ZONING BOARD OF APPEALS

The hearing on Tuesday, January 8, 2019 was called to order by Chairman Schafer at 7:00 PM.

Members present: Ron Carey also: Ray Balcerzak, Bldg. Inspector

Greg Kalinowski Phyllis Todoro, Town Atty.

Harry Kwiek Mike Sobczak

Donald Trzepacz

Robert Schafer, Chairman Absent:

After Roll Call, the Clerk read the Notice for Appeals Case #1338 for Andrew Moquin for 31 South Blossom Road, Elma, NY who is requesting a variance to construct a front foyer with less than the required front setback §144-99 C4, Residential C.

Mr. Moquin was present and showed pictures of the front of the house that he is looking to remodel. Mr. Schafer asked how much further out the front foyer was going to be than the existing one and the reply was 4 feet away from the house and 12 feet wide. Mr. Carey asked if he owns the house and if he intends to keep the house once it is remodeled. Mr. Moquin response was that if he could sell the house and get a greater value than what he has invested than he would do so.

Mr. Trzepacz asked if the house is 36 feet from the road and the answer was yes. Mr. Kwiek asked about the 4 feet and if it included the steps and it does. Mr. Kalinowski asked if he has purchased other properties in Town and Mr. Moquin answer was that as of now he has not but would like to purchase more in the future.

No one spoke for or against the variance.

Mr. Trzepacz made the motion for Appeals Case #1338 for Andrew Moquin for 31 South Blossom Road, Elma, NY who is requesting a variance to construct a front foyer with less than the required front setback §144-99 C4, Residential C, that the variance be approved based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created in this case.

Seconded by Mr. Kwiek. Ayes: 5. Nays: 0

Appeals Case #1339 for Bill Adams and George Costello of 3211 Transit Road, Elma, NY who are requesting a variance to install an LED sign §144-102.1 I (2), (8) and (9), C-3.

Mr. Adams is the property owner and was present and explained that Mr. Costello's business is going well, and Mr. Adams is looking to invest in some repairs. He would like to install a new sign to advertise both the businesses and the LED would not flash or scroll and the display would be what the board would recommend.

Mr. Schafer mentioned that the Town has a code for digital signs and what was his hardship. Mr. Adams stated that his business is suffering, and the sign would hopefully attract new business that is needed. The owner of the sign company was also present, and Mr. Schafer asked what would be changing on the new sign. Mr. Adams gave the board a color version of the sign and the lower 3 feet would be for advertisements for the businesses.

Mr. Carey stated that the sign at Alton's was further down Transit Road and not near their location. Mr. Carey asked if Custom Sign Co. was the company that created the sign on Transit and Bullis and the answer was yes.

Mr. Kalinowski asked what some of the ads would be and Mr. Adams replied it would be a static ad for the entire day and the ad would change every day. Mr. Kalinowski also asked about the sign at Transit and Bullis Road and if their sign would be like that sign and the reply was not at all. Mr. Adams stated his sign would be extremely different. Mr. Kalinowski asked if the sign would scroll or blink and if it could be locked so that it was not capable of doing either of those functions and if Mr. Adams would own the sign. The reply was that the scrolling and blinking would not be an option and that he would own the sign and he would be the only person operating the sign.

Mr. Kwiek asked if the signs are all programable and the answer was yes. Mr. Kwiek also asked where the competitors are located and if they have digital signs and the reply was that the bigger companies do have signs but could not think of any that were close except the location of one near Transit and William.

Mr. Carey asked about the colors and Mr. Adams said he would like the sign to be simple. Mr. Kwiek asked how often the message would change and Mr. Adams replied every day it would have a different advertisement, but the ad would stay on for the duration of the day.

No one spoke for or against the variance.

The board reviewed the guidelines that they have regarding sign and changed the following items: Change 30 seconds to day for item i).

Make sure items iii); iv) and v are included in the guidelines.

Also, the colors that are to be used need to be spelled out in guidelines.

A copy of the revised guidelines will be sent to Mr. Adams with his approval letter and a copy will also be given to each board member.

Mr. Carey made the motion for Appeals Case #1339 for Bill Adams and George Costello of 3211 Transit Road, Elma, NY who are requesting a variance to install an LED sign §144-102.1 I (2), (8) and (9), C-3, that the variance be approved based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created in this case.

Seconded by Mr. Kwiek. Ayes: 4. Nays: 1 (Mr. Schafer)

Appeals Case #1340 for John Wahl of 1650 Bullis Road, Elma, NY who is requesting a variance to approve a nonconforming lot §100-3, Residential C.

Mr. Wahl was present and explained how in 2004 he purchased the lot and in 2005 his house was built and now his daughter is looking to build on the property the family owns.

Mr. Schafer mentioned the frontage for the one property can not be less than 100 feet. The proposed builder (Derrick Sullivan) was also present and stated a shared driveway as a solution to the frontage issue. The Town Attorney Phyllis Todoro stated that the Town Code does not allow for a shared driveway.

Mr. Kalinowski asked about a family on Bullis Road having one driveway and Attorney Todoro replied that the driveway was created before the code existed in that situation. Mr. Schafer said the residents do not want houses on top of houses.

Mr. Kwiek asked about the four split rule and was informed that the property was split four times. Mr. Trzepacz informed Mr. Wahl that he is taking a conforming lot and creating two nonconforming lots. Mr. Wahl asked if he could find out what the 4 splits were and the assistant building inspector, Ray Balczerzak said he would investigate that tomorrow.

No one spoke for or against the variance.

Mr. Kwiek made the motion for Appeals Case #1340 for John Wahl of 1650 Bullis Road, Elma, NY who is requesting a variance to approve a nonconforming lot §100-3, Residential C, that the variance be denied based on the following criteria:

- 1) An undesirable change would be known.
- 2) The benefit could be achieved another way.
- 3) The request is substantial.
- 4) The request would have an adverse physical or environmental effect.
- 5) The alleged difficulty is self-created in this case.

Seconded by Mr. Trzepacz. Ayes: 4. Nays: 1 (Mr. Kalinowski)

The motion was made to approve the minutes from December 11, 2018 by Mr. Trzepacz and seconded by Mr. Kalinowski. Ayes: 5.

The meeting was adjourned at 8:15 PM. Motion made by Mr. Trzepacz and seconded by Mr. Kwiek. Ayes: 5.

Respectfully submitted,

Kerry A. Galuski Secretary-Clerk

Note: At the February 12, 2019 meeting information was provided by the Asst. Building Inspector regarding case #1340.