

ZONING BOARD OF APPEALS

The hearing on Tuesday, October 14, 2014 was called to order by Chairman Schafer at 7:00 PM.

Members present:	Harry Kaczmarek Greg Kalinowski Michael Komorek Donald Trzepacz Robert Schafer, Chairman	also:	Ray Balcerzak, Bldg Inspector Phyllis Todoror, Town Attorney Harry Kwiek
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After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1240 for Patrick Hanley Jr., 54 Savage Place, East Aurora, who is requesting a variance to approve a nonconforming lot with less than the 100 feet required § 144-99 C(1), residential C.

Mr. Hanley was present to explain his case and also present was Mr. Gauthier who he purchased the property from. Mr. Hanley closed on the property in December 2013. Mr. Kalinowski asked if the survey was from the current closing and was informed that it was. Mr. Trzepacz asked about the entrance to the flag lot and Mr. Hanley showed the driveway that would be his. Mr. Kalinowski also asked what the value of the investment is to date and was advised that Mr. Hanley has an additional \$5,000 invested on top of the price for the land of \$69,500. Mr. Kalinowski also asked if the property is now in Mr. Hanley's name and was told that is currently.

For the variance was James Reger who resides on the east side of the property. No one spoke against the variance.

Mr. Trzepacz made the motion to approve the variance based on the following criteria:

1. that there will be no undesirable change to the character of the neighborhood or property.
2. that there is a benefit to the addition.
3. that there is no negative impact in granting the variance.
4. that there is no physical impact on the environmental conditions in the neighborhood.
5. that the situation is not self created.

and be it that all Town of Elma codes and ordinances are met. Seconded by Mr. Kaczmarek. Poll vote – 5 ayes. Motion carried.

Appeals Case #1241 for Michael Campanella, 211 Chairfactory Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 125 feet required § 144-97 C(1), residential A.

Mr. Campanella was present and explained how he and his wife inherited the land from her Aunt who passed away. Mr. Campanella had previously spoke to the Building Dept. regarding what would need to be done to build on the property. There are two lots with frontage of 35 feet a piece. Mr. Schafer stated that he understands that there could have been two lots but once the guidelines went away the process starts from the beginning. Mr. Trzepacz stated that in the beginning when Mr. Campanella was looking into building on the land that he did not have to get permission.

Mr. Komorek told Mr. Campanella that it is not clear as to what he is asking for when he submitted his application for the variance. Mr. Kalinowski asked what has prolonged the building on the property and if there is anything in writing between the resident and the Building Inspector. The only thing Mr. Campanella said existed was a sticky note on one of the drawings but there is no date acknowledging when it took place.

Mr. Campanella asked if he could amend his application during the meeting and Phyllis Todoror, the Town Attorney advised that it is on records and could be amended. Mr. Trzepacz explained what the result was with doing away with the resolution. Mr. Komorek stated that it was written in the file that a new survey would be needed. Mr. Trzepacz asked what would happen with the other 35 feet if Mr. Campanella was not going to use it for an additional flag lot and Mr. Campanella told the board that he would help his neighbor out and sell him the property.

Mr. Kalinowski had Mr. Campanella point out on the drawing what he would like to do. Attorney Todoror asked if he was on a time table for doing anything and was advised that he is not.

For the variance was Jonathan Wier of 270 Chairfactory Road and against the variance was Penny Pennington of Timberline Drive.

Mr. Komorek made the motion in Appeals Case #1241 for Michael Campanella, 211 Chairfactory Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 125 feet required § 144-97 C(1), residential A, I move the variance be granted based on the following criteria:

1. that the characteristics of the neighborhood will not change.
2. that there will be no adverse effect on the physical conditions of the neighborhood.

and be it that all Town of Elma codes and ordinances are met. Also on the following conditions that the application be updated with the amendments to the size of the lot and that the file in the Building Dept. has an updated survey. Seconded by Mr. Trzepacz. Poll vote - 5 ayes.

Appeals Case #1242 for Donald Arndt, 3441 Bullis Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 125 feet required § 144-98 C(1), residential B.

Mr. Dick Arndt was present to speak on behalf of the family to explain what he is looking to do with his property. The Arndt family has been working on this for 2 1/2 years. There are a few pieces of property off Stolle Road and Bullis Road, the third property on Stolle Road has been sold and there is another parcel off Bullis Road that may be sold shortly. Mr. Trzepacz asked if there is any proof of when the project was started. Mr. Komorek stated that the plan was revised on September 2014. Mr. Kalinowski brought to everyone's attention that there is a contract that was signed on July 2014 before the resolution was taken away.

Mr. Kalinowski asked if there could be any type of change with the layout of the property and was advised by Mr. Arndt that there are several siblings involved with the properties.

No one spoke for the variance, against the variance were the following:

Bill Ruhland of 3440 Bullis Road
 Scott Welch of 7700 Clinton Street
 Joseph Pici of 3414 Bullis Road
 Denise Blair of 3060 Bullis Road
 Tammy Gordan of 1451 Stolle Road

Mr. Komorek made the motion in Appeals Case #1242 for Donald Arndt, 3441 Bullis Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 125 feet required § 144-98 C(1), residential B, I move the variance be denied based on the following criteria:

1. that there will be a change in characteristics in the neighborhood.
2. that there is no benefit to the addition
3. that it does not appear to be substantial
4. that it will be an adverse effect on the physical conditions of the neighborhood
5. that it is self created.

Seconded by Mr. Kaczmarek. Poll vote - 4 ayes and Mr. Trzepacz voted naye.

Appeals Case #1243 for Blue Lantern Lounge, 6120 Seneca Street, Elma, who is requesting a variance to install a stair well with the side setback being less than 10 feet § 144-78 D, District C-1.

