

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
January 22, 2013

PRESENT: Kevin Roth
Michael Bartus
Charles Dahlquist, Appointed Chairman

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

ABSENT: Kevin McCabe, Alternate
Donald Jablonski
Tim Lederhaus, Chairman

The January 22, 2013 Zoning Board of Appeals meeting was called to order at 7:00 pm by Appointed Chairman Dahlquist, who then led the Pledge of Allegiance.

MOTION made by Member Bartus, seconded by Member Roth to approve the November 27, 2012 minutes. 3 Ayes, 0 Nays, Carried.

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

Acting Chairman Dahlquist opened the Public Hearing.

Mr. Ottoviano stated the Hassan's are asking for an area variance to build a 2400 square foot pole barn. Mr. Ottoviano stated the Hassan's home is 1800 square feet, they have an 1152 square foot garage, and there is a 600 square foot barn that will be coming down. Mr. Ottoviano stated there will be an 1824 square foot net gain. The storage building will be for storage of personal property including ATV's, motorcycles, Polaris snowmobile, snowplow, a Ford truck, boat, etc. Received as Exhibit "1" a picture of the property. Mr. Ottoviano stated the section of the Town Code states that not more than 1/3 of the size of the home, which would be 600 square feet, can be used for accessory buildings. Mr. Ottoviano submitted pictures, received as Exhibits "2" and "3", of the neighbor to the south, 5670 Bowmiller Road, that has a large pre-existing pole barn. Mr. Ottoviano also presented a letter, received as Exhibit "4", from Jane and Mark Poole, in support of the variance for the pole barn. Next Mr. Ottoviano presented two photos, received as Exhibits "5" and "6", of the neighbor to the north, Mr. Kolas's pole barn at 5648 Bowmiller Road. A letter was received from Anne Briody-Petrock, who also doesn't oppose the variance, received as Exhibit "7", stating the pole barn is similar to others in the area. Mr. Ottoviano noted the variance is for three times what is allowed, and that is the essence of why this

Board exists, to consider the aesthetics and character of the neighborhood, but this is different in this neighborhood.

Attorney Seaman asked the size of the property. Senior Building Inspector Belson stated 186' x 400', 1.7 acres.

Attorney Seaman asked the distance of the pole barn from the property lines. Mr. Hassan stated Mr. Kolas's is 15', and the other property is 10-12'.

Mr. Ottoviano stated this is unique to this portion of the Bowmiller neighborhood, not throughout the Town because of existing large pole barns in the immediate vicinity and the very large properties. He stated that this neighborhood, consisting of larger properties along this portion of Bowmiller, constitutes a neighborhood which has developed differently from any other part of Town, because of the existing large storage sheds on large lots in one continual area of Bowmiller Road. Therefore, the requested building will be compatible with, and not detrimental to the neighborhood itself.

Acting Chairman Dahlquist asked for Public Comment.

Theodore Kolas of 5648 Bowmiller Road stated he feels this will be an asset for the Town as it will increase the property value, which will increase taxes, and the boats, RV's and other so called "toys" can be kept inside.

Member Roth asked Mr. Kolas how long ago he had erected his pole barn. Mr. Kolas stated 2 years ago.

Attorney Seaman asked what the distance from the road to the barn is. Senior Building Inspector Belson presented the diagram that was submitted with the application as Exhibit "8", showing the building to be 262' back from the center of the road, 52' behind the existing garage, 26' from the back of the lot and 22' from the side.

Attorney Seaman asked who owns the property to the west and Mr. Hassan stated Bowmiller Holdings and that it is woods. Bowmiller Holdings through Ms. Petrock, is in favor of the variance.

Mr. Hassan stated he positioned the pole barn so it would be partially blocked by the existing building from the street, and will be the same white color as the existing building, with the slate metal roof.

Hearing no further comments, Acting Chairman Dahlquist closed the Public Hearing.

Attorney Seaman stated he recommends holding off on making a decision as one Board member indicated he has a conflict of interest and we won't have a majority.

MOTION made by Member Roth, seconded by Member Bartus to table 5654 Bowmiller Road until the next meeting. 3 Ayes, 0 Nays, Carried.

CASE #2

5390 Ernest Road – SBL #124.01-1-63 – Lonesome Oaks LLC, Charles Heinrich. Requesting an area variance to construct an accessory building exceeding the required permitted height. Attorney George Muscato presenting with Mr. Heinrich. Mr. Muscato stated Mr. Heinrich is requesting an area variance to complete construction of a pole barn that is 40 x 60' and satisfies the 1/3 rule, the problem is with the height as he would like it to be 31' high and his home is 41' high. Mr. Muscato stated Mr. Heinrich owns 49 acres, bordered by Lincoln Avenue, Akron Road and Ernest Road and his home sits about 1000' from Ernest Road, 1500 to 2000' from Lincoln Avenue and 2 to 3,000' from Akron Road. Mr. Muscato stated the reason Mr. Heinrich would like it to be taller, is aesthetics. Mr. Heinrich stores many things with motors and sometimes even works on airplanes.

Acting Chairman Dahlquist opened the Public Hearing.

Mr. Muscato stated he doesn't believe it to be undesirable as it sits back from everyone else and aesthetically it would look more proportional to the house, and doesn't feel the request is substantial or would cause an adverse effect.

Member Bartus asked if it will be just 6' higher than what is there and Mr. Muscato stated yes.

Acting Chairman Dahlquist asked about the size and Mr. Muscato stated 40 x 60' pole barn and the house is 8000 square feet.

Hearing no Public Comments, Acting Chairman Dahlquist closed the Public Hearing.

MOTION made by Member Bartus, seconded by Member Roth to grant an area variance to Lonesome Oaks, LLC, for an additional 6' higher pole barn bringing the height to 31' 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 physical or environmental conditions in the neighborhood;
 5. The difficulty was not self created.
- 3 Ayes, 0 Nays, Carried.

MOTION made by Member Roth, seconded by Acting Chairman Dahlquist to adjourn. 3 Ayes, 0 Nays, Carried.

BY ORDER OF THE TOWN OF LOCKPORT

ZONING BOARD OF APPEALS