

## **7/13/04 Zoning Board Minutes**

### ZONING BOARD OF APPEALS

The hearing on Tuesday, July 13, 2004 was called to order by Chairman Trzepacz at 8:00 PM.

Members present: Harry Kaczmarek Also: Tom Stynes, Asst Building Inspector  
Robert Schafer Robert Pierce, Town Attorney  
Donald Trzepacz, Chairman Jim Wyzykiewicz, Town Engineer

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #969 for Harold and Susan Collier, 7002 Davis Rd, who were granted a variance on May 11, 2004 for a 36G<sup>+</sup>x36G<sup>+</sup> horse barn for 500 Willardshire Rd request a change in the location of the horse barn because of poor drainage for personal use only, no business use. Res. C. 52-6. Appeals Case #973 for current property owner Lori Struck for potential purchasers JoAnn Johnson and Keith Gargiulo, 7470 Center Rd, who are requesting a variance for 801 Jamison Rd to operate a Horse Veterinary Facility for breeding and short term boarding and indoor riding area for horses being treated. Res.C/Ag. 144.58 A (3)/144.58 B, 144.71 A; Appeals Case #974, for Frank Abraszek, 5960 Seneca Street, who is requesting a variance for car sales because of loss of business and related income. This property is not in Special Commercial Zone. 60-7; Appeals Case #975, for Holt & Marietta Vaughn, 931 Transit Rd, who are requesting a variance to construct a 24G<sup>+</sup>x26G<sup>+</sup> garage for storage of lawn tractors and recreational vehicles. For personal use only, no business use. Res C. 52-6; Appeals Case #976, for James & Janis McLean, 100 S. Woodland Ridge, who are requesting a variance to convert a 24G<sup>+</sup>x40G<sup>+</sup> barn into a guest room. It is not intended to be another residence. For personal use only, no business use. Res. B. 144-51 A (1); Appeals Case #977, for Accredited Home Lenders, Inc, 15030 Avenue of Science, who are requesting a variance for 651 Rice Rd. Appellant acquired title by foreclosure and was unaware the lot is non-conforming. Res. C/Ag. 144-99 (C) (3) and (C) (4); 144-33, 144-11A, 144-31.

In the matter of Appeals Case #969, Harold and Susan Collier presented their case. Mr. Collier stated as of Friday, July 9, 2004 he and his wife were the new owners of 500 Willardshire Road. He apologized to the Board stating they were unaware the area selected for the horse barn was inappropriate because of drainage and asked the Board if

they would rescind the original variance granted (see the minutes of May 11, 2004) and approve their request to move the barn from the northwest corner of the property to the southwest corner which is a higher elevation. There are no changes in size or description of the original proposed barn. No one spoke for or against this project.

In the matter of Appeals Case #973, JoAnn Johnson and Keith Gargiulo presented their case.

Mr. Gargiulo stated he and his wife have provided equine services in and around the Elma area for the past 2 years. 80% of services is driving from farm to farm taking care of horses and 20% of services requires in house treatment. The closest Equine Facility is either in Rochester or Ithaca. Boarding at the facility will be horses being medically treated at that time. There will be no retail sale of prescription drugs or calling in for prescriptions (prescriptions will only be written for horses being treated at the facility at that present time), only patients (with appointments) and employees will be on premises and will be reverted to a back driveway. There may be 1- 4 horses seen/treated a day. Two (2) petitions of support for the facility were submitted from local horse farms and businesses in the area. The property already has pastures needed for recovery and breeding. The Green space will be preserved. Presently there is no indoor arena but they would eventually like to construct one.

Those in favor of the project:

Lori Struck, current owner of 801 Jamison Rd, spoke in favor of this project and feels this facility would be an asset to Elma.

Elizabeth Hackett of 1441 Bowen Road, spoke in favor of the equine facility stating she has a horse that needed medical attention and with no one local she had to drive faraway for treatment. She feels this clinic is needed in this area.

Ginny Wolski of 6501 Clinton Street supports the local clinic and says it is needed in this area and would be good for Elma.

Linda Wieland of 5880 Clinton Street has had horses for 45 years. She had a very sick horse and had to drive to Cornell which was a long difficult trip on the horse and herself. This clinic is needed in Elma and Erie County.

Fred Streif spoke on behalf of Valerie Berman of 381 Jamison Road who is in favor of the facility and its agricultural use.

Those against the project:

Victor Ball of 781 Jamison Road read a letter from the residents of 781 Jamison Road against the equine facility for the following reasons:

1. all signatures required have not been received

2. the proposed use is business and not appropriate use for the area
  3. increase in large truck traffic
  4. depreciation of their property because of the clinic
  5. disposal of medical waste
  6. Mr. Ball mistakenly signed the petition and sends a letter rescinding his signature
- No one else spoke for or against this project.

