

ZONING BOARD OF APPEALS

The hearing on Tuesday, November 10, 2015 was called to order by Chairman Schafer at 7:00 PM.

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

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1269 for Karie Stutzman, 6831 Clinton Street, Elma, who is requesting a variance to be less than the required 20 foot side setback § 144-99C (4), residential C.

Present for the case were the Stutzman's and their builder William Bose. Mr. Bose explained that the fireplace is not 20 feet from the side setback. Mr. Bose was told that the fireplace did not have to be included in the measurement.

Mr. Schafer asked if he told the building dept. that the fireplace had a foundation and was informed by Mr. Bose that he had. Mr. Kalinowski asked at what time or how long into the project were they before they were notified that the fireplace was not 20 feet. Mr. Bose said that within two weeks he was notified that it was not the 20 feet with the foundation that was installed for the fireplace.

Mr. Trzepacz asked if the building dept. had the information when the decision was made and Mr. Bose informed the board that the original application shows the foundation on the drawing. Mr. Schafer asked the total width of the house and was told that it was 56.5 without the fireplace. Mr. Kalinowski asked how much further the fireplace bumps out from the house and was advised by Mr. Bose that it is 1 foot 5 inches.

Mr. Carey asked what is on the other side of the property. The septic is on the other side of the home. The lot was subdivided when the owner bought the property. Mrs. Stutzman asked originally if she could have a bigger piece of the property and the gentleman who sold her the property did not want to have it resurveyed.

Mr. Carey stated the 20 foot setback was created back on June 21, 1989. Mr. Bose made the board aware that the foundation is the first thing that is done when he starts to build a home. Mr. Kalinowski asked if the seller was aware of what type of house was going to be built on the property and Mrs. Stutzman said they did not make the previous owner aware of the type of home.

No one spoke for the variance and against the variance was a gentleman from 90 Clinton Heights.

Mr. Trzepacz made the motion in Appeals Case #1269 for Karie Stutzman, 6831 Clinton Street, Elma, who is requesting a variance to be less than the required 20 foot side setback § 144-99C (4), residential C, that the variance be granted based on the following items:

1.) that there is not the potential of an undesirable change to the character of the neighborhood; 2.) that the benefit can not be achieved another way; 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. Carey. Mr. Kwiek made the comment to the builder that he should be familiar with the Town of Elma codes. Ayes: 4. Nays: 1 (Mr. Kalinowski). Mr. Kalinowski asked for the paperwork that was submitted to be completed.

Before the next case was read Mr. Schafer made the notification that there are three members and an alternate that are members of the Conservation Board and that based on the "rule of necessity" this board needs a majority vote for all of its decisions. Based on case law the sitting members of this Zoning Board must vote on this case.

Appeals Case #1270 for Elma Conservation Club, 600 Creek Road, Elma, who is requesting a variance to replace an existing sign with the same size sign of 3 feet by 5 feet § 144-58A (2), residential C.

Gary Vranich was present to represent the Conservation Club and explain there case. Mr. Vranich thought that he was replacing an existing sign and was told that there was never a permit for the sign. Mr. Vranich was told that the sign should be 2x4 and the sign that was put up is 3x5.

Mr. Schafer read a section from the code book on only one sign on a property, two signs are not allowed unless there is a separate permit. Mr. Trzeczak said the sign was in a different location and was a different type of sign. Mr. Carey asked what the intent of the sign is and if people from other areas come to the club. Mr. Vranich said they have events and it makes it easier for people who do not know where the club is to find the club with the name and address being visible.

Mr. Kwiek asked what the material of the sign is and was informed that they could get a smaller sign but that it would not be as visible for people to read from the road. The headlights going down the road make the sign easier to view. Mr. Kalinowski asked how long the old sign was up for and was advised by Mr. Vranich that it is at least 10 to 15 years.

For the variance was Doug Spink and no one spoke against the variance.

Mr. Kalinowski asked how often there are meeting at the club and how many officers there are. Mr. Vranich replied that there are monthly meeting and that the are five officers and 12 directors of the club.

Mr. Kalinowski made the motion in Appeals Case #1270 for Elma Conservation Club, 600 Creek Road, Elma, who is requesting a variance to replace an existing sign with the same size sign of 3 feet by 5 feet § 144-58A (2), residential C, that the variance be approved based on the following items:


- 1.) that there is not the potential of an undesirable change to the character of the neighborhood;
- 2.) that the benefit can not be achieved another way;
- 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 Nays: 0

The minutes of the last meeting on October 13, 2015 were approved. Motion made by Mr. Trzeczak and seconded by Mr. Kalinowski. Ayes: 5.

The meeting was adjourned at 7:40 PM. Motion made by Mr. Kwiek and seconded by Mr. Trzeczak.

Respectfully submitted,



Kerry A. Galuski
Secretary-Clerk