

TOWN OF LOCKPORT
ZONING BOARD OF APPEALS
May 28, 2013

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

ALSO PRESENT: Brian Belson, Senior Building Inspector
Jane Trombley, Secretary
Michael Norris, Town Attorney

ABSENT: Michael Bartus

The May 28, 2013 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 McCabe a full voting member due to the absence of Member Bartus.

MOTION made by Member Jablonski, seconded by Member Dahlquist to approve the April 23, 2013 minutes. 5 Ayes, 0 Nays, Carried.

CASE #1 **7198 Brookside Drive – SBL #124.03-3-104 – John Schiavone.**
Returning to request an area variance to construct a 480 square foot addition to the detached garage. Mr. Schiavone presenting. Mr. Schiavone stated he has an existing 3088 square foot home with a detached garage behind it and he would like to add 480 square foot to the back of the garage. Mr. Schiavone stated he has a purchase offer on the adjacent property and is just waiting for the title search to be done. Mr. Schiavone stated one side of the property is Lea Drive and the rest is behind his home to a drainage ditch in the back that the Town has easements on.

Senior Building Inspector Belson stated Mr. Schiavone has requested a variance for a garage in the past, but withdrew his application at that time as he met the 1/3 rule, so he didn't need it.

Chairman Lederhaus asked if Mr. Schiavone will be following the roof line. Mr. Schiavone said it will be a little shorter and he wants to use it to store cars in that he currently has stored elsewhere.

Member McCabe asked how much property Mr. Schiavone will be purchasing. Senior Building Inspector Belson stated it is approximately 32,000 square feet.

Member Jablonski asked which side of the property is being added on to. Mr. Schiavone said the south side towards the woods and Akron Road.

Chairman Lederhaus asked if the addition will have gutters and everything. Mr. Schiavone stated yes, it will match as aesthetics are very important to him.

Received as "Exhibit I" a copy of the signed contract for the purchase of the additional property.

Chairman Lederhaus noted the Public Hearing remained open from the April 23, 2013 meeting. Hearing no comments, Chairman Lederhaus closed the Public Hearing.

Member Dahlquist asked if the ditch on the west side of the property is part of the Town drainage system and Mr. Schiavone said yes.

MOTION made by Member Jablonski, seconded by Member Roth to grant an area variance to John Schiavone for 7198 Brookside Drive to construct a 480 square foot addition to his detached garage as follows:

**STATE OF NEW YORK TOWN OF LOCKPORT
COUNTY OF NIAGARA ZONING BOARD OF APPEALS**

**In the Matter of the Application of
JOHN SCHIAVONE**

**DECISION
CASE No.**

For a Variance of the provisions of the
Zoning Ordinance of the Town of Lockport

Location of Property: 7198 Brookside Drive
Lockport, NY 14094
County of Niagara
State of New York
SBL: 124.03-3-104

Applicant is requesting an Area variance to add an additional 480 square feet to the existing garage.

A Public Hearing having been held on April 23, 2013, after hearing from the Applicant, and after considering the comments of all persons who wished to be heard, was held open until May 28, 2013, to consider the evidence.

NOW, this Board now makes the following findings of fact:

- The area is zoned R-1. The R-1 Zone prohibits accessory structures or combinations of accessory structures (excluding detached garages where there is not attached garage) to contain no more than 1/3 of the square footage of the principal building.
- This requested variance is to add an additional 480 square feet to the existing garage.
- There was no opposition to the proposed variance from adjacent property owners.
- The applicant's current lot is 310' x 80'. The applicant has explained to the Board and provided a survey that he and his wife will be purchasing adjacent land to the south and west of the current property, greatly increasing the size of his overall property, where the accessory and principal buildings would be located, comprising of an approximately additional 32,690 square feet.
- With the addition of the adjacent land to the south and west, the Applicant's land is fields and woods toward the back (south) with no houses and toward the west side, there would be no home directly next to the garage as it would remain an empty lot.
- The principal residence and other residences greatly block the site of the garage from the view on the north side (on Brookside Drive) and from the east side while driving west on Meadowview Drive into Brookside Drive, there are a row of trees that block a good portion of the garage as well.
- The addition would be added on the south where the Applicant's intends to purchase land and there are no neighbors or houses as it is fields and woods.
- Compared to other subdivisions in the town, this property is unique since there are no houses to the south and only five houses on the south side of Brookside Drive, many having deeper lot sizes.

