

ZONING BOARD OF APPEALS

The hearing on Tuesday, May 14, 2013 was called to order by Chairman Schafer at 7:00 PM.

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

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case # 1220 for Charles and Lynda Keipper, 198 Majorie Drive, Kenmore, who is requesting a variance for the property at 311 Chairfactory Road, Elma for a nonconforming lot lacking proper lot depth and lot square footage § 144-97 C2 & C3, residential A.

Mr. & Mrs. Keipper were present to present their case. Frank Abraszak was also present for the case and actually applied for the variance due to the fact that he is purchasing the land from the Keipper's. Mr. Abraszak explained that the lot size is short footage and that there is a revine running through the property.

Mr. Abraszak also brought his architect with him to explain what he will be trying to do with the land. Mr. Keipper explained that he has a letter that a variance was granted in 1985 when he bought the property from the previous owner. There was a second letter for the Zoning Board denying a variance in 1997.

Mr. Abraszak's architect asked the board that when a variance is granted that the variance is only good for one year from the date of the issuance. The Zoning Board agreed with the one year to exercise the variance. Chairman Schafer stated that the second letter that was issued by the Zoning Board back in 1997 would over ride the initial letter issued in 1985.

Mr. Trzepacz asked Mrs. Keipper to see the original letter granting the variance back in 1985. Mr. Kalinowski brought up the fact that the original letter was granted to the previous owner of the land. The Keipper's informed the board that they were told that the variance would transfer to them when they purchased the property from the original owner and that there was no limit on time for the variance. Mr. Kalinowski made the Keipper's aware that if they would have acted on the original letter in 1985 when they first purchased the property there would not have been any issues.

Mr. Trzepacz informed the Keipper's and Mr. Abraszak that the Zoning laws have changed from 1985 to 1997. Mr. Abraszak's architect informed the board that the second survey that shows the revine had been modified by Mr. Abraszak to show what his intension are if he is granted a variance on the property. It was explained that Mr. Abraszak does understand that he has a lot of steps to go through to be able to build on the property in question even if the variance is granted.

Mr. Kalinowski stated that the original survey was from 1988 and that he did some research in East Aurora to show that the property is measured differently now. He suggested that a new survey be taken and submitted if the case is given a continuance. Mr. Trzepacz asked if the variance is granted then what happens if they still can not build on the property. Mr. Abraszak said he understands that he has more people to meet with regarding the property in question and if he is told that the property is not able to be built on then he will not be purchasing the property.

Mr. Komorek excused himself from the case due to the fact that he has had dealings with Mr. Keipper in the past. Mr. Kalinowski stated that the pond is owned by a different party. Mr. Trzepacz suggested that maybe Mr. Abraszak should have started with the DEC and other department before he came to the Zoning Board for the variance.

The Town Attorney Phyllis Todoro advised that the Zoning Board is here to just advise on the nonconforming lot and the square footage. Chairman Schafer advised Mr. Abraszak and the Keipper's of what he thinks should be done. Mr. Trzepacz also informed Mr. Abraszak that the back of the application was missing information. Mr. Kalinowski made the parties aware that the Zoning Board is just giving a variance on the nonconforming lot and that there would still need to be approval from the DEC and other departments in order for the property to be built on.

No one spoke for the case. Speaking against the case were the following:
Jonathan Wier - 270 Chairfactory
Mike Lischer - 263 Chairfactory

Mr. Trzepacz made the motion that the variance be denied based on the information submitted. Seconded by Mr. Kaczmarek. Poll vote – 5 ayes, 0 nays. Motion carried.

The minutes of the last meeting on April 9, 2013 were approved. Motion made by Mr. Trzepacz and seconded by Mr. Kalinowski.

Mr. Kaczmarek made the motion to adjourn and Mr. Schafer seconded the motion.

The meeting was adjourned at 7:36 PM.

Respectfully submitted,

Kerry A. Galuski
Secretary-Clerk