

ZONING BOARD OF APPEALS

The hearing on Wednesday, November 12, 2014 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		
	Robert Schafer, Chairman	Absent:	Harry Kaczmarek
			Greg Kalinowski

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1241 for Michael Campanella, 211 Chairfactory Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 125 feet required § 144-97 C(1), residential A.

Mr. Campanella was present to explain his proposal of one flag lot. Mr. Schafer asked what Mr. Campanella was going to do with the 35 feet that was marked excluded. Mr. Schafer thought it was odd that there is an extra piece of land left and what his intention was with the remainder of the land. Mr. Campanella explained that his neighbor may want to purchase the left over piece of property.

Mr. Komorek explained that he thought a new survey would have been submitted before this evenings meeting. Mr. Campanella advised that he was not going to have a survey done until after he received the approval and exactly what he should have surveyed. Mr. Trzepacz stated that the neighbor would not be able to use the remainder of the property. Upon finding out that information Mr. Campanella said he would then sell the piece of property to the gentleman that was buying the land. Mr. Komorek requested that a survey be done and another appeals application be done.

No one spoke for or against the variance.

Mr. Komorek made the motion to approve the variance based on the following criteria:

1. that there will be no undesirable change to the character of the neighborhood or property.
2. that there is a benefit to the addition.
3. that there is no negative impact in granting the variance.
4. that there is no physical impact on the environmental conditions in the neighborhood.
5. that the situation is not self-created.

and that an updated appeals request be submitted and a survey be completed. Second by Mr. Kwiek. Mr. Trzepacz requested that reflected on the survey is the decision of 35 or 70 foot entrance. Poll vote – 4 ayes. Motion carried.

Appeals Case #1246 for John & Barb Regdos, 150 Hickory Hill Drive, Elma, who is requesting a variance to approve a nonconforming lot with less than the 100 feet required § 144-99 C(1), residential C.

Mr. Regdos explained that they are looking to put a 6.5 acre lot off Hickory Hill. Mr. Trzepacz asked to see the drawing that Mr. Regdos brought with him tonight. Mr. Schafer asked when this was planned and was informed that in April of this year he spoke with the Building Dept. Mr. Regdos went over different ideas of what could be done with the lot. Mr. Trzepacz asked if he had supporting documentation on what he wanted to do and his conversation with the Building Dept.

Mr. Schafer asked to see if there was any prior transactions with the Building Dept. supporting the case before the resolution was resolved. Mr. Komorek asked if the alleged difficulty was self created. Mr. Regdos said until he received approval regarding the property he was not going decide what he was going to do with the property. Mr. Kwiek mentioned that they would be limitations on the property. The Town Attorney said that taking away the 35 feet of frontage would make the other lot a nonconforming lot.

For the variance was Sal Valvo and against the variance was Dan Welling of 130 Hillside Drive.

Mr. Trzepacz made the motion to approve the variance based on the fact that the information received was dated before the resolution was done away with and that all Town of Elma codes are met. In addition the applicants supply a physical survey. Also on record that we are taking a non-conforming lot to create another non-conforming lot. Second by Mr. Komorek. Poll vote – 3 ayes and 1 nays (Mr. Kwiek). Motion carried.

Appeals Case #1247 for Richard & Rosemary Campbell, 1581 Jamison Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 100 feet required § 144-99 C(1), residential C.

Mr. & Mrs. Campbell were present and Mr. Campbell explained that he is looking to create two flag lots in the back of his property. Mr. Komorek asked if Mr. Campbell has any supporting documents showing that he was looking to create a flag lot before the resolution was dissolved. Mr. Campbell told the board that he put in a culvert pipe back in 2012 to prepare for when he was going to do the flag lots. Mr. Trzepacz told him that the board is looking for written documentation to support what he would like to do. Mr. Campbell made the board aware that he left the paperwork at home on his table. Mrs. Campbell explained that when they visited the Building Dept. in the past they were told that there was nothing that could be put in writing regarding what they spoke about.

Mr. Trzepacz said if there was something in writing it would assist the case. Mr. & Mrs. Campbell returned with a letter that was sent to the Building Dept. regarding a lot in the back of the property. The Town Attorney recommended that a continuance be given to have both parties review the information they have on file.

Mr. Trzepacz made the motion for a continuance to be given. Second by Mr. Kwiek. Poll vote - 4 ayes. Motion carried.

Appeals Case #1248 for Leita Reed, vacant land (SBL #127.03-2-1.1) Clinton Street, Elma, who is requesting a variance to approve a nonconforming lot with less than the 125 feet required § 144-98 C(1), residential B.

