

## ZONING BOARD OF APPEALS

The hearing on Tuesday, April 11, 2023, is called to order by Chairman Kalinowski at 7:00pm.

Members present: John Jimenez	Also: Phyllis Todoro, Town Atty
Jim Lembke	Ray Balczerak, Building
Ron Carey	
Greg Kalinowski	Absent: Harry Kwiek
Robert Schafer, Alternate	Shaun Pralow

Appeals Case #1435 for Todd Huber of 6091 Seneca Street, Elma, NY who is requesting an area variance to build a 58 x 40-foot building with less than the required side yard setback and height requirement §144-86.2 D and §144-86.2 C2, C-2 district.

Mr. Huber explained what he is looking to do to the board and why he needs the variance. Mr. Jimenez asked if it is 5 or 6 feet that it would be over the side yard setback. Mr. Carey asked Mr. Huber to look at the pictures that he submitted so that he could explain the location of the building he is looking to build. Mr. Carey also asked the purpose of the building and if it is just going to be for storage and the reply was that it would be for storage at the present time but may change later down the road.

Mr. Carey asked if it would be possible to move the building forward and Mr. Huber explained that with pulling a trailer in and backing it up it would be too tight of an area to get the truck in and out of. Mr. Kalinowski asked if the building will be used year-round use or if it is just for seasonal storage and the reply was that it is all year.

No one spoke in favor or against the variance.

Mr. Jimenez made the motion to approve Appeals Case #1435 for Todd Huber of 6091 Seneca Street, Elma, NY who is requesting an area variance to build a 58 x 40-foot building with less than the required side yard setback and height requirement §144-86.2 D and §144-86.2 C2, C-2 district, 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. Schafer. Ayes-5. Nays-0.

Appeals Case #1436 for Todd Huber for the property located at 7741 Clinton Street, Elma, NY who is requesting an area variance to create lots off a private driveway under the original split rule §144-99 C 1 & 2; §144-2B (lot width) and §100-2, Residential C.

Mr. Huber was present and explained how he and Mr. Salerno purchased the farm property and how they intended to divide the property. Mr. Carey asked if Mr. Huber knew that flag lots are no longer permitted in town. Mr. Huber did acknowledge that he does. Mr. Carey asked how the lots are not considered flag lots and Mr. Huber said they are not contiguous.

Mr. Jimenez asked about the four-split rule and Mr. Huber explained, from 1950, that if you have five acres then it does not go towards the four-split rule. Mr. Schafer mentioned Todd's statement about the 100 feet frontage for the properties and that it goes straight back for each lot. Mr. Huber's reply was that his is a rural type setting. Mr. Schafer asked about the road and who will maintain it during the winters. The response was that there would be a homeowner's association and that there would be two hydrants on the road.

Mr. Lembke stated he lives on Clinton Street and his home has a rural setting with trees in the back and that what is being proposed is like the street right next to the vacant land. Mr. Carey asked if it is not a flag lot would it then be considered a subdivision and the question was also asked to the town attorney and assistant building inspector. Ray, the assistant building inspector, said he would have to do additional research before he could give an answer. The town attorney said that a subdivision has more rules and guidelines.

Mr. Kalinowski asked what would keep the homeowners from creating their own driveway off Clinton Street. Mr. Kalinowski also asked Mr. Huber if he looked at the comprehensive plan to see if it would fit within the proposed plan.

No one spoke in favor of the variance.

Against the variance were the following:

Chad	7760 Clinton Street	
Jack Stewart	7501 Clinton Street	
Ryan	7721 Clinton Street	
Patricia	7721 Clinton Street	
Judith	7841 Clinton Street	
Dave	40 Deercrest	
Jeff	24 Deercrest	
Bridgette	48 Deercrest	
Nick	7770 Clinton Street	
Carmela	7760 Clinton Street	
Steven Rzasa	7701 Clinton Street	(letter written)
Bob Gross	11 Northrup Road	(letter written)

Mr. Lembke asked Mr. Huber if he had investigated the wetlands on the property.

Mr. Huber asked for a continuance from the board.

Mr. Jimenez made the motion for Appeals Case #1436 for Todd Huber for the property located at 7741 Clinton Street, Elma, NY who is requesting an area variance to create lots off a private driveway under the original split rule §144-99 C 1 & 2; §144-2B (lot width) and §100-2, Residential C that a continuance be granted. Seconded by Mr. Lembke. Ayes-4. Nays:1 (Mr. Carey).

Approval of the March 14, 2023,

Motion to adjourn at 9:05 by Mr. Lembke and seconded by Mr. Schafer.

Respectfully Submitted,

Kerry Galuski  
Zoning Board Secretary