## **ZONING BOARD OF APPEALS**

The hearing on Tuesday, January 13, 2015 was called to order by Chairman Schafer at 7:04 PM.

Members present:

Harry Kwiek

also:

Ray Balcerzak, Bldg Inspector Phyllis Todoro, Town Attorney

Michael Komorek Donald Trzepacz

Greg Kalinowski

Robert Schafer, Chairman

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1247 for Richard & Rosemary Campbell, 1581 Jamison Road, Elma, who are requesting a variance to approve a nonconforming lot with less than the 100 feet required § 144-99 C(1), residential C.

Richard and Rosemary Campbell were present to speak about their case. Mr. Campbell explained that when they were here a few months ago they did not have supporting documentation showing that there were past communication with the Building Dept. Mr. Trzepacz asked what the supporting documentation was that was submitted. Mr. Campbell said he had supporting documentation that the secretary in the Building Dept. had signed. The Boards members explained that they did not receive the documentation in the new package that was mailed out. Ray provided the Zoning Board members with the documentation that the Building Dept. had on file.

The proposal is for a one four acre lot. Mr. Kwiek asked what the significance of the document was that they were looking at. The document is an email that shows a date of when they first started working on a plan. The reason a contingency was given at the last meeting was that there was no documentation showing there was something in progress.

Mrs. Campbell said this was part of their retirement plan. Mr. Schafer asked that due to the Town Board removing flag lots from being created is this the reason why now the Campbell's are looking to move forward with the project. Mrs. Campbell said if they would have acted on this before in the past that it would have been a possibility of the lot sizes changing and new surveys having to be done.

Mr. Komorek asked how much has been invested in the process so far? Mr. Campbell replied that they have maybe a couple of thousand dollars spent to date. Mr. Kwiek asked Mr. Campbell to point out where the flag lot would actually be on the drawing that he has.

Mr. Trzepacz asked about the consideration of making the driveway wider. Mr. Campbell pointed out he may be just looking to sell the property. Mr. Trzepacz made him aware that if the lot was 100 feet then there would be no reason for them to be seeking approval from the Zoning Board.

Mr. Komorek stated that the application is lacking information. Mr. Campbell asked what was missing from the application and Mr. Komorek pointed out on the application what was missing and what should have been completed. The Town Attorney said the bottom line is that the law has changed. The Town Attorney advised the Campbell's that what was requested was additional information to help the Board make a decision on the case.

No one spoke for the variance. Against the variance was:

Janet Mastrorilli, 90 Hickory Hill Carl Depalma Jr., 100 Hickory Hill Jay Ricketts representing the Mullins Mr. & Mrs. Mullins, 80 Hickory Hill

Mr. Komorek made the motion in Appeals Case #1247 for Richard & Rosemary Campbell, 1581 Jamison Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 100 feet required § 144-99 C(1), residential C that the application in multiple areas was incomplete and missing information. Generally it also appears that the reason for the variance appears to not be accurate and making a determination that there are five items which are heavily weighted on. The first consideration is the neighborhood and that there will be a detriment to the properties in the area; second is that the achieved benefit can be achieved in another means; is the requested change substantial and yes the change is substantial to the surrounding neighborhood; will it have an adverse effect or impact on the physical conditions in the neighborhood, in my opinion there are environmental factors in the neighborhood such as drainage and is the alleged situation self created this consideration shall be relevant but not

necessarily preclude the board granting the area variance. It appears that this variance is in fact self created because there is potential for other options that are in fact available. It also appears that there vested rights in this property and the threshold used to determine the vested rights have not been met therefore I make a motion that this variance be denied. Second by Mr. Kalinowski. Ayes: 5

Appeals Case #1254 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.

No one was present to represent the variance.

Mr. Trzepacz made a motion to dismiss the case. Second. Ayes: 5.

The minutes of the last meeting on December 9, 2014 were approved. Motion made by Mr. Trzepacz and second by Mr. Komorek.

The meeting was adjourned at 7:56 PM. Motion made by Mr. Kwiek and seconded by Mr. Trzepacz.

Respectfully submitted,

Kerry A. Galuski Secretary-Clerk