

ZONING BOARD OF APPEALS

The hearing on Tuesday, April 11, 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.
Ron Carey
Donald Trzepacz
Robert Schafer, Chairman Absent: Harry Kwiek

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1290 for Thomas & Frances Banas of 1181 Girdle Road, Elma, NY who are requesting a variance to split the property at 1181 Girdle Road and create a non-conforming lot making it less than the 2 acres required § 100-3, residential C.

Mr. & Mrs. Banas were present to explain what they are looking to do with their property. Mrs. Banas explained that the corner would be kept preserved and that they are giving the property to their son and not selling the property.

Mr. Schafer stated that the property size has not changed since the last time they were before the zoning board. Mrs. Banas told the board that they were going to give more property to their son. Mr. Komorek stated that the four split rle started in 1954 and that four splits have already occurred on the original piece of property. Mrs. Banas said the building inspector informed her that the splits started with Lexo.

Mr. Komorek mentioned that the lots would still be nonconforming if the property was split. Mr. Kalinowski asked if the red writing on the paperwork submitted for the variance was her writing and Mrs. Banas replied that it was not her writing, it was the building inspector's. Mrs. Banas handed out paperwork from a case that was heard after their case a few years back and noted that the case was approved by the board and that in that case it made two nonconforming lots that the board approved.

Mr. Komorek stated that each case is taken separately and heard for the facts in that specific case. Mr. Kalinowski mentioned that decisions on past variances do not set a precedence for future cases that are being heard. Also, the fact that the board views are just that and she cannot ask the board for insight as to what they can and should do. Mrs. Banas said that they would hire a company to survey the property so that they would give their son a total of two acres.

Mr. Trzepacz asked how much property they have total and was informed that they own three acres. Mr. Trzepacz wanted to bring to the attention a letter that was attached to the paperwork that was submitted for the case. The date on the letter reference was incorrect and he wanted to bring that detail to Mrs. Banas's attention.

Town Attorney Phyllis Todoro mentioned that the four-split rule has happened on the property in question and in doing so it goes into a different classification. Mr. Trzepacz stated the measurement is not from the center of the road. Mr. Trzepacz showed the Banas's how the four splits occurred using a tax map. Mr. Banas mentioned that Mr. Campbell split his lot after the Banas's were before the zoning board the last time.

For the variance was:

Anthony Salvo of 1190 Girdle Road
Chad Barry submitted a letter that was read
Jon Miller of 1199 Girdle Road

No one spoke against the variance.

Mr. Komorek made the motion for Appeals Case #1290 for Thomas & Frances Banas of 1181 Girdle Road, Elma, NY who are requesting a variance to split the property at 1181 Girdle Road and create a non-conforming lot making it less than the 2 acres required § 100-3, residential C to be denied based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved by other means feasible for the applicant.
- 3) The request is not substantial.

- 4) The request would have an adverse physical or environmental effect is unknown.
- 5) The alleged difficulty is self-created in this case with the two nonconforming lots. Seconded by Mr. Carey. Ayes: 3 and nays: 2 (Mr. Kalinowski and Mr. Trzepacz).

The motion was made to approve the minutes from March 14, 2017 by Don Trzepacz and seconded by Greg Kalinowski. Ayes: 5 Nays: 0.

The meeting was adjourned at 7:45 PM. Motion made by Mr. Kalinowski and seconded by Mr. Komorek. Ayes: 5.

Respectfully submitted,

Kerry A. Galuski
Secretary-Clerk