

## ZONING BOARD OF APPEALS

The hearing on Tuesday, May 12, 2015 was called to order by Chairman Schafer at 7:00 PM.

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

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1258 for Mark Tourjie, 1261 Stolle Road, Elma, who is requesting a variance to split his property into two lots with less than the minimum frontage of one hundred twenty-five (125) feet or less than the minimum side setback of twenty (20) feet §144-98C1 or §144-98C4, residential B.

Mr. Tourjie was present to explain his case. Mr. Tourjie explained that there was a hand shake agreement between Mr. Lexo the Supervisor and Mr. Tourjie's parents that the lot may be split. This took place over 60 years ago when Mr. Lexo was Supervisor. Mr. Tourjie also stated that at that time there was no Zoning Board in existence.

Mr. Schafer asked that all he is taking about is the lot that his house is currently on. Mr. Trzepacz asked what the frontage is on the lot that Mr. Tourjie is looking to split. Mr. Tourjie replied that it is 100 feet.

Mr. Schafer explained that either way the lot is going to be a nonconforming lot. You can not have a house three feet from the property line. Mr. Tourjie said it was a hand shake agreement and that he was unsure if his brother was going to want to build on the property.

Mr. Trzepacz said that taking a conforming lot and turning it into a nonconforming lot is not what the Zoning Board does. Mr. Tourjie said he could move the house foundation if he had to. The house right now has a 10 foot setback, but if the foundation is moved it would have to be placed according to the new Zoning guidelines. Mr. Komorek stated that if it is not documented in any file or folder that the Town has than the conversation never happened. Mr. Trzepacz made Mr. Tourjie aware that because residents have a letter or documentation allows them to not have to come before the Zoning Board. Mr. Trzepacz also stated that if there were two deeds that existed, Mr. Tourjie would not have has any issue.

Mr. Komorek asked if Mr. Tourjie had a letter from his brother or a builder as to a house being built going forward so that the Board knows that there is an intension of a house being built on the property. Mr. Tourjie replied that he does not have anything at this time.

No one spoke for the variance. Against the variance were the following:

Daniel Gale 1255 Stolle Road  
Jim Costa 6 Hidden Valley Drive  
Florian Markowski 1291 Stolle Road

3 letters were also received from neighbors in the area

Mr. Komorek made the motion in Appeals Case # 1258 for Mark Tourjie, 1261 Stolle Road, Elma, who is requesting a variance to split his property into two lots with less than the minimum frontage of one hundred twenty-five (125) feet or less than the minimum side setback of twenty (20) feet §144-98C1 or §144-98C4, residential B that the variance be denied based on the following items:

1.) that there is a potential of an undesirable change to the character of the neighborhood; 2.) that there are no other methods; 3.) that the area variance is substantial; 4.) that there is an adverse effect on the neighborhood; and 5.) that the situation is self created. Second by Mr. Trzepacz. Ayes: 5

The Pipeline certificates will be emailed to the members and copies will be put in the folders for each member.

The minutes of the last meeting on February 10, 2015 were approved. Motion made by Mr. Kwiek and seconded by Mr. Trzepacz.

The meeting was adjourned at 7:33 PM. Motion made by Mr. Kwiek and seconded by Mr. Carey.

Respectfully submitted,

Kerry A. Galtuski  
Secretary-Clerk