

ZONING BOARD OF APPEALS

The hearing on Tuesday, June 8, 2021, is called to order by Chairman Kwiek at 7:00pm.

Members present: Ron Carey

John Johnston

Greg Kalinowski

Shawn Pralow

Harry Kwiek

Also: Ray Balcerzak, Bldg. Inspector

Phyllis Todoro, Town Atty.

Robert Schafer, Alternate

Appeals Case #1397 for Breakwall Holdings LLC (Jody Miller) for property located at 7440 & 7446 Seneca Street, Elma, NY who is requesting a variance to create two non-conforming lots as presented on submitted plans without the required road frontage and a driveway setback less than two feet from the property line §144-78 A1 and §144-33, C-1 Residential C.

Philip Gusmano who is the architect and Jody Miller the landowner was present. Mr. Gusmano stated that the land was purchased in 2019. The street frontage is the major issue. The development plan is to divide the land into three parcels.

The design plan would be to keep some of the foliage in the front. Mr. Gusmano mentioned that they understand that flag lots were done away with by the town years ago. There are wetlands on the property, and they are working with the Army Core regarding them.

Mr. Kwiek asked why they are not staying with the first drawing of the three properties and how the land was divided. Mr. Gusmano replied that Mr. Miller would like his residence to be separate and on the other two parcels they would like to have office buildings on the property. Mr. Gusmano said putting the two together would cause vacant buildings possibly in the future.

Mr. Miller spoke about the revenue the businesses would generate for the town. Mr. Kwiek mentioned the comprehensive plan that the town has and keeping the area green. Mr. Kwiek also brought up a shared driveway and how that is not always a good item down the line.

Mr. Carey addressed the statement about Seneca Animal Hospital being in favor and the fact that there is nothing in writing from them stating that regard and that it will not be on record. Mr. Carey mentioned again that flag lots were addressed and the fact that there is a code not allowing any future flag lots.

Mr. Pralow asked if the building is in wetlands and was advised that they are not. Mr. Gusmano introduced Patrick Martin from an engineering firm, and he stated that the wetlands were not mapped federal or state.

Mr. Pralow asked if the building to the north of the property is commercial or residential and was advised that it is residential, and a third building would be going up.

Mr. Miller stated he would give up doing three lots and going with only two lots. One for commercial and one for his house just so he can move forward. Mr. Kalinowski mentioned the application stated two lots.

Mr. Kalinowski asked if Mr. Gusmano was a resident and if he has done a lot of work in the town. Mr. Gusmano mentioned that this is the best way to develop the land.

For the variance: Mary Beth Shanley

Mr. Miller withdrew his zoning application.

Appeals Case #1398 for Christopher Haley of 811 Willardshire Road, Elma, NY who is requesting a variance to construct a 24x24 detached garage with less than the required front yard setback §144-99 C6, Residential C.

Mr. Haley was present and explained that the building went a little further south than what was initially intended. The initial variance was granted for 44 feet, and it is 34 feet from the one corner.

Mr. Kwiek asked where the septic is located, and it is on the other side. Mr. Carey asked if it is further from the road and was advised that it is.

Mr. Kalinowski stated that the application says it is 36 and now he mentioned that it is 34 and Mr. Kalinowski asked which dimension it is, and Mr. Haley replied that it is 34.

No one spoke for or against.

Mr. Johnston made the motion for Appeals Case #1398 for Christopher Haley of 811 Willardshire Road, Elma, NY who is requesting a variance to construct a 24x24 detached garage with less than the required front yard setback §144-99 C6, Residential C be approved based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.
- 3) The request is not substantial.
- 4) The request would not have an adverse physical or environmental effect.
- 5) The alleged difficulty is not self-created in this case.

2nd by Mr. Kalinowski Ayes: 5 Nays: 0

Appeals Case #1399 for Joseph Aramini of 10 Cloverdale Drive, Elma, NY who is requesting a variance to install a deck on the pool with less than the required front yard setback for a corner lot §144-98 C4, §144-56 and §144-132, Residential B.

Mr. Aramini was present and explained that the pool was currently installed in 2020. The design and location are from the site plan submitted. Would like the deck to go where he originally submitted.

Mr. Kwiek asked if the post would be cemented in the ground and Mr. Aramini replied that they would. Also asked was where the septic is located, and it is towards the west of the property. Mr. Kwiek also asked what the deck would be constructed out of and was informed that the deck would match the other decking on the house.

Mr. Carey asked if he had the original design and was informed that it basically is the same site plan that was originally submitted. Mr. Aramini also stated that the fence is over the property line but that the fence was there when he bought the house.

Mr. Pralow asked where the septic is located, and it is 10 feet from the back house and the leech field could be close to the pool. Mr. Kalinowski asked if the north side is a consideration and if he considered rotating it 90°.

Mr. Kalinowski asked if a higher fence was a consideration and Mr. Aramini mentioned that since the fence is over the property line, he is not sure how that would be addressed.

Mr. Johnston asked the size of the deck, and the response was it would be 16x12. Mr. Carey said the north side would make sense for the position of the deck.

No one spoke for the variance or against.

Mr. Carey made the motion for Appeals Case #1399 for Joseph Aramini of 10 Cloverdale Drive, Elma, NY who is requesting a variance to install a deck on the pool with less than the required front yard setback for a corner lot §144-98 C4, §144-56 and §144-132, Residential B be approved based on the following criteria:

- 1) An undesirable change would not be known.
- 2) The benefit could not be achieved another way.

- 3) The request is not substantial.
 - 4) The request would not have an adverse physical or environmental effect.
 - 5) The alleged difficulty is not self-created in this case.
- 2nd by Mr. Pralow Ayes: 4 Nays: 1 (Kwiek)

Mr. Kalinowski made the motion to approve the minutes of April 13, 2021. Second by Mr. Pralow. Ayes: 5

The meeting was adjourned at 8:11pm by Mr. Carey and 2nd by Mr. Johnston.