

## ZONING BOARD OF APPEALS

The hearing on Tuesday, June 14th, 2022, was called to order by Chairman Kwiek at 7:00pm.

Members present: Ron Carey

John Johnston

Harry Kwiek

Shawn Pralow

Robert Schafer, Alternate

Also: Phyllis Todoro, Town Atty

Absent: Ray Balcerzak, Bldg. Inspector

Gregory Kalinowski

Appeals Case #1411 for Ronald Kimmel of 5800 Seneca Street, Elma, NY who is requesting a use variance to change an office space building to a four-apartment building §144-84 A1; §144-74 A3 and §144-140, C-2.

Mr. Kimmel was present and explained how it took 3 years to rent a similar space that a tenant moved out of. Mr. Kwiek asked Mr. Kimmel how long he has owned the property and his response was 35 years and that he bought the property with the intentions of renting to commercial businesses. The space has been vacant 3 months and there has not been a single call on the building.

Mr. Kwiek mentioned most Seneca is commercial and that there are new buildings going up and are being rented. Mr. Kimmel said there is a large demand for apartments. Mr. Carey stated in 2013 a multiple dwelling committee was created to establish guidelines on multiple units. Mr. Carey also explained the overlay district and where on Seneca it is, which is basically from Rice to Pound.

Mr. Carey asked how many rentals does he own and his reply was eleven and Mr. Carey asked how many are vacant and only the one on Seneca. Mr. Carey also asked if he advertised in the paper and the response was no. There is no unique circumstance from surrounding buildings, and it is a self-created hardship in knowing that it is out of the overlay.

Mr. Schafer asked about the previous tenants and asked what they did, and it was one business renting both levels. Mr. Schafer asked if this is the first time, he has had problems getting a renter and the reply was that one other space was empty for three years. Mr. Carey suggested talking to building department about renting top and keeping bottom commercial.

No one spoke in favor or against the variance.

Mr. Carey made the motion to deny Appeals Case #1411 for Ronald Kimmel of 5800 Seneca Street, Elma, NY who is requesting a use variance to change an office space building to a four-apartment building §144-84 A1; §144-74 A3 and §144-140, C-2 based on:

- 1) An undesirable change would be known.
- 2) The benefit could be achieved another way.
- 3) The request is substantial.
- 4) The request would have an adverse physical or environmental effect.
- 5) The alleged difficulty is self-created in this case.

Seconded by Mr. Schafer     Ayes: 5. Nays: 0.

Appeals Case #1413 for Peter Todoro of 10 Tracy Drive, East Aurora, NY who is requesting an area variance to build a garage with less than the required side yard setback §144-97 C4, Residential A.

Attorney Todoro recused herself due to her brother being the applicant.

Mr. Todoro explained he cannot get two cars in the garage they currently have on the property and would like to build a second garage to park a car. The neighbors would not be able to see the building.

Mr. Kwiek asked about the survey and where the garage would be located. It was asked why they could not go back further on the property and the reply was that if they went back further there is a wet swamp area which would not work.

Mr. Kwiek asked how close to the property line the garage would be and the reply was it would be 2 feet. Mr. Johnston asked whose property is between him and his neighbor and he was told that even the surveyor could not tell whose property it is.

Mr. Pralow asked where the current garage is located, and it is on the South side of the property. Also, two cars are not going in new garage only 1. Mr. Pralow asked what a solid number from the line would be for the distance and he was informed 2 feet from the back corner due to the slant of the property.

Mr. Kwiek asked how far back from the back of the house, and maybe 5 feet. Mr. Carey asked when the house was built, and it was in 1965.

No one spoke for or against the variance.

Mr. Pralow made a motion to approve appeals case #1413 for Peter Todoro of 10 Tracy Drive, East Aurora, NY who is requesting an area variance to build a garage with less than the required side yard setback §144-97 C4, Residential A assuring the garage is 2 feet off the southwest property line and no less than 5 feet from the southwest corner of the house noting 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.

Seconded by Mr. Carey Ayes: 5. Nays: 0.

Appeals Case # 1414 for Connie Donnelly of 70 Meadow Drive, Elma, NY who is requesting an area variance to install a pool with less than the required front yard setback §144-99 C4. §144-63, Residential C.

Ms. Donnelly was present and explained how if she went 50 feet from the property line the pool would be in the septic lines. She is asking for 29 feet from the property line.

Mr. Kwiek asked if there is going to be a deck and yes only on the side that faces the house and not the other side. Mr. Pralow asked how long she has lived there and a year and a half. Mr. Pralow asked if the pool is purchased, and her answer is yes.

No one spoke for or against the variance.

Mr. Schaefer made a motion to approve Appeals Case # 1414 for Connie Donnelly of 70 Meadow Drive, Elma, NY who is requesting an area variance to install a pool with less than the required front yard setback §144-99 C4; §144-63, Residential C 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.

Seconded by Mr. Johnston Ayes: 5. Nays: 0.

Motion to approve the minutes from May 10, 2022, by Mr. Carey Seconded by Mr. Pralow

Motion to adjourn at 8:01pm Mr. Schafer Seconded by Mr. Carey

Respectfully Submitted,

Kerry Galuski  
Zoning Board Secretary