ZONING BOARD OF APPEALS

The hearing on Tuesday, December 11, 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		Mike Sobczak
	Donald Trzepacz		
	Robert Schafer, Chairman	Absen	t:

After Roll Call, the Clerk read the Notice 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 present and explained how this is the last lot to be approved by the Zoning Board. Mr. Trzepacz mentioned that the driveway agreement was filed in the Clerk's Office downtown on February 2, 2010. Mr. Schafer asked when the paperwork was submitted originally, and Mr. Berner replied that he did not think the paperwork had to be filed.

Mr. Carey mentioned he was not here for the originally meeting a few months back in September and asked for Mr. Berner to briefly explain why he is asking for the variance. Mr. Kalinowski asked about the paperwork that was filed in the Erie County Clerk's Office and it being called an agreement. The fact that there is only one signature does not make it an agreement. Mr. Berner said it will be a deed restriction on the driveway.

Town Attorney Phyllis Todoro asked who prepared the document and Mr. Berner replied Gary Schaff. Mr. Kalinowski asked for the document to be tied to the property.

No one spoke for the variance and against the variance were: James Voit of 690 Knabb Road and Edwin Stenzel Jr. of 731 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 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: 3. Nays: 2 (Mr. Kalinowski and Mr. Schafer)

Appeals Case #1335 for Todd Huber for the property located at 6272 Seneca Street, Elma, NY who is requesting a variance to install a retaining wall and a larger front entry way both having less than the required front property line setback § 144-78 D, C-1.

Mr. Huber was present and explained about there being two buildings on the property and that a variance was already given for an entrance way to the building in the back and that the grade had to be changed. The new drawings have the entrance to the building being located on the side.

Mr. Schafer asked where the retaining wall is located, and Mr. Huber replied that it is in the front of the white building. Mr. Carey asked the size of the retaining wall and was informed that it is 8 by 30. Mr. Kalinowski asked if the wall is part of the actual foundation and it is.

Mr. Schafer asked when the wall was constructed and was informed that it was roughly installed a month and a half ago.

No one spoke for or against the variance.

front entry way both having less than the required front property line setback § 144-78 D, C-1, 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. Trzepacz. Ayes: 5. Nays: 0

Appeals Case #1336 for Jason Mroz of 545 Winspear Road, Elma, NY who is requesting a variance to build a house with less than the required side yard setback § 144-99 C4, Residential C.

Mr. Mroz was present and explained all his drawings that were originally submitted to the Building Dept. showed 15 feet from the property line. Mr. Schafer made mention that unfortunately there was a mistake in reading the prints.

Mr. Kalinowski asked when the house was finished and was informed that it will not be complete until March of 2019. Mr. Kalinowski also asked if the bank had any issues with the 15 feet and Mr. Mroz replied that there were no issues.

For the variance was Derek Sullivan of 549 Winspear Road and no one spoke against the variance.

Mr. Carey made the motion for Appeals Case #1336 for Jason Mroz of 545 Winspear Road, Elma, NY who is requesting a variance to build a house with less than the required side yard 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. Trzepacz. Ayes: 5. Nays: 0

Appeals Case #1337 for Jeff & Jen Donhauser of 1840 Hall Road, Elma, NY who are requesting a variance to build a shed with less than the required side yard setback § 144-99 C4, Residential C.

Jeff and Jen Donhauser were present and explained how they are only 5 feet from the property line for a shed they installed. Mr. Schafer said the shed should be 75 feet back from the road and Mrs. Donhauser showed the board why they chose the location that the shed is located.

Mr. Kalinowski asked if the pad in the drawings is where the shed is positioned and was informed it is. Mr. Kalinowski also mentioned it is self-created and Mr. Carey asked when the shed was put in and was informed it was in 2018 and that the pad had been put in a few years before that.

Mr. Kwiek asked about the property and the fence located on the property. The Donhauser's mentioned that there are wetlands on the property. Mr. Kwiek mentioned the survey shows that the shed is 3.3 feet away from the property line. Mr. Trzepacz said he understood why the shed is located where it is.

Mr. Kalinowski suggested as to a possible location where the shed might be able to go on the property. Mr. Kalinowski also asked when the shed was started and the Donhauser's replied that it was started in October and that the door is currently not installed on it. Mr. Kwiek asked if they had a copy of the survey and they did.

For the variance was Mrs. Banas of 1181 Girdle Road and no one spoke against the variance.

Mr. Trzepacz made the motion for Appeals Case #1337 for Jeff & Jen Donhauser of 1840 Hall Road, Elma, NY who are requesting a variance to build a shed with less than the required side yard setback § 144-99 C4, 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. Carey. Ayes: 4. Nays: 1 (Mr. Kalinowski)

The motion was made to approve the minutes from November 13, 2018 by Mr. Trzepacz and seconded by Mr. Kwiek. Ayes: 5.

The meeting was adjourned at 8:04 PM. Motion made by Mr. Schafer and seconded by Mr. Kalinowski. Ayes: 5.

Respectfully submitted,

Kerry A. Galuski Secretary-Clerk