

05/11/2010 Zoning Board Minutes

ZONING BOARD OF APPEALS

The hearing on Tuesday, May 11, 2010 was called to order by Chairman Trzepacz at 7:00 PM.

Members present: Alfred Harrington also: Ray Balcerzak, Asst Bldg Inspector
Harry Kaczmarek Phyllis Todoro, Town Attorney
Michael Komorek Greg Kalinowski, Alternate
Robert Schafer
Donald Trzepacz, Chairman

After Roll Call, the Town Attorney read the Notice of Public Hearing for Appeals Case #1170 for Frederick & Patricia Widmer, 440 Hilltop Dr, who are requesting a variance to build a 10'x16' shed 38' from the road for personal use only, no business use. Res. C. 144-99C (4); Appeals Case #1171 for William Beyer, 13237 Bullis Rd, Alden, who is requesting a variance for a flag lot between 531 and 563 North Star Rd for a 105' front setback for the construction of a single family home. 280-A Resolution Code b 6. (see also Appeals Case #1169); Appeals Case #1172 for Carl & Mylinda Plauman, 6480 Clinton St, who are requesting a variance to build a new house set further back on their property and temporarily residing in current house until new construction is completed. The existing house will be removed after new house is complete. Res. B. 144-51 A (1); Appeals Case #1051 for Connie Ulrich, 450 Northrup Rd, who was granted a previous variance, is requesting a one year extension of said variance; Late addition: Appeals Case #1173 for Bernard Gruzca, 31 Kettle Run, who is requesting a variance to place an in-ground pool on the side of the property which meets all Town setbacks. Res. B. 144-63.

In the matter of Appeals Case #1170 Fred Widmer stated he would like a variance to put up a 10'x16' shed 38' from the road. He has two (2) driveways with being a corner lot on Hilltop Drive and would like to place the shed 10' away from the house. It will be located near their garden and will have electric only. The shed will be vinyl sided with architectural shingles to match the house. There will be a couple of windows with

shudders and a door and will sit on 4x4 risers over stone. There is not enough room to put the shed on the other side of the driveway because of the septic system. No one spoke in favor of this project. Those against this project: David Groblewski, 210 Hilltop Drive and Bonnie Marzolf, 151 Hilltop Drive.

Mr. Kaczmarek made the motion: In Appeals Case #1170 for Frederick & Patricia Widmer, 440 Hilltop Dr, who are requesting a variance to build a 10'x16' shed 38' from the road for personal use only, no business use, I move the variance be granted per sketches submitted and provided all Elma Town Codes and Ordinances are met. Seconded by Mr. Harrington. Poll vote – 4 ayes. 1- No. Motion to approve carried. (Chairman Trzepacz voted no).

In the matter of Appeals Case #1171 Charlie Sauers and several residents from the area were present for the meeting. Mr. Sauers stated he attended the meeting last month in support of Mr. Beyers and is here again tonight to explain to the Board the reasons Star-Davis LLC purchased the property 9 years ago on N Star & N Davis Rds and their intentions of keeping the property green space. Mr. Beyer is under contract to buy a portion of the property to build a new house and the remainder of the property half is owned by the Sauers and the other half is owned by the Hewitts will remain green space. Wetland delineation was done on Mr. Beyer's intended portion of the property by Earth Dimensions this spring. It was originally thought that 1.4 acres was wetlands but after the delineation was done 2.44 acres of the 6.08 acres were designated wetlands. Mr. Beyer started the contract and survey process before the moratorium was put in place. Mr. Beyer has approval letters from the Army Corp of Engineers and the DEC and also received a letter from the Historical Society stating there are no Indian Artifacts on the property. There are two reasons for the variance: 1) financial reasons of having to move the house back further and 2) trying to build in an area where there is enough buffering between neighbors. The rest of neighbors would have 125' behind each of their homes. Another financial burden for Mr. Beyer is he may have to hire an engineering firm to design a specific septic system as per the Dept of Health. Another financial hardship is Mr. Beyer missed out on \$6500.00 tax credit due to delays. Those in favor of the project: Robert & Beverly Ferringer, 491 N Star Rd; George & Rachelle Adams, 441 N Star Rd; Janet Huffman, 471 N Star Rd; Ruth & George Miller, 461 N Star Rd and Greg Hewitt, 911 N Davis Rd. A letter was received in favor of the project from Paul Stolzenberg, 531 N Star Rd. Those against this project: Ernest Weber, 511 N Star Rd and Ron Stepowski, 521 N Star Rd.

