

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
February 28, 2012

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TOWN CLERK
LOCKPORT, NY 14094

PRESENT: Charles Dahlquist
Tim Lederhaus, Chairman
Kevin Roth, Appointed Alternate
Donald Jablonski
Michael Bartus

ALSO PRESENT: Jane Trombley, Secretary

ABSENT: Frank Loiars

The February 28, 2012 Zoning Board of Appeals meeting was called to order at 7:30 pm by Chairman Lederhaus, who then led the Pledge of Allegiance.

Chairman Lederhaus appointed Alternate Roth a full voting member due to the absence of Member Loiars.

MOTION made by Member Dahlquist, seconded by Member Jablonski to approve the November 22, 2011 minutes. 5 Ayes, 0 Nays, Carried.

CASE #1 **5790 Wynkoop Road – SBL #124.03-2-71 – Kevin Cassidy** – Returning to request an area variance to construct an 8' 6" fence on the north property line with the decorative side of the fence facing in. Mr. Cassidy presenting. Mr. Cassidy stated he would like to put up an 8'6" hemlock fence, 10' from the property line that will be built by the Amish, to block his view of his neighbor's 22' boat.

Chairman Lederhaus opened the Public Hearing.

Chairman Lederhaus questioned if evergreens would block the view. Mr. Cassidy stated they would work in the summer, but not in the winter and the fence will also block some of the noise.

Member Jablonski asked if there isn't a better solution as the Town Code calls for 6' high fences. Mr. Cassidy stated the boat isn't in the driveway, it is alongside the garage on the property line.

Member Dahlquist asked if the fence needs to be 8' high and Mr. Cassidy stated the boat is about 10' high.

Senior Building Inspector Belson noted Town Law is for a 6' high fence with the decorative side facing out.

Member Jablonski stated he is having a little problem with the height, doesn't feel it will be aesthetically pleasing.

Chairman Lederhaus suggested putting in more evergreens as they don't need maintenance and would look good from both sides. Mr. Cassidy didn't feel that would work.

Member Dahlquist asked Mr. Cassidy if he had spoken to the neighbor about the boat. Mr. Cassidy stated no, the neighbor doesn't get along with others and that's why the person he bought his home from, sold it.

Member Jablonski questioned if Mr. Cassidy thought about a berm with a fence on it.

Hearing no further comments, Chairman Lederhaus closed the Public Hearing.

Mr. Cassidy asked that his request be withdrawn.

MOTION made by Member Jablonski, seconded by Member Dahlquist to deny Kevin Cassidy at 5790 Wynkoop Road, an area variance to construct an 8' 6" fence on the north property line with the decorative side of the fence facing in, based on the following findings:

1. The requested area variance will create an undesirable change in the character of the neighborhood,
2. The benefit sought by the applicant can be achieved by another feasible method;
3. The requested area variance is substantial;
4. The proposed variance will have an adverse effect on the physical conditions in the neighborhood; and
5. The difficulty was self created to some degree.

5 Ayes, 0 Nays, Carried.

CASE #2 Willow Wood Drive – SBL #167.00-1-60 – Patrick Murray – Returning to request an area variance to construct a single family residence at the end of Willow Wood Drive, without the proper lot frontage. Mr. Murray presenting. Mr. Murray stated he bought his home on Tonawanda Creek Road about 4 years ago and last year bought the property behind his home at the foreclosure sale and would like to build a home for his in-laws on the property. Mr. Murray stated there is 330' of frontage, but it is not technically for the house.

Chairman Lederhaus opened the Public Hearing.

Chairman Lederhaus asked where the home would be located and Mr. Murray stated as close to the gas line as is legal, as his in-laws would like to be part of the existing neighborhood. Mr. Murray stated the gas line would be the front yard, and he will keep it mowed.

Member Dahlquist asked how far from the gas line, the home would be located. Mr. Murray stated he is unsure, the last house that is there is about 25' from the easement.

Chairman Lederhaus stated if the driveway is built over the easement, and has to be dug up, the homeowner is responsible for the repairs. Mr. Murray stated he understands that.

