

## ZONING BOARD OF APPEALS

The hearing on Tuesday, November 8, 2022, is called to order by Chairman Kwiek at 7:00pm.

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

Appeals Case #1426 for Clifford Merkle II of 2580 Bowen Road, Elma, NY who is requesting an area variance to create a buildable lot which is nonconforming §144-10 A & C; §144-97 C 1 & 3, Residential A.

Mr. Merkle was present and explain his request for a variance. Mr. Kwiek asked why he never did anything with the property for so many years and Mr. Merkle said his job kept him in and out of the area a lot.

Mr. Kwiek asked why he is here if he does not plan on building. Mr. Merkle's reply was if he has any problems financially, he would like to know that he can sell the land to someone to build a house on the property. Mr. Merkle has a letter from 30 years ago saying the lot was buildable but unfortunately, he cannot find the letter at this time.

Mr. Carey asked about the letter from Mr. Jennings stating as of the date of the letter. Mr. Carey referenced the map that was copied and outlined the property and the neighborhood. Mr. Carey asked if anything was done on the land, and Mr. Merkle replied that he did cut down trees and mowed the lot to look like a park and that he also cleared a path on the wooded lot.

Mr. Schafer mentioned the letter and what it says about clearing the lot and Mr. Merkle said he was just looking to keep the property up. Mr. Kalinowski mentioned the letter and again the cleaning up of the property and that it was not maintained. Mr. Merkle answered that he had an issue with his job and could not do anything at that time to clean the property.

No one spoke in favor of the variance. Against: Margaret Hopkins of 2570 Bowen and Randy Adams of 2590 Bowen

Mr. Schafer made the motion for a continuance for Appeals Case #1426 for Clifford Merkle II of 2580 Bowen Road, Elma, NY who is requesting an area variance to create a buildable lot which is nonconforming §144-10 A & C; §144-97 C 1 & 3, Residential A until a drainage study could be done on the area. Seconded by Mr. Johnston. Ayes: 5.

Appeals Case #1427 for John Phillians of 1801 Woodard Road, Elma, NY who is requesting an area variance to build an attached garage with less than the required side yard setback §144-98 C4, Residential B.

Mr. Phillians was present and explained that he would like to build a 40x60 garage with upstairs storage. Mr. Kwiek mentioned the garage is very large and Mr. Phillians replied that he is aware that there should be a 20-foot side yard setback and explained that there is a hill on the property, and it makes it very difficult to put the garage in any other area on the property.

Mr. Carey asked the gentleman to explain the drawing that he submitted and what each building is, and Mr. Phillians approached the board members and went over the layout of his property. Mr. Phillians mentioned that he spoke with one of the guys in the building department and was told it is 10 feet.

Mr. Carey asked if the garage could be made a little smaller and allow for less than the required side yard setback and the reply was that he would like to keep the garage close to the size he has chosen.

Mr. Kalinowski stated that the request that is being made is a concern with the size of the property and Mr. Phillians replied that he would only like to take a few trees on the property down.

Mr. Phillians had a conversation with his neighbor about what he is looking to do, and the neighbor had no issues. Mr. Kalinowski asked how long he has lived there and was told that he has lived there for 10 years. There would be heated floors and power in the garage.

No one spoke in favor of the variance. Against: Cynthia Ceier of 1791 Woodard

Mr. Kalinowski made the motion to deny Appeals Case #1427 for John Phillians of 1801 Woodard Road, Elma, NY who requesting an area variance to build an attached garage with less than the required side yard setback §144-98 C4, Residential B based on the following criteria:

- 1) An undesirable change would be known.
- 2) The benefit could be achieved another way by making the building a little smaller.
- 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 by the size of the building.

Seconded by Mr. Carey Ayes-5.

Motion to adjourn at 8:22 by Mr. Johnston and by Mr. Schafer.

Respectfully Submitted,

Kerry Galuski  
Zoning Board Secretary