

TOWN OF LOCKPORT  
ZONING BOARD OF APPEALS  
October 23, 2012

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

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

ABSENT: Frank Loiars  
Michael Bartus

The October 23, 2012 Zoning Board of Appeals meeting was called to order at 7:00 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 Members Loiars and Bartus.

**MOTION** made by Member Jablonski, seconded by Member Dahlquist to approve the September 24, 2012 minutes. 4 Ayes, 0 Nays, Carried.

**CASE #1      5688 Beattie Avenue – SBL #123.14-2-36.112 – Scott Pidanick/Tina Lynn Sammarco** – Requesting an area variance to construct a 24 x 40' storage building in a residential district. **Amending original request. Mr. Pidanick & Ms. Sammarco presenting.**

Attorney Seaman read a letter received from the couples lawyer, David Heim, stating the proposed storage building will be used for indoor storage, recreational items, grills, bikes, etc., nothing that would create noise and not related to Mr. Pidanick business that he has leased a property on Murphy Road for many years for. Mr. Heim noted the neighbor who complained about a business being operated on the property operates a bicycle repair business on his property and sometimes has bike rallies there. The letter claimed that there will not be any business vehicles near the new building. Letter received as Exhibit "6".

Chairman Lederhaus noted the Public Hearing is still open.

Mr. Pidanick stated the building will be insulated and have drywall and he is also willing to put trees around the building if needed.

Ms. Sammarco stated they are trying to improve the value of their home as well as the neighboring homes by keeping the lot neat. Ms. Sammarco also stated there is no snowplowing done of their driveway in the middle of the night and she can't do anything about the normal everyday life of vehicles in and out of the driveway as she comes and goes taking her children places and running errands and agreed they are willing to add trees to the property. Mr. Pidanick stated the backyard is fully fenced with a 6' high stockade fence. Ms. Sammarco noted they are allowed about a 2 ½ car garage. Chairman Lederhaus agreed and stated we need to hear from everyone and make the best possible decision for everyone. Ms. Sammarco stated people have a lot of things nowadays that they need storage for.

Jean Thompson of 5701 Jennifer Drive East stated she lives behind their property and when they were putting up their fence, they cut her bushes without her permission and ruined them.

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

MOTION BY Member Dahlquist, SECOND BY Member Roth

A public hearing having been held on the 24<sup>th</sup> day of September, 2012 and continued on the 23<sup>rd</sup> day of October, 2012 on the application of Scott Pidanick and Tina Lynn Sammarco for a variance to construct a 24 x 40 lot accessory building, upon a residential lot in an R-1 District, this Board makes the following findings:

The original application was for a 20 x 50 building. At the beginning of the Hearing, Applicant's counsel advised that the requested structure was being modified to 24 x 40.

The Applicants presently have a 20 x 20 (2 car) garage.

The square footage of the principal residence is 1558 square feet. The square footage of the requested structure is 960 square feet. The requested accessory structure is 61.6% of the principal building. The Code allows an accessory structure not to exceed 1/3 or 33.3% of the square footage of the principal building.

Applicant's attorney claimed that the building was for storage of personal items.

Neighbors testimony and Applicants testimony indicated the premises is being used presently in conjunction with Applicants business.

Testimony of Applicant, upon questioning, establishes that Applicants house two vans at the premises. The vans are used in conjunction with Applicants electrical contracting business. On work days, Applicants two employees come to Applicants residence, leave their personal trucks, and drive the vans from the residence. At the end of the shift they return the van to the residence where they remain during off business hours. Applicant testified he keeps his work vehicles at the residence for security in his garage so he needs the building for his other vehicles.

Despite Applicants claim that because he has no showroom or customers at his residence and because he has another business location he is not using the premises for business purposes, the claim is not correct. The evidence establishes that he using his residence as the location for vehicles used in his business, and that he wishes to put personal vehicles in the requested accessory building so he can store his business vehicles at the premises in the garage. Thus he is using the premises in conjunction with his business, and by doing so, diminishing residential storage space.

Although Applicant has other recreational vehicles, Applicant has failed to establish a need for storage for personal reasons beyond that which many other people have and he has not established that, absent his business vehicles, that an accessory building of 519.3 square feet (1/3 the principal building )would be inadequate. The square footage would allow an accessory building in excess of 25 x 20 ft.

