

ZONING BOARD OF APPEALS

The hearing on Tuesday, June 11, 2013 was called to order by Chairman Schafer at 7:11 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 # 1221 for David Hill, 921 Ostrander Road, East Aurora, who is requesting a variance to install a front deck with a handicap ramp that would be 22 feet from the front property line § 144-99 C4, residential C.

Mr. Hill was present to speak about his case. He explained how his wife fell and broke her femur and needs an access to the house using a handicap ramp. Chairman Schafer asked what he was looking to do and Mr. Hill replied that he would be installing a new deck with a ramp for his wife. He would be hiring a contractor to build the deck and the ramp on the house.

No one spoke for or against the case.

Mr. Kalinowski made the motion that the variance be granted based on all drawings and sketches provided and that all Town of Elma codes are met. The variance will expire a year from the zoning board meeting date of June 11, 2013. Seconded by Mr. Trzepacz. Poll vote – 5 ayes, 0 nays. Motion carried.

The Notice of Public Hearing for Appeals Case # 1222 for Assad Shady, 510 Chairfactory Road, Elma, who is requesting a variance to leave the existing shed 3 feet from the property line instead of the 10 foot setback from the side line § 144-97 C4, residential A.

Mr. Shady was present to speak about his case. He explained he did not know he needed to get a variance to put up his shed. Also he told the board that it would cost twice as much to take down and rebuild the unit. Mr. Shady supplied pictures for the board to see the structure and told the board that no one would benefit from the shed being moved.

Chairman Schafer explained that the Town has codes for a specific reasons and that someone must have complained about the shed. Mr. Trzepacz asked what the unit is resting on and was informed by Mr. Shady that it was on blocks. Mr. Trzepacz showed Mr. Shady a Google picture of the shed. Mr. Kalinowski advised Mr. Shady that this is an on going situation in the town. The newspapers have articles discussing such instances that happen all the time.

No one spoke for the case. Speaking against the case was James Zakrzewski of 460 Chairfactory Road.

Mr. Kalinowski asked when the shed was noticed and that moving the shed five feet would make a difference.

Mr. Trzepacz made the motion that the variance be denied based on the information submitted. Seconded by Mr. Kalinowski. Poll vote - 4 ayes, 1 nays Mr. Komorek. Motion carried.

The Notice of Public Hearing for Appeals Case # 1223 for New York State Electric & Gas, 400 West Avenue, Rochester, who is requesting a variance to install a 300 foot communication tower at 345 Stolle Road, Elma and the town code is 50 feet in a residential area § 59A 9A6 and § 59A 9B5, residential C.

A representative from NYSEG was present to present the case. Chairman Schafer explained to the representative that there was mix up with the variance process. Mr. Trzepacz asked the question about the § 59A 9B5 being on the paperwork for the variance and that it refers to a public hearing. The Zoning Board does not hold public hearings and it should be the Planning Board that they should be in front of. The representative stated that the Building Inspector requested that the code for the public hearing be added to the paperwork. The gentleman stated that the Town Board referred NYSEG to the Zoning Board.

The NYSEG representative stated that the Town Board advised them that the next step was the height requirement and not the public hearing section. Mr. Trzepacz addressed that it is in our code book to have a public hearing with the Planning Board. The public has the right to know about what is happening in the Town.

The Zoning Board is looking to do the right action in regards to this case. It is not correct to address the first section listed on the paperwork and be in violation of the second section on the paperwork. The Town Attorney Phyllis Todoro said the appeals case would have to be tabled until after the public hearing is held. Mr. Trzepacz again advised the NYSEG representative that the Zoning Board does not hold public hearings. Chairman Schafer advised that we would have to follow the advice of the town council. Mr. Kalinowski explained the process that should have been followed.

Chairman Schafer asked the location of the property of 345 Stolle Road. The address of 345 Stolle Road is incorrect and the address should be changed before NYSEG comes back for the continuance.

No one spoke for the case. Speaking against the case were the following:

Roseann Kroboth	391 Stolle Road
Darrell Borowiak	221 Stolle Road
Carol Mazurowski	381 Stolle Road
Mark Rohoff	371 Stolle Road

Mr. Trzepacz made the motion that the variance be given a continuance at this time. Seconded by Mr. Kaczmarek. Poll vote - 5 ayes, 0 nays. Motion carried.

The Notice of Public Hearing for Appeals Case # 1224 for Timothy Pawarski, 1905 Transit Road, Elma, who is requesting a variance to erect a garden shed 5 feet from the property line instead of the 10 foot setback § 144-99 C4, residential C.

Mr. Pawarski was present and explained where the shed is going and that he would be putting the shed up himself. His survey shows a cliff in the back part of his property and Mr. Pawarski also submitted a letter from his neighbor saying she had no problem with the shed on her side. There is a septic line on that side of the property. The south side would make more sense for the location of the shed.

Chairman Schafer asked about the appearance and it will be sided the same color as the house. Mr. Trzepacz asked what the foundation would be and if there would be any electricity. Mr. Pawarski advised that it would be treated wood on blocks and that they would be no electricity. Mr. Kalinowski asked if it is going to be able to be moved and was advised that it would be on blocks for that purpose.

No one spoke for or against the case.

Mr. Kaczmarek made the motion that the variance be granted be it that all town codes and ordinances are met. The variance will expire a year from the zoning board meeting date of June 11, 2013. Seconded by Mr. Trzepacz. Poll vote - 5 ayes, 0 nays. Motion carried.

The minutes of the last meeting on May 14, 2013 were approved. Motion made by Mr. Komorek and seconded by Mr. Kaczmarek.

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

The meeting was adjourned at 8:14 PM.

Respectfully submitted,

Kerry A. Galuski
Secretary-Clerk