Mr. Harrington made the motion: In Appeals Case #1171 for William Beyer, 13237 Bullis Rd, Alden, who is requesting a variance for a flag lot between 531 and 563 North Star Rd for a 105' front setback for the construction of a single family home, I move the variance be tabled. No one seconded the motion.

Mr. Harrington made the motion: In Appeals Case #1171 for William Beyer, 13237 Bullis Rd, Alden, who is requesting a variance for a flag lot between 531 and 563 North Star Rd for a 105' front setback for the construction of a single family home, I move the variance be granted, per sketches submitted and provided all Elma Town Codes and Ordinances are met. No one seconded the motion.

Mr. Komorek made the motion: In Appeals Case #1171 for William Beyer, 13237 Bullis Rd, Alden, who is requesting a variance for a flag lot between 531 and 563 North Star Rd for a 105' front setback for the construction of a single family home, I move the variance be denied based on the fact that hardship has not been proven. Seconded by Mr. Schafer. Poll vote – 3 ayes. 2 – noes. Motion to deny carried. (Mr. Harrington and Chairman Trzepacz voted no).

In the matter of Appeals Case #1172 Mylinda Plauman stated they currently reside in the house on their property on Clinton St since 2006. They would like to build the new house about 1000' back (current house sits 124' back). The variance request is to be able to live in the existing house until the new house is completed and then the existing house will be taken down. The frontage is 171.90'. Those in favor of this project: Mary Bennett, 6460 Clinton St. No one spoke against this project.

Mr. Harrington made the motion: In Appeals Case #1172 for Carl & Mylinda Plauman, 6480 Clinton St, who are requesting a variance to build a new house set back further on their property and temporarily residing in current house until new construction is completed. The existing house will be removed after new house is complete, I move the variance be granted, per sketches submitted and provided all Elma Town Codes and Ordinances are met. The variance will be granted for one (1) year. Seconded by Mr. Schafer. Poll vote – 5 ayes. Motion Carried.

In the matter of Appeals Case #1051 Connie Ulrich sent in a letter requesting her variance for a 560'x145' lot south of Northrup Rd be renewed for another year. There

have been no changes since the last variance was granted. No one spoke for or against this request.

Mr. Schafer made the motion: In Appeals Case #1051 for Connie Ulrich, 450 Northrup Rd, who was granted a previous variance, is requesting a one year extension of said variance, I move the one year request for the previous variance be granted for Appeals Case #1051. Seconded by Mr. Harrington. Poll vote – 5 ayes. Motion carried.

In the matter of Appeals Case #1173 Bernard Grucza stated he is looking for a variance to put a pool up on the side of his house because he has no back yard. There is a 12' retaining wall that runs the length of the lot. On the other side of the property is the entire septic system. The side is really the only location for the pool. There will be trees planted for privacy and to block it from the road. New York State codes require a fence to be built around the pool. The side setback is 67' from the road and 90' from the lot line. Those in favor of this project: Leonard Janiga, 11121 Jamison Rd. No one spoke against this project.

Mr. Schafer made the motion: In Appeals Case #1173 for Bernard Grucza, 31 Kettle Run, who is requesting a variance to place an in ground pool on the side of the property which still meets all Town setbacks, I move the variance be granted, per sketches submitted and provided all Elma Town Codes and Ordinances are met and provided the front of the pool will have privacy landscaping. Seconded by Mr. Harrington. Poll vote- 5 ayes. Motion carried.

The minutes of the last meeting of April 13, 2010 were approved as submitted.

There being no further business, the meeting was adjourned at 8:12PM.

Respectfully submitted from the notes of Town Attorney Phyllis Todoro,

Jennifer M. Ginter
Secretary-Clerk