- The requested variance is an area variance.
- The Board has taken into consideration the benefit to the Applicant if the variance is granted as weighed against the detriment to other health and safety matters to the neighborhood by such grant.
- Due to the existing size of the garage and unique subdivision with no houses behind it, this will not be an undesirable change caused by the granting of the requested Variance, nor will it be a detriment to the nearby properties.
- The benefit sought of keeping all of his personal belongings inside and out of sight on his property cannot be achieved by some other feasible method other than by granting this variance
- The Variance is substantial.
- The proposed variance will not have an adverse affect upon the physical or environmental conditions of the neighborhood as determined in this decision for the reasons set forth herein.
- The difficulty is self-created.

Weighing all the factors, with heavy weigh being given to the increased lot size, the size of the existing garage and unique setting of the property with fields and woods towards the south, it is the determined that the requested Variance shall be GRANTED, contingent upon the applicant receiving title to the additional land to the south and west of his current property. Further, if not for the additional land being purchased to the south and west which increased Applicant's premises, this Variance would have denied.

Ayes: 5
Nays: 0

CASE #2 **6972 Lockwood Court – SBL #167.01-1-42 – Brian D. Shiah** – Requesting an area variance to construct a 10 x 20' storage building 5' from side property line. Mr. Shiah presenting. Mr. Shiah stated he has recently moved into his home and there are no buildings for storage. He states he has a lot of property maintenance equipment that he brought from his previous home. This home has a sloping backyard to a creek and with offsets, he is pretty limited to where he can put a storage building. Mr. Shiah stated he would like the building as large as possible.

Chairman Lederhaus opened the Public Hearing.

Charles Dunn of 6970 Lockwood Court stated his sunroom is on the lot side where the storage building is being proposed and he would like the storage building to be moved to 7' from the property line. Mr. Dunn stated he agrees with Mr. Shiah that he is limited to where he can locate the building because of the layout of the property.

Member Jablonski asked Mr. Shiah if he is agreeable to 7' from the property line, why not 10'. Mr. Shiah stated he realizes if his building was smaller, he could stay 5' from the property line or move it 10' away but he has already cut down 9 trees, 4 of which were for the shed and he would have to cut down more to be 10' away. Mr. Shiah stated he feels he can move it down about a foot and then over 2' and still be able to make it work.

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 Brian D. Shiah at 6972 Lockwood Court to build a 10 x 20' building 7' from the property line based on an agreement with the neighbor and based on:

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 variance is not substantial;
 4. The proposed variance will not have an adverse effect on the physical or environmental conditions in the neighborhood;
 5. And the difficulty was self-created due to the size of the building.
- 5 Ayes, 0 Nays, Carried.

CASE #3

6179 S. Transit Road – SBL #138.00-1-25 LLC/Basil Volkswagen – Requesting an area variance to display vehicles 15' from the front and 10' from the side property lines. William Wincott of Chamberlin Corporation representing Basil Volkswagen. Mr. Wincott stated they will tear down part of the existing showroom and add some landscaping. Mr. Wincott stated to meet the required 15' setback would entail moving lighting and restrict the display area. Mr. Wincott stated the new showroom will be approximately 40% bigger as required by Volkswagen. One side of the dealership is bordered by an access road and another by a home that will not be impacted. Mr. Wincott stated the showroom will extend a little farther south and about 3' further north.

Member Jablonski questioned if they will be enlarging the physical outside space and Mr. Wincott stated just extending the showroom a little and enhancing the landscaping. Mr. Wincott stated the building will match the neighboring Basil Toyota.

Member Dahlquist asked about signage. Mr. Wincott stated they don't have the information yet.

Chairman Lederhaus opened the Public Hearing. Hearing no Public Comment, Chairman Lederhaus closed the Public Hearing.

MOTION made by Member Jablonski, seconded by Member Roth to grant Basil Volkswagen an area variance for a front setback of 15' and 10' side variances for vehicle display based on:

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 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

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5. The difficulty was not self created.
5 Ayes, 0 Nays, Carried.

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

The next Zoning Board of Appeals meeting will be June 25th, 2013 at 7:00 pm.

BY ORDER OF THE TOWN OF LOCKPORT
ZONING BOARD OF APPEALS