

## ZONING BOARD OF APPEALS

The hearing on Tuesday, February 12, 2013 was called to order by Chairman Schafer at 7:00 PM.

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

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case # 1216 for Kathleen Cunningham-Isch, 6411 Seneca Street, Elma, who is requesting a variance to seek approval for a nonconforming commercial lot that has less than 100 feet of frontage § 144-100B(1), commercial C-1.

Chairman Schafer called the case to order. Kathleen Cunningham-Isch was present to speak about the reasons for the request. Kathleen stated that the land was inherited from her grandmother to her mother and then passed on to her and her siblings. Chairman Schafer asked if she knew how wide the frontage of the property was and he was informed it was at least 90 feet wide. Harry Kaczmarek asked what type of house would be built on the property. Kathleen informed the board that she was not sure if the land would be sold or if they would be building on the property and did advise the board that the size of the property would be taken into consideration when building. Greg Kalinowski asked if the property on either side was owned by family. The one property is owned by a relative and the other side is just a homeowner.

Greg Kalinowski also asked Kathleen if they could of denied accepting the land and Kathleen was unaware if that could have happened but did mention that her mother owned the property if they did not accept the land. Still the family would have been paying taxes on the property and nothing would have been able to be built on it.

Mrs. Cunningham-Isch did make the board aware that back when her family purchased the property it was only a 80 foot frontage you needed in order to build on the property. Chairman Schafer stated that he still thinks the 100 feet of frontage is important. Don Trzepacz mentioned maybe they could check with the neighbors to see if anyone would purchase the land. The positioning of the house on the frontage is the main item when building on the property. Kathleen again stated that the land has been in her family for a very long time. Kathleen obtained a copy of the deed and presented the deed to Attorney Todoro to read.

After reviewing the deed and the dates from the deed it was evident that the case meet the code from the 1950's and was acceptable and did not need a variance at this time.

Chairman Schafer made the motion to dismiss the case based on the new information presented. Seconded by Mr. Kaczmarek. Poll vote – 5 ayes, 0 nays. Motion carried.

Appeals Case # 1217 for Pound Road LLC, 521 Pound Road, Elma, who is requesting a variance for a buffer setback that is less than 100 feet § 144-90 D(1), industrial.

Chairman Schafer asked Mr. Balducci to step forward to present his case. The original drawings dated 6/15 were marked wrong, since then new drawings were done. Mr. Kalinowski asked where the 84 feet is being measured from and Mr. Balducci stated it is from where the stone is on the property. Don Trzepacz stated that the front of the building is 169 feet off the road. The house to the south is before his building starts and to the north is a gas pipeline. Greg Kalinowski asked if Mr. Balducci is asking for a variance for something that has already been done. Chairman Schafer asked where the burm starts and ends. The burm will be carried through the remainder of the distance. Mr. Trzepacz asked if everything that is being discussed is 370 feet off the road. Mr. Kalinowski asked how this was discovered and Mr. Balducci explained how this was discovered and that a neighbor's complaint brought everything to light.

No one spoke for the variance.

Speaking against the variance was:  
Ken Olejniczak - 491 Pound Road  
Dave Duell - 490 Pound Road  
Joseph Sluberski - 480 Pound Road

Mr. Komorek read a section from the code book about what a buffer is. Chairman Schafer stated that the problems have to be brought to the attention of the Building Dept. The old print was not correct and the measurements had to be updated. Mr. Balducci had to come before the board due to the change in the measurements. Mr. Trzepacz stated that the issue is the rear parking lot and that what had happened in the past is the past. Mr. Kalinowski mentioned that the survey is as accurate as it can possibly be.

Mr. Trzepacz made the motion: In the matter of Appeals Case # 1217 for Pound Road LLC, 521 Pound Road, Elma, who is requesting a variance for a buffer setback that is less than 100 feet § 144-90 D(1), industrial this is written confirmation of the decision reached by the Board at the February 12, 2013 hearing.

The motion was made, seconded and passed that the variance be approved based on the burm being replaced to the end of the parking lot as discussed and that all Town of Elma building codes shall be adhered to. Seconded by Mr. Komorek. Poll vote – 4 ayes, 1 naye. Mr. Kaczmarek voted no. Motion carried.

The minutes of the last meeting on November 13, 2012 were approved. Motion made by Mr. Trzepacz and seconded by Mr. Kalinowski.

Mr. Kaczmarek made the motion to adjourn and Mr. Komorek seconded the motion.

The meeting was adjourned at 8:07 PM.

Respectfully submitted,

Kerry A. Galuski  
Secretary-Clerk