Arthur Tillman, with his wife Stephanie, of 6923 Willow Wood Road, stated he is an environmental inspector and wonders where the house will be located, as everyone will be at a disadvantage if it is too close to the gas line. Mr. Tillman stated heavy equipment, the age of the pipeline if it is more than 25 to 30 years old, may be decrepit, and could cause a leak with the heavy equipment working over it. Mr. Tillman stated there are also wetlands there that need to be considered.

Chairman Lederhaus asked Mr. Murray if there are registered wetlands there and Mr. Murray stated yes, about 400' north of the lot. Mr. Murray stated he has spoken with Tom Sutton, the public relations representative, and was told they will be very clear with what can be done. Mr. Murray stated he already has dirt that was brought in to build the land bridge when there was going to be a subdivision there, that he has purchased.

Mr. Murray stated he understands Mr. Tillman's concerns as he has 3 small children and he doesn't want anything to happen to them. Mr. Murray stated the property will look a lot better with a beautiful home built on it.

Mr. Tillman stated he is looking at it blindly without a plan to view, but his number one concern is the gas line and number two is the aesthetics.

Member Jablonski asked if there is a site plan yet and Mr. Murray stated no.

Senior Building Inspector Belson stated the variance is for the frontage issue only.

Mr. Tillman stated due to the frontage issues with the gas lines, everyone will be concerned with the proximity to the gas lines.

Senior Building Inspector Belson stated the road frontage is the issue as the lot is plenty big to build a home, but he needs to get across the gas line somewhere at the end of the road, and it can't be off the hammerhead.

Mr. Tillman wondered why the driveway can't come off Tonawanda Creek Road.

Member Jablonski stated the variance is for the road frontage and it doesn't have anything to do with the building of the house.

Hearing no further comments, Chairman Lederhaus closed the Public Hearing.

MOTION made by Member Dahlquist, seconded by Member Bartus to grant an area variance to Patrick Murray of 6419 Tonawanda Creek Road, for an area variance to enter his 250' x 350' lot over easement of gas line based on the following findings:

1. The requested variance will not produce an undesirable change in the character of the neighborhood;
2. The benefit sought by the applicant cannot be achieved by any other feasible method;
3. The requested area variance is not substantial;
4. The proposed variance will not have an adverse effect on the environmental conditions in the neighborhood; and
5. The difficulty was not self-created.

5 Ayes, 0 Nays, Carried.

CASE #3 **1030 Ernest Road – Lonesome Oak LLC/Charles Heinrich – 124.01-1-63 – SBL #124.01-1-63** – Requesting area variance to construct a new residence approximately 40' to the highest peak. The required maximum height is 35'. Tim Arlington of Apex Consulting presenting. Mr. Arlington stated Mr. Heinrich would like to construct a 6000 square foot home on an over 50 acre lot that will peak at about 40'. Mr. Arlington stated this property was going to be a subdivision, but Mr. Heinrich bought it to construct a large single family home. Mr. Arlington stated there is considerable vegetation on the north and south sides and extends to Akron Road on the west and the home will be about 900' from Ernest Road, and very well secluded.

Chairman Lederhaus opened the Public Hearing.

Member Dahlquist asked if the church property is to the south and Mr. Arlington stated yes, but it is vacant.

Hearing no other comments, Chairman Lederhaus closed the Public Hearing.

MOTION made by Member Jablonski, seconded by Member Roth to grant an area variance to Charles Heinrich for Lonesome Oak at 1030 Ernest Road based on the following findings:

1. The requested variance will not create an undesirable change in the character of the neighborhood;
 2. The benefit sought by the applicant cannot be achieved by any other feasible method;
 3. The requested area variance is not substantial;
 4. The proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood; and
 5. The difficulty was not self created.
- 5 Ayes, 0 Nays, Carried.

Chairman Lederhaus noted the next Zoning Board of Appeals meeting will be March 27th at 7:00 pm.

MOTION made by Member Dahlquist, seconded by Member Roth to adjourn. 5 Ayes, 0 Nays, Carried.

BY ORDER OF THE TOWN OF LOCKPORT
ZONING BOARD OF APPEALS