

ZONING BOARD OF APPEALS

The hearing on Tuesday, January 10, 2017 was called to order by Chairman Schafer at 7:00 PM.

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

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case # 1200 for Gerald Schuster, 5101 Clinton Street, Elma, who was given a continuance and is requesting a variance for a new structure that exceeds the square footage allowed by the code; is taller than the code allows and is 2 ½ feet from the property line §144-84 (B)(2), §144-86.2(C)(2) and § 144-86.2(D).

Gerald Schuster was present to explain how he would like to fix the structure on his property by squaring up three of the four sides and adding a second floor.

Mr. Schafer asked the gentleman if he would be knocking the old structure down and building a new structure and Mr. Schuster explained that the front wall would be staying and the other three walls would be new. Mr. Kwiek asked when he would be starting and finishing the project and was informed that it would start in the spring and finish by fall. The garage would be used for storage and there would be a butcher shop on the second floor of the building.

Mr. Trzepacz asked if there is any other area on the property to put the garage and was informed that due to the drainage on the property there would be issues with putting the building up in any other area on the property. Mr. Trzepacz informed Mr. Schuster that there are two major issues with his request and that they are the square footage and the height he is looking to do.

Mr. Schuster asked what could be done on the property and Mr. Trzepacz said he should see the building department to go over those details. Mr. Kalinowski stated he had no questions on the case. Mr. Trzepacz also made Mr. Schuster aware that the codes could have changed in the 5 years from when he originally was requesting the variance.

Mr. Komorek told Mr. Schuster that there are still questions about the septic on the property. Mr. Schuster informed the board that the records were lost at the Erie County Health Dept. Mr. Trzepacz asked how far the side setback is from the neighbor and was told the septic is either close to the line or even a little over the line.

Mr. Schuster asked if the building could be squared up on the top half and Mr. Trzepacz asked what the height is right now of the building. Mr. Schuster replied that he is not sure of the height. The question was also asked about the foundation under the building and if it is in good condition and the board was informed that there is no longer any foundation under the building.

Mr. Kalinowski commented that it seems the building has had a lot of wear over the years and may not be in good shape.

No one spoke for or against the variance.

Mr. Komorek made the motion in Appeals Case # 1200 for Gerald Schuster, 5101 Clinton Street, Elma, who was given a continuance and is requesting a variance for a new structure that exceeds the square footage allowed by the code; is taller than the code allows and is 2 ½ feet from the property line §144-84 (B)(2), §144-86.2(C)(2) and § 144-86.2(D), that the variance be denied based on the following items:

- 1.) that there is the potential of an undesirable change to the character of the neighborhood; 2.) that the benefit can be achieved another way; 3.) that the area variance is substantial; 4.) that there is an adverse effect on the neighborhood; and 5.) that the situation is self created. Second by Mr. Trzepacz. Ayes: 5 Nays: 0.

There was a discussion on the time frame for submitting a variance application to the building dept. and it was stated that the cut off is 3 weeks prior to the next meeting for any application

and if it is past that time frame then the variance is for the following month. Also, the application has to be complete when being submitted, all necessary paperwork has to be in at that time. The policy and procedure for a continuance is that it is only good for a year and that when a continuance is given it is to be stated in the minutes and the notification letter to the applicant that the continuance is good for one year.

The meeting was adjourned at 7:47 PM. Motion made by Mr. Kwiek and seconded by Mr. Kalinowski. Ayes: 5.

Respectfully submitted,

Kerry A. Galuski  
Secretary-Clerk