

ZONING BOARD OF APPEALS

The hearing on Tuesday, September 8, 2015 was called to order by Chairman Schafer at 7:00 PM.

Members present:	Harry Kwiek Michael Komorek Donald Trzepacz Greg Kalinowski Robert Schafer, Chairman	also:	Ray Balcerzak, Bldg Inspector Phyllis Todoro, Town Atty - absent Ron Carey, Alternate
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After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1262 for Linda Dentice, 51 Winona Road, Elma, who is requesting a variance to construct a 14' x 20' deck with less the required 50 feet setback from the road line, §144-99C4, residential C.

Linda Dentice was present to explain how she would like a deck off the front of her house. The deck would come out about 8 feet in the front to the road. Mr. Kalinowski explained that the right of way is measured from the middle of the road. Mrs. Dentice told the board that she measured the distance from her house to the road.

No one spoke for or against the variance.

Mr. Kalinowski made the motion in Appeals Case #1262 for Linda Dentice, 51 Winona Road, Elma, who is requesting a variance to construct a 14' x 20' deck with less the required 50 feet setback from the road line, §144-99C4, residential C, that the variance be granted based on the following items:

1.) that there is no potential of an undesirable change to the character of the neighborhood; 2.) that there are no other methods to achieve the benefit; 3.) that the area variance is not substantial; 4.) that there is not an adverse effect on the neighborhood; and 5.) that the situation is not self created. Second by Mr. Trzepacz. Ayes: 5

Appeals Case #1263 for Gary O'Brien, 751 Ostrander Road, Elma, who is requesting a variance to re-approve an original variance for the non-conforming depth of 250 feet, §144-99C2, residential C.

Mr. O'Brien sent a letter requesting that his case be given a continuance of another month.

Mr. Trzepacz made the motion for a continuance. Second by Mr. Kwiek. Ayes: 5

Appeals Case #1266 for Todd Huber, 150 Winona Road, Elma, who is requesting a variance to construct a garage that would be 62 feet from the front setback instead of the required 75 foot setback § 144-99 C6, residential C.

Mr. Huber was present to represent the homeowner. Todd Huber explained how the homeowner would like a garage attached to the house but that the garage would be four feet closer so that a window on the side of the house would not be blocked. The proximity is still in line with the neighbors.

Mr. Schafer asked if it was going to be attached or if there was a breezeway between the house and garage and Mr. Huber replied that it will be a separate garage unit. Mr. Kalinowski asked if Mr. Huber was related to the homeowner and also stated that there is no letter from the homeowner giving Mr. Huber authority to speak on her behalf. Mr. Schafer informed Mr. Huber that there has to be a letter submitted that he has authority to speak and represent the homeowner.

No one spoke for or against the case.

Mr. Trzepacz made the motion in Appeals Case #1266 for Todd Huber, 150 Winona Road, Elma, who is requesting a variance to construct a garage that would be 62 feet from the front setback instead of the required 75 foot setback § 144-99 C6, residential C, that the variance be granted based on the following items and with the condition of a letter of authority be submitted before the permit is issued from the Building Department:

1.) that there is no potential of an undesirable change to the character of the neighborhood; 2.) that there are no other methods to achieve the benefit; 3.) that the area variance is not substantial; 4.) that there is not an adverse effect on the neighborhood; and 5.) that the situation is not self created. Second by Mr. Kwiek. Ayes: 5

Appeals Case #1267 for Jared Huber, 311 North Davis, Elma. who is requesting a variance to construct a garage apartment with less than the 1,000 sq feet of livable space on the ground floor area § 144-98A, § 144-51 A2 and § 144-51 A, residential B.

Todd Huber was present for his son Jared Huber, Jared would like to construct a garage apartment on a piece of property on North Davis. Todd Huber was not aware that there is an ordinance that you have to have 1,000 sq. feet of livable space on the ground floor of a residence.

Mr. Kwiek asked if there was a reason why his son wanted to build a garage apartment instead of a small starter home on the property. Todd Huber explained that the cost benefit is less for a garage apartment instead of a small starter home.

Mr. Schafer made Todd Huber aware that there are several problems with the application that was submitted. The way the property is being divided is one of the issues and the side setbacks should be 20 feet and they are not as per the drawing that the Zoning Board members received. The distance between the shed and the side setback is only 7 feet, the sheds would have to come down if the property was to be divided the way the plans were submitted.

Mr. Schafer also mentioned that on a residential B property that there is only one single residence per lot. Also the fact that there is no floor space on the ground floor of the garage. Mr. Kalinowski advised that Mr. Huber could knock down the two sheds and that would resolve one of the issues on the application.

Mr. Komorek asked Mr. Huber how long he has been doing this type of work and Todd Huber advised his whole life. Mr. Komorek stated that the application that has been submitted is not going to be acceptable.

Mr. Trzepacz explained that the side setback line has to be 20 feet from the side setback to the sheds. The one property line could stay the way it is drawn and the remainder of the lot could be divided; but when it is divided it can not be a nonconforming lot that is created.

Mr. Schafer advised Mr. Huber that if a house was built there would not be any reason for him to be in front of the Zoning Board. Mr. Kalinowski said on the application it is written that in 3 to 7 years a residence would be constructed and Mr. Kalinowski asked what would it look like. Todd Huber advised that his mother-in-law would be using the apartment over the garage after a house has been constructed. Mr. Huber would like for his family to still live close to him.

Mr. Kalinowski asked another question about the dimensions on the two different drawings and Todd Huber advised that the scale is wrong on one of the drawings that was submitted.

Todd Huber said in light of the feedback that he heard that he would like to withdraw his application seeking a variance and will redraw the lot lines with the changes. Mr. Trzepacz said a continuance could be given. Mr. Schafer does not want a false impression that because the lot lines are going to be changed that all the issues will be resolved. Mr. Kalinowski again mentioned what Mr. Huber would be looking to do.

Mr. Trzepacz made the motion in Appeals Case #1267 for Jared Huber, 311 North Davis, Elma. who is requesting a variance to construct a garage apartment with less than the 1,000 sq feet of livable space on the ground floor area § 144-98A, § 144-51 A2 and § 144-51 A, residential B, that the variance be given a continuance until next month. Second by Mr. Komorek with the exception that all three items have to be fixed. Mr. Trzepacz mentioned that the major issue is the 1,000 sq. feet of livable space on the ground floor. Mr. Huber advised that he understood what the board was looking for.

Mr. Komorek made the motion in Appeals Case #1267 for Jared Huber, 311 North Davis, Elma. who is requesting a variance to construct a garage apartment with less than the 1,000 sq feet of livable space on the ground floor area § 144-98A, § 144-51 A2 and § 144-51 A, residential B,

that the variance be given a continuance to resolve the issues that stand. Second by Mr. Trzepacz. Ayes: 5.

The minutes of the last meeting on August 11, 2015 were approved. Motion made by Mr. Trzepacz and seconded by Mr. Kalinowski. Ayes: 5.

The meeting was adjourned at 7:53 PM. Motion made by Mr. Kwiek and seconded by Mr. Trzepacz.

Respectfully submitted,



Kerry A. Galuski
Secretary-Clerk