Mr. & Mrs. Reed handed out additional information regarding the case. The reason they are looking to sell is to close out the two estates. Mrs. Leita Reed was appointed the executor recently. The portion that is in Lancaster was sold a few weeks ago. There is only the one piece of property left. Mr. Schafer asked who sold the first three parcels of property. Mr. Reed said it was sold by a family member a while ago and that is why the land was divided up the way it was initially. Mr. Schafer advised that the hardship was self created. The Reed's were unaware that they had to do any correspondence. The Town Attorney asked if there is anything in writing showing that the last lot would be a flag lot. Mr. Komorek expressed that a realtor should of known of the problems.

Mr. Trzepacz made the motion for a continuance to be given. Second by Mr. Komorek. Poll vote - 4 ayes. Motion carried.

Appeals Case #1249 for William Miller, vacant land (SBL #156.00-1-53-3) Girdle Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 100 feet required § 144-99 C(1), residential C.

Mr. Miller was present to explain that he was limited to one lot a year and this was his last piece of property to sell. Mr. Trzepacz asked when the property to the north was sold and if when he sold the last property is that when the next property was drawn up. Mr. Schafer explained that the town has changed the rules at a meeting in August of this year. Mr. Miller said it was acceptable the last four years and now it has changed. Mr. Kwiek asked about the other properties that have been sold. Mr. Miller showed Mr. Kwiek where his house and his son's house reside. The Assistant Building Inspector added that when he sold the last lot that there was only 35 feet left of land. Mr. Schafer asked if he bought property along Girdle Road and Mr. Miller said the previous owner sold that property.

No one spoke for or against the variance.

Mr. Komorek made the motion to approve the variance based on the following criteria:

1. that there will be no undesirable change to the character of the neighborhood or property.
2. that there is a benefit to the addition.
3. that there is no negative impact in granting the variance.
4. that there is no physical impact on the environmental conditions in the neighborhood.
5. that the situation is not self-created.

Second by Mr. Trzepacz with the following addition added that per the document of SBL map. Poll vote - 3 ayes and 1 naye (Mr. Schafer). Motion carried.

Appeals Case #1250 for Walter Schmidt Jr., vacant land (SBL #138.04-1-15) Bullis Road, Elma, who is requesting a variance to approve a nonconforming lot with less than the 100 feet required § 144-99 C(1), residential C.

Mr. Schmidt was present to explain that the property was left from the other land that was divided. His son had built duplexes and he has realized that the land is not 5 acres and will not be able to have two duplexes put on the property. Mr. Schmidt has nothing in writing to support coming in to get his approval. Mr. Schafer said that the property as one is a conforming lot as it stands and that we should not make two non-conforming lots. Mr. Trzepacz asked about the five acres of land and that it should not be split into two nonconforming lots. Mr. Komorek stated this would be self created. Mr. Kwiek also confirmed the fact of it being conforming as one lot.

No one spoke for the variance but against was Larry Decker of 3641 Bullis Road.

Mr. Trzepacz made the motion that the variance be denied based on the following criteria:

1. that there will be a undesirable change.
2. that there is no benefit to the addition.
3. that it is not substantial.
4. that there is an impact on the neighborhood.
5. that the situation was self created.

Second by Mr. Komorek. Poll vote - 4 ayes. Motion carried.

Appeals Case #1251 for Milton Koutsandreas, 2221 Transit Road, Elma, who is requesting a variance to install a new sign to promote the new banquet facility § 144-102.1, commercial 3

NAS sign company was present to speak regarding the variance. It was mentioned that there would be no adverse effect on the environment and that it would not be substantial. The sign would only need to be changed a few times a day and would basically be around the holidays and for special events. The sign has adjustable lighting and it would be a static image. Mr. Schafer asked if it is two separate businesses and if it is an additional sign. The gentleman stated it is an addition to the existing sign. It would not flash or scroll, it would just change. The hardship is competing with other businesses in the area that are able to advertise. The sign would not be any brighter than anything else. There could possibly be two events on one day and the sign would have to be changed for each event. It would only take a split second for the change to occur.

Mr. Kwiek asked if it had to have more than one message a day. Mr. Koutsandreas said that yes it would have to change for each event. Mr. Komorek said he understands the business and other businesses on Seneca Street that bought signs were not able to use the signage. Mr. Komorek said there would have to be time restrictions.

No one spoke for the variance but against the variance was Diane Rohl of 90 Dellwood Drive.

Mr. Kwiek made the motion that the variance be denied based on the sign code passed on October 19, 2011. No one seconded the motion.

Mr. Komorek made the motion that the variance be approved based on all Town sign ordinances being met. Second by Mr. Trzepacz. Poll vote - 2 ayes and 2 nays.

The minutes of the last meeting on October 14, 2014 were approved. Motion made by Mr. Trzepacz and seconded by Mr. Kwiek.

The meeting was adjourned at 9:10 PM. Motion made by Mr. Kwiek and seconded by Mr. Trzepacz.

Respectfully submitted,

Kerry A. Galuski
Secretary-Clerk