

5/11/04 Zoning Board Minutes

ZONING BOARD OF APPEALS

The hearing on Tuesday, May 11, 2004 was called to order by Chairman Trzepacz at 8:00 PM.

Members present: Harry Kaczmarek Also: Tom Stynes, Asst Building Inspector
Anthony Lotempio Robert Pierce, Town Attorney
Lee Occhino
Robert Schafer
Donald Trzepacz, Chairman

After Roll Call, the Clerk read the Notice of Public Hearing for Appeals Case #966 for Scott Kinal, 5510 Clinton St, who is requesting a variance to construct a 26G'+x28G'+ barn and porch for personal use only, no business use. Res. C., 52-6. Appeals Case # 967 for Thomas Kloc, 1171 Bowen Rd, who is requesting a variance to build a 24G'+x24G'+ 2 car garage unattached from primary residence for personal use only, no business use. Res. B, 52-6. Appeals Case #968 for George Morris, 1600 N Davis Rd, who is requesting a variance to build a 24G'+x36G'+ French Country Style garage with drive-thru at 1500 N Davis Rd, for personal use only, no business use. Res. B, 52-6. Appeals Case #969 for Harold and Susan Collier, 7002 Davis Rd, who are requesting a variance to build a 36G'+x36G'+ horse barn at 500 Willardshire Rd, for personal use only, no business use. Res. C, 52-6.

In the matter of Appeals Case #966, Scott Kinal was unable to attend the meeting, so Gregory Kinal, ScottG'+s father, presented the case. The barn will sit 10G'+ back from existing garage and 11G'+ back from neighborG'+s property. The structure will resemble a small horse barn with a porch and will be used to house lawn mowing equipment and other miscellaneous household items. The height will be 10G'+6G'Ñ to the eave, 14G'+ to the top, and 8G'+ high canopy. Scott, his father and his grandmother all live on the property. Mark Palmer at 5500 Clinton St. spoke in favor of this project. No one spoke against this project.

In the matter of Appeals Case #967, Thomas Kloc presented his case. The two car garage will be 25G'+ behind the residence, 8G'+ to the east with a 16G'+ door. Electric will be

added, no water or heat. The garage will be used for storage of personal belongings. No one spoke for or against this project.

In the matter of Appeals Case #968, George Morris along with his brother-in-law and Attorney William Magavern presented this case. Mr. Morris bought the property at 1500 North Davis to build a new home and would like to build a 24G⁺x36G⁺ garage with a drive-thru to store antique cars on the 4.3 acre lot. The new house would be built where the old house was on the property before it burned down and the garage would be next to it. The old house was 5, 530 sq ft and the new house will be 4,604 sq ft. The garage would be approximately 23G⁺ high with a high pitched roof and no dormers. The garage setback is 410G⁺ and there will be electricity, water and a woodburning stove for heat. No one spoke in favor of this project.

Mark McNamara from Hiscock & Barclay representing Solar Sportsystems Inc.(owners of various adjoining properties to 1500 N Davis Rd) spoke against this project. Mr. McNamara states the variance should not be granted because Mr. Morris has failed to meet criteria for a use variance as follows:

1. use is inconsistent with zoning for that area
2. notion hardship is unique has not been proven
3. hardship is self -created
4. the new structures would alter the historic character of the neighborhood

Mr. McNamara also added a report prepared by the Department of Anthropology Archaeological Survey of the State University of New York at Buffalo states the proposed building site is located in an area known to contain prehistoric and historic artifacts. There are soil and hydrology issues and a SEQR should be done. No one else spoke for or against this project.

In the matter of Appeals Case #969, Harold and Susan Collier presented their case. The CollierG⁺s will be closing on the property at 500 Willardshire Rd in late July/early August and would like to build a 36G⁺x36G⁺ horse barn will a 12G⁺ overhang facing south to house their 3 horses. There will be no business use or boarding of horses. There will be three stalls, a tack room, storage room and a small area for exercising the horses. Manure will not be stored on the property, but will be picked up weekly by Waste Management. The barn will be located behind an existing 2 car garage, and will be 60G⁺ from the neighbor to the north and 60G⁺ from the neighbor to the west. Ground to eave will be no more than 10G⁺. Mark and Judy Rappold of 951 Transit Rd could not be

present but left a complaint with the Zoning Board Clerk opposed to the project because they feel the height and size is too excessive for the area and for the property and is not consistent with other structures in the area. Michael Terranova of 511 Willardshire Rd did not speak for or against but commented on the location of the new barn. Lisa Olson spoke on behalf of her parents, Barb & Rich Olson of 460 Willardshire Rd, who were neither for or against the project but questioned the number of horses that will be housed there and where will the storage container for the manure be placed. No one else spoke for or against this project.

Mr. Kaczmarek made the motion: In Appeals Case # 966 for Scott Kinal, 5510 Clinton Street, who is requesting a variance to construct a 26G'+x28G'+ barn and porch for storage and personal only, no business use, I move the variance be granted, per sketches submitted and provided all Elma Town codes and ordinances are met. Seconded by Mr. Schafer. Poll vote G|(5 ayes. Carried.

Mr. Kaczmarek made the motion: In Appeals Case #967 for Thomas Kloc, 1171 Bowen Road, who is requesting a variance to build a 24G'+x24G'+ 2 car garage unattached to his primary residence for personal use only, no business use, I move the variance be granted, per sketches submitted and provided all Elma Town codes and ordinances are met. Seconded by Mr. Occhino. Poll vote G|(5 ayes. Carried.

Mr. Occhino made the motion: In Appeals Case #968 for George Morris, 1600 N Davis Rd, who is requesting a variance to build a 24G'+x36G'+ French Country Style garage with drive-thru at 1500 N Davis Rd for personal use only, no business use, I move for a continuance. Seconded by Mr. Kaczmarek. Poll vote G|(5 ayes. Carried.

Mr. Schafer made the motion: In Appeals Case #969 for Harold & Susan Collier, 7002 Davis Road, who are requesting a variance to build a 36G'+x36G'+ horse barn at 500 Willardshire Rd, for personal use only, no business use, I move the variance be granted, per sketches submitted and provided all Elma Town codes and ordinances are met. Seconded by Mr. Occhino. Poll vote G|(5 ayes. Carried.

The minutes of the last meeting (April 19, 2004) were approved as submitted.

There being no further business, the meeting was adjourned at 9:15PM.

Respectfully submitted,

Jennifer M. Ginter
Secretary-Clerk