

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
December 7, 2011

PRESENT: Donald Jablonski
Michael Bartus
Frank Loiars
Tim Lederhaus, Chairman

ALSO PRESENT: Brian Belson, Senior Building Inspector
Jane Trombley, Secretary
Daniel Seaman, Town Attorney

ABSENT: Kevin Roth, Alternate
Charles Dahlquist

The December 7, 2011 Zoning Board of Appeals meeting was called to order at 11:30 am by Chairman Lederhaus, who then led the Pledge of Allegiance.

Chairman Lederhaus noted Member Dahlquist and Alternate Member Roth were absent.

MOTION made by Member Loiars, seconded by Member Bartus to approve the November 22, 2011 Zoning Board Minutes with the correction of Chairman Lederhaus' name in the first case. 4 Ayes, 0 Nays, Carried.

CASE #1 **4060 Lake Avenue – SBL #81.00-3-6.2 JR2 Enterprises, LLC** – Withdrawn.
Letter dated 11-23-11 received from Keith Hetrick, President of JR2 Enterprises, LLC, withdrawing his area variance request at this time received as “Exhibit 1”.

CASE #2 **5285 Upper Mountain Road – SBL #108.00-1-44.1 – Thomas Dickey** –
Requesting use variance to construct a 50 x 60' metal building for storage as an accessory use to the residential home.

MOTION made by Member Jablonski, seconded by Member Bartus, based on counsel, to approve the resolution before the Board in its entirety and attached to these minutes. 4 Ayes, 0 Nays, Carried.

The next Zoning Board of Appeals meeting will be January 24, 2012 at 7:00 pm.

MOTION made by Member Jablonski, seconded by Member Bartus to adjourn. 4 Ayes, 0 Nays, Carried.

BY ORDER OF THE TOWN OF LOCKPORT
ZONING BOARD OF APPEALS

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Motion by Member Jablonski; seconded by Member Bartus.

On the application of Thomas Dickey, on behalf of himself and his wife, Sandra Dickey, for a variance to allow construction of a 50 ft. X 60 ft. metal building, this Board reviewed the application and held a public hearing on November 22, 2011.

This Board makes the following findings:

The variance is a use variance because the premises is located in a B-1 District and he intends to use the building as a residential accessory use. The applicant states he will not be housing animals in the building. The granting of a variance was objected to by applicant's neighbor, Chris Kneepfel, 5293 Upper Mountain Road, who questioned whether use variance criteria was met. He indicated that his main objection was the belief that applicant would house livestock in the building, and requested that a condition of a variance, if granted, be that no animals be housed in the building.

The Board finds that the Zoning Regulation Restrictions for the B-1 District cause an unnecessary hardship to the application due to the unique location and present use of the property. Although the property is over 13 acres in size, the applicant's pre-existing use is residential, and the zoning restrictions prevent applicants from maximizing their use and enjoyment of the premises for residential purposes. This Board finds that a:

1. Reasonable return cannot be realized while unless applicant sells or uses the premises for commercial purposes, which uses would diminish his residential use and enjoyment.
2. The hardship is unique to the premises because it is the only commercial property in the vicinity in the Town, is large in area and has a prior residential use.
3. The variance will not alter the character of the neighborhood, which is residential. The size of the structure will easily be far enough from residences so as not to interfere with their use.
4. The hardship is not self-created. The property was previously used for residential agricultural purposes prior

to re-zoning.

This Board finds, however that the variance must be conditioned upon the structure not being used to house or keep animals, and such conditions is made a part of this variance. Further, the lighting on the premises must be kept to one light, not less than 250 watts which is shielded from residences in the area.

Subject to such conditions, the variance is hereby granted.

Ayes __ 4 __

Nays __ 0 __

Carried