Mr. Huber was present as the contractor on behalf of Mr. Pease owner of the Blue Lantern. Mr. Huber explained that the area from the Northrup side would not exceed the alcove and that there would be a dormer off the back side for an office with a staircase. Mr. Kalinowski asked if the Building Dept. is in line with what is being requested and the Assistant Building Inspector Ray Balcerak advised that they are. Mr. Trzepacz consulted the Town Attorney as to if Mr. Huber could represent the owner without any written notification and was advised that it would be ok.

No one spoke for or against the variance.

Mr. Trzepacz made the motion in Appeals Case #1243 for Blue Lantern Lounge, 6120 Seneca Street, Elma, who is requesting a variance to install a stair well with the side setback being less than 10 feet § 144-78 D, District C-1, I move the variance be granted based on the following criteria:

1. that there is an affidavit for the contractor to speak on behalf of the owner.
2. that there is no change in characteristics to the neighborhood
3. that it is not substantial.
4. that there is not adverse effect on the physical conditions.

Seconded by Mr. Kalinowski. Poll vote - 5 ayes.

Appeals Case #1244 for Alison Wallenbeck, 3000 Bowen Road, Elma, who is requesting a variance to open a dessert business from her home which is not zoned for business § 144-45 B(1) and § 144-39 H, residential A.

Mrs. Wallenbeck was present to explain that she would like to make desserts out of her home due to her husband being disabled. She asked that if she was granted the variance, if that meant the neighborhood would be zoned differently. Mr. Trzepacz explained that the variance is only for her to do business in her home and it would not be for any other change in zoning to the neighborhood and that if she moved the variance would end. Mr. Schafer explained it is a residential A area and that the entire area would not change just due to a change for her.

Mr. Trzepacz asked if it is an existing garage and if that is what is going to be utilized and how many employees there would be. Mrs. Wallenbeck stated that the existing garage would be amended to have a kitchen for her to do her baking in and that it would only be herself doing the work.

For the variance was Betsy Goinski of 60 Cemetery Road and no one spoke against.

Mr. Kalinowski made the motion in Appeals Case #1244 for Alison Wallenbeck, 3000 Bowen Road, Elma, who is requesting a variance to open a dessert business from her home which is not zoned for business § 144-45 B(1) and § 144-39 H, residential A, I move the variance be granted based on the following criteria:

1. that there is no undesirable change to the area.
2. that there is no adverse impact to the area.
3. that the variance is limited to Mrs. Wallenbeck and not forwarded to anyone additional.

Seconded by Mr. Trzepacz. Poll vote - 4 ayes and Mr. Schafer voted naye.

Appeals Case #1245 for Bryan Young, 2260 Bullis Road, Elma, who is requesting a variance to build approve a nonconforming lot with less than the 125 feet required § 144-98 C(1), residential B

Representing Mr. Young was Shaun Hopkins, from the law firm of Hopkins & Sorgi and Andy Romanowski, Prospective Buyer from Alliance Home. On June 20, 2014 there was a contract signed by Mr. Romanowski purchasing 47 1/2 acres from Mr. Young. Mr. Hopkins explained that the project was well under way and that approximately \$40,000 has been incurred on the project. Mr. Hopkins stated that the project that Mr. Young is looking to do does preserve the rural character of the town. The lots are considerably larger than the minimum lot sizes required in residential B area.

Mr. Hopkins stated that the project does preserve the rural character of the Town and that it would prevent a subdivision from being developed. The following points were made by Mr. Hopkins:

1. that the project would have no adverse impact on the area.
2. the benefit can be achieved by another method, there are only 4 large lots with single family homes.
3. the request is substantial, there was a case law submitted.
4. that there will be no adverse effect on the neighborhood.
5. that this was not self created.

Mr. Trzepacz asked Mr. Hopkins if this was his opinion and was advised that it was. Mr. Hopkins made the board aware that the project would not have needed approval if the resolution was not done away with. Mr. Trzepacz stated that this is not self created. Mr. Komorek asked the difference between the code and the resolution. Mr. Hopkins replied that the Town Board changed the standard when they did away with the resolution.

Mr. Kalinowski asked about the contract and what it specifies about the time frame and that the lots are approved buildable lots. The time frame is 3 years. Mr. Kalinowski asked why not a subdivision. Mr. Schaefer asked about the 8 lots in front of the 4 flag lots. Mr. Kalinowski attended a session that was against this type of project. Mr. Romanowski had limited input in regards to the project. Mr. Kalinowski asked if the change was due to the Town Board doing away with the resolution.

Speaking for the variance was Pam Granitz from 1181 Girdle Road

Speaking against the variance was: Diane Rohl from 90 Dellwood Drive; Penny Pennington of Timberline; Tammy Gordan of 1451 Stolle Road; and Dan Skowronski of 2470 Bullis Road.

Mr. Kalinowski asked if Mr. Hopkins has contacted the Town Board to see why the resolution was done away with. Mr. Hopkins replied that he has not.

Mr. Komorek made the motion that the variance be denied based on the following criteria:

1. that the variance will create an undesirable claim.
2. that the variance can be achieved by another method.
3. that the variance is resulting in a adverse impact.
4. that the environment will result in an adverse effect.
5. that the variance is self created.

Seconded by Mr. Kaczmarek. Poll vote - 5 ayes.

The minutes of the last meeting on September 9, 2014 were approved. Motion made by Mr. Kaczmarek and seconded by Mr. Kalinowski.

The meeting was adjourned at 9:22 PM. Motion made by Mr. Kaczmarek and seconded by Mr. Kalinowski.

Respectfully submitted,



Kerry A. Galuski
Secretary-Clerk

