ZONING BOARD OF APPEALS

The hearing on Tuesday, November 13, 2018 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 Donald Trzepacz

Robert Schafer, Chairman Absent: Mike Sobczak

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #1329 for Leon Berner for vacant land on Knabb Road, Elma, NY who was given a continuance to approve a nonconforming lot on Knabb Road with the road frontage being less than required § 144-99 C (1), residential C.

Mr. Berner was not present at the meeting.

Speaking against the variance were: James Voit of 690 Knabb Road; Edwin Stenzel of 731 Knabb Road and Carol Stenzel of 741 Knabb Road.

Mr. Trzepacz made the motion for Appeals Case #1329 for Leon Berner for vacant land on Knabb Road, Elma, NY who was given a continuance to approve a nonconforming lot on Knabb Road with the road frontage being less than required § 144-99 C (1), residential C, that the variance be given a final continuance and that Mr. Berner be contacted by telephone to make him aware of the motion. Seconded by Mr. Kalinowski. Ayes: 5. Nays: 0.

Appeals Case #1332 for Barbara Ellen Goetz of 125 Winspear Road, Elma, NY who is requesting a variance to approve a nonconforming lot § 144-99 C3, 100-1, 100-2 and 100-3, residential C.

Barbara Goetz was present to explain her case of how the land has been passed down from various family members. Mr. Schafer asked if the lot size of 100x300 was correct and was informed that it was. Mr. Trzepacz mentioned that according to the search her uncle bought the property in 1955.

Mr. Carey asked who from the town said that the lot was a buildable lot and Ms. Goetz informed the board that someone in the Building Dept. told the realtor that the lot was nonconforming. Mr. Trzepacz asked if there is a single deed for just that piece of property and Ms. Goetz informed him that she had the deed with her and he could review it. Mr. Kwiek asked if there was an issue with the size or just the land and Ms. Goetz informed him it was just the land.

Mr. Kalinowski asked if she reside at 125 Winspear Road and she replied no. Mr. Kalinowski also asked how long she has been the executor of the property and the answer was 1988.

No one spoke for the variance. Against the variance was Ron Kessler of 137 Winspear Road and Ronald Bragg of 30 Oakgrove Court.

Mr. Carey made the motion for Appeals Case #1332 for Barbara Ellen Goetz of 125 Winspear Road, Elma, NY who is requesting a variance to approve a nonconforming lot § 144-99 C3, 100-1, 100-2 and 100-3, 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: 4. Nays: 1 (Mr. Kalinowski)

Appeals Case #1333 for Chuck Faso of 1 Briggswood Drive, Elma, NY who is requesting a variance to construct a garage with less than the required side property setback § 144-97 C4, residential A.

Mr. Faso and his contractor were present at the meeting. Mr. Faso asked that his contractor speak on his behalf. A letter from the neighbor was given to the board in support of the variance (Mary Larkin, 2800 Bowen Road). Mr. Schafer asked if there is a second garage being built and was informed not at the current time and that the garage will be an exact match to the house.

No one spoke for or against the variance.

Mr. Trzepacz made the motion for Appeals Case #1333 for Chuck Faso of 1 Briggswood Drive, Elma, NY who is requesting a variance to construct a garage with less than the required side property setback § 144-97 C4, residential A, 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. Carey. Ayes: 5. Nays: 0

Appeals Case #1334 for Matthew Mariacher of 230 Pound Road, Elma, NY who is requesting a variance to split the property and make two additional nonconforming lots § 144-99 C1, residential C.

Matt Mariacher was present and explained how he has owned the property since 1968 and he is looking to split the property for his two kids to be able to build on the property.

Mr. Schafer stated there must be 100 feet of frontage and that flag lots were stopped in 2014 per the Town Board. Mr. Trzepacz mentioned that one of the most important issues with the request is that it would create two nonconforming lots. Mr. Kwiek advised Mr. Mariacher that he is creating the hardship because there is 284 feet of frontage.

Mr. Carey asked Mr. Mariacher to point out where his house is located on the property and if his intension is just for his family to build on the property and the answer was yes.

For the variance was Todd Huber of 6091 Seneca Street and against the variance was Julianne Spence of 191 Pound Road.

Mr. Kalinowksi made the motion for Appeals Case #1334 for Matthew Mariacher of 230 Pound Road, Elma, NY who is requesting a variance to split the property and make two additional nonconforming lots § 144-99 C1, 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. Carey. Ayes: 2. Nays: 3 (Mr. Kwiek, Mr. Trzepacz and Mr. Schafer)

The motion was made to approve the minutes from October 9, 2018 by Mr. Trzepacz and seconded by Mr. Kwiek. Ayes: 5.

The meeting was adjourned at 7:50 PM. Motion made by Mr. Kwiek and seconded by Mr. Trzepacz. Ayes: 5.

Respectfully submitted,

Kerry A. Galuski Secretary-Clerk