In the matter of Appeals Case #974, Frank Abraszek presented his case stating the property at 5960 Seneca Street, even though it is not in a Special Commercial Zone, has always had an auto related use and he would like a variance to place vehicles for sale out front of the property. He feels the sale of vehicles will help recover business and income loss. Currently, a Real Estate Company is at the front of the property and automotive service at the back of the property. No one spoke in favor of this project. Dave Applyby of 100 Streif Rd spoke against the sale of vehicles on this property. No one else spoke against this project.

In the matter of Appeals Case #975, Holt & Marietta Vaughn presented their case to construct a 24G<sup>+</sup>x26G<sup>+</sup> free standing garage to store a snowmobile, ATV, snowblower and lawn mowing equipment for personal use. The structure will be approximately 25G<sup>+</sup> from the house with white vinyl siding to match the house. The garage door and man door will face front. Electricity will be added for lights. No one spoke for or against this project.

In the matter of Appeals Case #976, Janis McLean presented her case to convert a 24G<sup>+</sup>x40G<sup>+</sup> barn into a guestroom, to include a small kitchenette, bathroom and exercise equipment. The structure looks like a barn and will remain separate from main residence. The septic system will be connected to the main septic system. A letter was submitted from Delo Drain & Septic Service on the good condition of the McLeanG<sup>+</sup>s septic system. The guestroom will remain one (1) floor, has all facilities and is currently livable. Sal Valvo of 101 Woodland Ridge spoke on behalf of the guestroom, stating he spoke with the 6 other residents on the street, also approving this project. The neighbors feel the look of the barn enhances the look of the neighborhood. Rick & Kim Brooks of 110 Woodland Ridge are the neighbors to the west of the McLeanG<sup>+</sup>s and spoke in favor of the guestroom. No one spoke against this project.

In the matter of Appeals Case #977, Attorney Peter Elliott representing Accredited Home

Lenders Inc who acquired property at 651 Rice Road through foreclosure presented this case. Mr. Elliott has requested a variance to correct the non-conformities of the lot making it more marketable.

Mr. Elliott went on to explain the plans for restructuring the property and new surveys needing to be done. No one spoke for or against this project.

Mr. Schafer made the motion: In Appeals Case # 969 for Harold & Susan Collier, 7002 Davis Rd, who were granted a variance on May 11, 2004 for a 36G<sup>+</sup>x36G<sup>+</sup> horse barn for 500 Willardshire Rd request a change in location of the horse barn because of poor drainage 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. Kaczmarek. Poll vote G<sup>+</sup>( 3 ayes. Carried.

Mr. Schafer made the motion: In Appeals Case #973 for current property owner Lori Struck, for potential purchasers JoAnn Johnson and Keith Gargiulo, 7470 Center Road, who are requesting a variance for 801 Jamison Road to operate a Horse Veterinary Facility for breeding and short-term boarding of horses and indoor riding area for horses being treated, I move the variance be granted, per sketches and information submitted and provided all Elma Town codes and ordinances are met. In addition the matter is referred to the Planning Board for parking issues and Site Plan approval and there shall be no sale of prescriptions other than for horses being treated at this facility at the time of treatment. Seconded by Mr. Kaczmarek. Poll vote- 3 ayes. Carried.

Mr. Schafer made the motion: In Appeals Case #974 for Frank Abraszek, 5960 Seneca Street, who is requesting a variance for car sales because of loss of business and related income, I move the variance be denied. This property is not in Special Commercial Zone. Seconded by Mr. Kaczmarek. Poll vote G<sup>+</sup>( 3 ayes. Carried.

Mr. Kaczmarek made the motion: In Appeals Case #975 for Holt & Marietta Vaughn, 931 Transit Rd, who are requesting a variance to construct a 24G<sup>+</sup>x26G<sup>+</sup> garage for storage of lawn tractors and recreational vehicles, 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. Schafer. Poll vote G<sup>+</sup>( 3 ayes. Carried.

Mr. Kaczmarek made the motion: In Appeals Case #976 for James & Janis McLean, 100 S Woodland Ridge, who are requesting a variance to convert a 24G<sup>+</sup>x40G<sup>+</sup> barn into a

guestroom, for personal use only, no business use, I move the variance be granted, per sketches submitted, and provided all Elma Town, County and State codes and ordinances are met. Seconded by Mr. Schafer. Poll vote- 3 ayes. Carried. Mr. Kaczmarek made the motion to include with the original motion: on the condition the guestroom is not used as income or business use. Seconded by Mr. Schafer. Poll vote G|( 3 ayes. Carried.

Mr. Kaczmarek made the motion: In Appeals Case #977 for Accredited Home Lenders Inc, 15030 Avenue of Science, who are requesting a variance for 651 Rice Rd, I move the variance be denied. Poll vote G|( 3 ayes. Carried.

Correspondence was received regarding a Planning & Zoning Conference in Lake Placid, NY on September 19-22, 2004. A letter will be sent to the Town Board requesting a member of the Zoning Board to attend.

The minutes of the last meeting (June 8, 2004) were approved as submitted.

There being no further business, the meeting was adjourned at 9:37PM.

Respectfully submitted,

Jennifer M. Ginter  
Secretary-Clerk