This Board has taken into consideration the benefit to the Applicant if granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by granting a variance and has considered the criteria set forth by Town Law §267(G) for an Area Variance and finds:

- 1) There would be an undesirable change in the character of the neighborhood if the variance is granted. There are

presently no accessory buildings of the size requested by the Applicant in the neighborhood, which is entirely of a residential character.

- 2) The benefit sought by the Applicant can be achieved by another method feasible to the Applicant. The Applicant can find a different place to keep his work vehicles. This will substantially reduce the amount of storage he requires. He can sufficiently add storage space within Code Specifications.
- 3) The requested variance is substantial. The requested variance is for an accessory building nearly double the allowable size, granting an area variance of this degree negates the intent of the Zoning Code.
- 4) The requested variance will have an adverse affect in the physical and environmental conditions of the neighborhood and district, because it will add to congestion of space and encourage proliferation of oversized storage buildings in a single family residential neighborhood.
- 5) The alleged difficulty was self created, due to the facts as set forth in this decision. Further accumulation of additional vehicles and equipment beyond that which can be stored in allowed buildings is purely the Applicants choice.

Accordingly, Applicants request for a variance is denied.  
4 Ayes, 0 Nays, Carried.

**CASE #2      5689 LOCUST STREET EXT – SBL#123.14-4-70 – James E. Knapp –**  
Requesting an area variance to construct at 14 x 37' detached garage in a residential district. Mr. Knapp presenting.

Mr. Knapp stated he would like to construct a new garage in the same place as the current one, only larger. The new one would line up with the front of the house and extend back an additional 10'.

Chairman Lederhaus opened the Public Hearing.

Chairman Lederhaus asked if the garage will have gutters and siding and Mr. Knapp stated yes.

Member Jablonski asked if there will be water and electric and Mr. Knapp stated no water, but maybe electric.

Chairman Lederhaus asked if there are drainage issues and Mr. Knapp stated no, he is below grade and the gutters will be in the back and slope down to the same grade, then disperse in the yard.

Chairman Lederhaus asked for Public Comment.

James McCoy of 5693 Locust Street Ext. stated he is concerned with the pitch of the garage and drainage as he has a new addition and questioned how much Mr. Knapp is raising the grade. Mr. Knapp stated he is raising the pad about 8 - 10" and that will put him at grade. Mr. McCoy thinks that will be higher than he is. Mr. Knapp stated he doesn't think so, it will be about the same as his driveway and sidewalk. Mr. Knapp stated the new garage will only be about an inch higher than the current garage, which is the same as the house roof line, with no overhang on the back, but will have gutters and won't drain on the neighbors property.

Attorney Seaman asked if the current garage has gutters and Mr. Knapp stated no.

Attorney Seaman asked where the gutters are running to and Mr. Knapp stated to the back of the garage and in the yard to the east, parallel to the neighbor and down the property line.

Senior Building Inspector Belson stated Mr. Knapp will not be higher than Mr. McCoy.

Chairman Lederhaus stated there will be less water than there is now as only the back will be raised. Chairman Lederhaus asked if there is a swale now and Mr. McCoy stated no, flat. Chairman Lederhaus stated the water will run to the back of the property.

Member Dahlquist asked how far from the lot line Mr. McCoy's property is and Mr. McCoy stated about 11'. Mr. Knapp stated he is not changing the grade, just the pad.

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

**MOTION** made by Member Jablonski, seconded by Member Dahlquist to grant an area variance to James Knapp at 5689 Locust Street Ext. to construct a 14 x 37' detached garage, with no grade change and 6' ends on the gutters or underground drains based on the following findings:

1. The requested variance will not create an undesirable change in the character of the neighborhood; as it permanently replaces an existing garage which will be removed.
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.

The variance is conditioned upon the garage being guttered, leading to the rear, with gutter extensions above or below the ground to run water to the Applicant's yard.

4 Ayes, 0 Nays, Carried.

**MOTION** made by Member Jablonski, seconded by Member Roth to approve tonight's decisions. 4 Ayes, 0 Nays, Carried.

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

**BY ORDER OF THE TOWN OF LOCKPORT  
ZONING BOARD OF APPEALS**