

ZONING BOARD OF APPEALS

The hearing on Tuesday, July 14, 2020 was called to order by Chairman Trzepacz at 7:00pm.

Members present: John Johnston also: Ray Balcerzak, Bldg. Inspector
 Greg Kalinowski Phyllis Todoro, Town Atty.
 Harry Kwiek Robert Schafer
 Ron Carey
 Donald Trzepacz, Chairman Absent:

After Roll Call, the Clerk read the Notice for Appeals Case #1373 for Michael & 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.

The applicant was not present, so the case was given a continuance to the next month.

Mr. Carey made a motion for Appeals Case #1373 for Michael & 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, that the variance be given a continuance. Seconded by Mr. Kwiek. Ayes: 5 Nays: 0

Appeals Case #1374 for Fred Donato of 7607 Clinton Street, Elma, NY who is requesting a variance to build on a non-conforming lot located to the east of 7931 Clinton Street §144-131, §100-3 and §144-99 C2, Residential C.

Mr. Donato's son was present and spoke for the applicant, and Mr. Trzepacz explained that the case was in front of the zoning board 10 years ago. Mr. Trzepacz asked the Assistant Building Inspector Ray Balcerzak about the acres needed.

It was asked what type of home was going to be built on the property and the reply was a single-family home. Mr. Kalinowski said it does not meet the specs of the lot size required to build on the property. Mr. Trzepacz mentioned the issue would be the size and the four-split rule. Mr. Carey noted that he was not familiar with the case from 10 years ago.

No one spoke for the variance, against the variance was Tom Wagner of 8 Deercrest and Rob Kline of 7951 Clinton Street.

Mr. Kwiek made a motion for Appeals Case #1374 for Fred Donato of 7607 Clinton Street, Elma, NY who is requesting a variance to build on a non-conforming lot located to the east of 7931 Clinton Street §144-131, §100-3 and §144-99 C2, Residential C, that the variance be denied 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. Kalinowski Ayes: 4 Nays: 0. (Mr. Carey abstained)

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.

Mr. Melton was present and explained how his sister-in-law needs a place to live and he would like to build a garage apartment for her. Mr. Carey stated that the apartment would have to have 700 sq. ft. for the ground floor and if he could make the first floor a larger living area. Mr. Melton stated that the downstairs is the garage area and the laundry area.

Mr. Trzepakz explained that living space is the bedrooms and living room. Mr. Melton mentioned that he was looking to have a workshop area in the garage. Mr. Kalinowski stated that the second-floor living space is very small and that most of the building is for the shop and the garage. He suggested using graph paper for better measurements for the floor design and that Mr. Melton should see the building department for assistance.

Mr. Kwiek brought up the side property line and that the building needed to be 10 feet off the line and Mr. Melton said there was enough room. Mr. Balcerzak mentioned to the board that it would be a second residence on the property as well. Mr. Trzepakz suggested a mother in law apartment on the back portion of the house may be a better alternative.

No one spoke for the variance, against the variance was Rob Guard of 1501 Porterville Road.

Mr. Carey made a motion for 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, that the variance be given a continuance for Mr. Melton to come back with specific drawings and a floor plan of more than 700 sq. ft. on the first floor. Seconded by Mr. Kwiek. Ayes: 5 Nays: 0.

Appeals Case #1376 for Jeremy & Julie Erny of 990 Stolle Road, Elma, NY who are requesting a variance to build an addition with less than the required front yard setback §144-98 C4, Residential B.

Mr. & Mrs. Erny were present and explained how they wanted to add to the south side and rear of their house. Mr. Trzepakz stated that there are plans with one addition to the back of the property. Mr. Kalinowski asked for more of an explanation on what was looking to be done. The Erny's reply was that they wanted to build on the south side and have an entry way, half bath and new basement stairs and then on the second floor a master bath and closet. The addition would be no closer than the existing house to the front property line.

Mr. Kwiek mentioned the measurement is from the garage and where the 35 feet is measured from. Mr. Kalinowski asked when the house was bought, and the reply was 2011.

No one spoke for or against the variance.

Mr. Kwiek made a motion for Appeals Case #1376 for Jeremy & Julie Erny of 990 Stolle Road, Elma, NY who are requesting a variance to build an addition with less than the required front yard setback §144-98 C4, Residential B, that the variance be approved 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. Kalinowski Ayes: 5 Nays: 0.

Appeals Case #1377 Scott Gratien of 1999 Woodard Road, Elma, NY who requesting a variance to build a storage shed on the NE corner of the lot with less than the required side and rear setback §144-93.9 G (7) and (9), C-2.

Scott Gratien was present, Mr. Trzepacz asked if there is already a slab poured and was informed that it was a wooden form. Scott Gratien mentioned that his lawn sprinkler system was in the way.

Mr. Kalinowski asked about a hardship of moving a sprinkler and that maybe he could move the shed a little to the west. Mr. Gratien replied that the location is an unusable area in the back of the property.

Mr. Trzepacz stated that since it is a wood base that it could be moved without an issue and that the sprinkler system is a self-created issue.

Mr. Kwiek asked what is to the right of the property and was informed that it is a driveway for a flag lot. Mr. Trzepacz said that the shed could be moved to be 20 ft. and 10 ft. for both the side and rear setback. Mr. Trzepacz asked about the playground and how far off the line it is located. Mr. Trzepacz also asked if the structure is a garage in front of the shed and was informed that it is a wood shop.

Mr. Kalinowski asked if he is willing to move the shed for the code and the response was if the variance is turned down then he will have no choice.

For the variance was Aaron Huber of 2041 Woodard Road and against was Dan Biniasz of 2001 Woodard Rd.

Scott spoke about how he had a conversation with Dan and that the spot was prechosen. Everything was done in good faith.

Mr. Carey made a motion for Appeals Case #1377 Scott Gratien of 1999 Woodard Road, Elma, NY who requesting a variance to build a storage shed on the NE back corner of the lot with less than the required side and rear setback §144-93.9 G (7) and (9), C-2, that the variance be denied 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.
- 5) The request would have an adverse physical or environmental effect.
- 1) The alleged difficulty is self-created in this case.

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

Mr. Kalinowski stated that code 52.9 states that a person putting up a building is punishable according to the code and that due diligence should have been taken.

Appeals Case #1378 for Young Development of 2460 Bowen Road, Elma who is requesting a variance to replace an existing sign §144-93.9 G (7) & (9), C-2.

Joe Young was present to explain why they would like to do a different sign. Mr. Carey asked if the letters would be static and not flash, and the answer was yes.

Mr. Trzepacz asked if the sign would be the same size and the reply was yes. Mr. Johnston asked if the sign would be in the same spot and again the reply was yes.

Mr. Kwiek asked if the sign would be bright and Mr. Young replied yes so that it would be more visible, but it will not be too bright.

Mr. Kwiek made motion to approve Appeals Case #1378 for Young Development of 2460 Bowen Road, Elma who is requesting a variance to replace an existing sign §144-93.9 G (&) and (9), C-2, 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.

Seconded by Mr. Kalinowski. Mr. Trzepacz added to the motion as per the plans submitted. Ayes: 5 Nays: 0.

Mr. Trzepacz brought to the board's attention that the zoning bulletins from February and March are good reads.

Motion was made by Mr. Kalinowski and seconded by Mr. Johnston to approve the March 10, 2020 minutes. Ayes: 5

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

Respectfully submitted,

Kerry A. Galuski
Secretary-Clerk