



Appeals case #1328 for Leon Berner of 850 Maple Road, Elma NY who is requesting a variance to construct a greenhouse with less than the required front yard setback 144-99 C6, Residential C.

Leon Berner was present and explained in 2009 he was given a variance. The greenhouse will be where the old barn was located. The greenhouse will be flush with the front of the stand.

Mr. Trzepacz asked if it was going to be sticking out any further than the stand and was told it will be flush.

Mr. Kalinowski asked if it would be attached. Mr. Berner said yes it will be attached and will have doors and refrigeration.

No one spoke against the variance.

Mr. Kwiek made the motion for Appeals Case #1328 for Leon Berner of 850 Maple Road, Elma NY who is requesting a variance to construct a greenhouse with less than the required front yard setback 144-99 C6, Residential C, 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. Sobczak Ayes: 5 Nays: 0

Appeals Case # 1329 for Leon Berner for vacant land on Knabb Road, Elma, NY who is requesting a variance to approve a nonconforming lot on Knabb Road with the road frontage being less than required § 144-99 C(1), residential C.

Mr. Berner was present and stated he first lost an appeal in 2005 and then the laws changed.

Mr. Schafer mentioned it was the understanding that the lot had to be on the books in the Town Building Dept. to qualify as being a buildable lot. Mr. Schafer also stated there is not enough frontage on the property. Any lot now would be a non-conforming lot.

Mr. Berner said he has someone interested in the property and he could combine the property with another parcel next to it. Mr. Balcerzak brought up that the original layout shows his intention of dividing up his land. Town Attorney Phyllis Todoro stated the drawings show his intent to have all the parcels divided.

Mr. Sobczak asked if he owns the lot next to the parcel that he is requesting a variance for and the reply was that he does. Mr. Kalinowski asked if there is a hardship in having to combine the two parcels and was informed by Mr. Berner that if he had to combine the parcels he would.

Mr. Trzepacz asked about the surveys Mr. Balcerzak has from 2005, 2008 & 2009 and if it shows 7 lots and the reply was that it does show 7 lots.

No one spoke for the variance.

Against the variance was:

- 690 Knabb Road (James Voit)
- 740 Knabb Road (Jim Zawadzki)
- 731 Knabb Road (Edwin & Gayle Stenzel)
- 741 Knabb Road (Carol Stenzel)

Mr. Kalinowski asked about the one driveway for multiple lots and Mr. Berner replied that the driveway will be shared. Mr. Trzepacz explained how the code has changed over the years.

Ray Balcerzak and Phyllis Todoro brought up the fact that if lots 4 and 5 were merged it still would be a non-conforming lot and would have to come back in front of the zoning board. Town Attorney Phyllis Todoro told the board and Mr. Berner that she would like to review the deeds and the restrictions.

Mr. Kwiek made the motion for Appeals Case # 1329 for Leon Berner for vacant land on Knabb Road, Elma, NY who is requesting a variance to approve a nonconforming lot on Knabb Road with the road frontage being less than required § 144-99 C(1), residential C, that the variance be given a continuance. Seconded by Mr. Sobczak. Ayes: 5. Nays: 0.

The motion was made to approve the minutes from August 14, 2018 by Mr. Kwiek and seconded by Mr. Sobczak. Ayes: 5.

The meeting was adjourned at 8:17 PM. Motion made by Mr. Trzepacz and seconded by Mr. Kwiek. Ayes: 5.

Respectfully submitted,

Kerry A. Galuski  
Secretary-Clerk