

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
August 28, 2012

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TOWN CLERK
LOCKPORT, NY 14094

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

ALSO PRESENT: Jane Trombley, Secretary
Jason Thompson, Building Inspector
Daniel Seaman, Town Attorney

ABSENT: Frank Loiars
Donald Jablonski

The August 28, 2012 Zoning Board of Appeals meeting was called to order at 7:00 pm by Chairman Lederhaus who then led the Pledge of Allegiance.

Alternate Roth was appointed a full voting member due to the absence of Members Loiars and Jablonski.

MOTION made by Member Dahlquist, seconded by Member Bartus to approve the July 24, 2012 minutes. 4 Ayes, 0 Nays, Carried.

CASE #1 5654 Bowmiller Road – SBL #124.03-1-77 Melinda and Scott Hassan –
Melinda and Scott Hassan presenting. Requesting an area variance to construct a 40 x 60' storage building in a residential district.

Chairman Lederhaus opened the Public Hearing. Member Dahlquist recused himself from this case.

Chairman Lederhaus asked if the existing barn would be taken down and Mr. Hassan stated at some time, but he doesn't have a timeline for it as this is taking all his money, and the new building will be right in front of it, pretty much blocking it. Chairman Lederhaus asked if it will be a metal building, have downspouts and gutters and be painted in earth tones. Mr. Hassan stated yes, being done by H & P Contactors and will match the garage.

Chairman Lederhaus asked for comments.

Theodor Kolos of 5648 Bowmiller Road, which is north of the Hassan's, stated he is 100% in favor of the building and feels it will be an asset to the neighborhood. Mr. Kolos also has a 40 x 60' building.

Town Attorney Seaman asked how large the existing home is and Mr. Hassan stated 1800 sq. ft. Attorney Seaman stated the proposed pole barn will be 2400 sq. ft. which is larger than the home and about four times what is allowed. Mr. Hassan agreed. Attorney Seaman asked the size of the lot and Mr. Hassan stated about 1.92 acres.

Ms. Hassan stated they have a Snap-On truck business and want to be able to put the truck inside to work on it. Attorney Seaman asked if they are required to keep the vehicle at home. Mr. Hassan stated he owns the business, when you buy the franchise, what you get is the business lists for your sales. Attorney Seaman stated this is a residential zone and Mr. Hassan stated he is not conducting business at home, his home is his headquarters, but no business is done there, he works out of Hamburg and Orchard Park.

Attorney Seaman asked why such a large pole barn is needed and Mr. Hassan stated he has a 25' off shore boat, car hauler, ATV's and snowmobiles. Mr. Hassan stated his other neighbor is Mark Poole, who has a similar size pole barn that he has built within the last 6 years, as well as Mr. Kolos.

Attorney Seaman asked whether the truck could be housed elsewhere. Mr. Hassan said he didn't want to house his truck elsewhere.

Mr. Hassan offered to take down the 24 x 24' barn within the next year, if that will help, but he wants to rehab the current garage. Mr. Hassan stated he tries to be a good neighbor and keep his yard nice and take care of his stuff. He also does mechanics on the truck and would prefer to do it inside. Mr. Hassan stated he looked into buying the Franbilt building, but with insurance on the 33' truck and about a 1/2 million dollars in inventory in it, it wasn't feasible, but wants to keep them secure and safe as well as not be an eyesore and with the cost of refinancing the home, nothing else makes sense.

Attorney Seaman made a recommendation to the Board to reserve decision.

Mr. Hassan stated he purchased a large property to do what every red-blooded body wants to do, have his toys and keep them in good condition. Mr. Hassan claimed he doesn't conduct business there, but does send and receive orders on his computer, and stores his inventory. Mr. Hassan stated the truck is the business and it goes to the customer, they don't come to his home. Attorney Seaman asked if he services the truck at his home and Mr. Hassan stated yes.

Ms. Hassan stated they like the neighbors, don't want to move and the taxes are going up about \$900.

Mr. Hassan stated he is not conducting business out of his home, he has his ATV's and snowmobiles for the weekends, feels the building is completely reasonable, and his neighbors don't object as he spoke with them and is willing to bring his truck over for everyone to look at to better understand his business.

Attorney Seaman asked what would cause a need for a building 4 times the size of the residence in a residential area. Mr. Hassan stated he also has 2 mowers that he needs to mow his almost 2 acre lawn, as well as his ATV's, boat and snowmobiles and does his part to support the economy. Mr. Hassan states he would like to have an even bigger building, but couldn't afford it.

Member Roth stated he feels the building is huge.

Chairman Lederhaus questioned if the lean-to's are in addition to the size of the garage and Mr. Hassan stated yes, it will actually be 60' by 64' with the lean-to's.

Member Bartus asked what the purpose is and Mr. Hassan stated pull in and pull out doors. Mr. Hassan stated he bought a murder house and turned it into a home. Attorney Seaman asked if he knew the zoning when he purchased the home and he stated yes, but almost 1/2 of the building will be hidden by the lean-to's and barn – that's why he pushed the building so far back, otherwise he supposes he could just leave his stuff all over the yard. Attorney Seaman stated, actually you can't. Mr. Hassan stated he doesn't feel he is being unreasonable.

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

MOTION made by Member Bartus, seconded by Member Roth to deny the area variance for Melinda and Scott Hassan at 5654 Bowmiller Road to construct a 40 x 60' storage building plus lean-to based on the following findings:

1. The requested variance will not create an undesirable change in the character of the neighborhood or be a detriment to nearby properties;
 2. The benefit sought by the applicant can be achieved by another feasible method for the applicant to pursue;
 3. The requested variance is very substantial because it exceeds the allowed size by over four times, not counting the lean-to;
 4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood; and
 5. The alleged difficulty was self-created.
- 3 Ayes, 0 Nays, Carried.

Mr. Hassan stated there will be a for sale sign going up on his property.

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CASE #2 **5688 Beattie Avenue – SBL #123.14-2-36.112 – Scott Pidanick/Tina Lynn Sammarco.** Requesting an area variance to construct a 30 x 50' storage building in a residential district. Building Inspector Thompson stated a letter was received from the applicant asking to postpone until September. The hearing will be renoticed for September.

MOTION made by Member Dahlquist, seconded by Member Roth to change the September 25, 2012 meeting to Monday, September 24, 2012 at 7:00 pm. 4 Ayes, 0 Nays, Carried.

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

BY ORDER OF THE TOWN OF

LOCKPORT ZONING BOARD OF APPEALS