a copy of the stipulations that were agreed upon by both parties and was informed yes.

No one spoke for or against the variance request.

Mr. Pralow made the motion to approve the variance for Appeals Case #1403 for JDCS Celebration, Inc./Niagara Produce of 3131 Transit Road, Elma, NY who is requesting a variance to install a new digital/LED sign § 144-102.1 A, B (1)b, e; § 144-102.1 H, I (2), (8), (9), C-3 based on 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.

Seconded by Mr. Johnston. Ayes: 4. Nays: 1 (Mr. Schafer).

Appeals Case #1406 for Alvin Filonczuk of 35 Louise Drive, Cheektowaga, NY for vacant land on Knabb Road at Handy Road who is requesting a variance to sell the property as a buildable lot §144-99C (2) (3), Residential C.

Al Filonczuk was present and explained how his late uncle owned the property and that he was left the property after his uncle passed away. He mentioned that he can no longer continue to pay the taxes and was looking to see if the land couple be sold to build a house on. Mr. Filonczuk stated that his uncle bought the land from Leon Berner in 1959 and that the lot size is 125 by 200 feet. After his uncle was discharged from the service, he was 100% disabled and this put his plans for building on the property on hold.

Unfortunately building codes have changed through out the years and now you need 3,200 sq. feet for a buildable lot. Unfortunately, the uncle was unable to purchase any additional land.

Mr. Kalinowski mentioned he took a ride down that road to review the property in question, if the lot were buildable the house would be much closer to the road than the existing houses already on that road. Mr. Pralow asked about the easement and that Mr. Collins who is a current landowner was the only person offered the property. There are no notes in the file in the building department stating that the past building inspector said it was a buildable lot.

Mr. Pralow suggested maybe Mr. Filonczuk should contact Mr. Collins to see if they could produce an idea that would benefit both parties. Mr. Johnston asked who Mr. Collins is and he was informed that he is the owner of the surrounding properties. Mr. Schafer asked how long he has owned the property and he was told Leo (the uncle) owned the lot since 1959 and that he died in 1999. Mr. Schafer also stated that the depth must be 300 feet and that it is currently 200 feet.

No one spoke in favor of the variance, against the variance were:

Dennis Misechok	110 Handy Road
Lynn Brzykcy	21 Handy Road
Renee Engels	160 Handy Road

Mr. Johnston made the motion to deny the variance for Appeals Case #1406 for Alvin Filonczuk of 35 Louise Drive, Cheektowaga, NY for vacant land on Knabb Road at Handy Road who is requesting a variance to sell the property as a buildable lot §144-99C (2) (3), Residential C, based on 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.

Seconded by Mr. Schafer. Ayes: 5. Nays: 0.

Motion to accept the minutes from February 8, 2022, by Mr. Schafer. 2<sup>nd</sup> by Mr. Johnston. Ayes: all.

Motion to adjourn at 8:46 by Mr. Schafer seconded by Mr. Pralow.

Respectfully Submitted,

Kerry Galuski  
Zoning Board Secretary