

Hamlin Zoning Board of Appeals *Minutes*
Monday, June 19, 2006
7:30pm

The regular scheduled meeting of the Hamlin Zoning Board of Appeals was held in the Hamlin Town Hall located at 1658 Lake Road, Hamlin and was called to order by Chairman Norman Baase at 7:30pm with the location of the fire exits and AED explained for those present.

Present: Norman Baase, Terry Dingee, Rocky Ellsworth, Ed Haight, Jerry Hoffman, Klaus Pohl and Donna Stassen.

Also present: Support Boards Attorney Charlie Welch, Town Board Liaison Mike Marchetti, Conservation Board member Craig Goodrich, Building Inspector B.J. Maier, Tom Jensen, Virginia Locurcio, Adam Freeman, Sherry Miller and several other residents.

A motion was made by Jerry Hoffman, seconded by Ed Haight to approve the minutes of the May 15, 2006 meeting as recorded. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl abstain, Stassen aye. Motion carried, minutes approved.

Clerk showed Proof of Publication

PUBLIC HEARING

**JOHN CLEVELAND
704 MONROE ORLEANS COUNTY LINE RD.**

Adam Freeman from Landtech was present to represent John Cleveland of 704 Monroe Orleans County Line Road seeking relief from Town Codes 125-18B(1)(a) for a 4.123 acre variance, 125-18B(1)(b) for a 40' lot width variance and 125-18B(5) for an 8% impervious surface variance to construct a single family home. Mr. Freeman stated that there would be no effect on the neighborhood. Mr. Freeman explained that there was a house on the lot previously that burned down several years ago. Monroe County Health Department has reviewed the plans and is ready to approve them. Rocky Ellsworth asked if there would be a basement. Mr. Freeman stated yes a modular home with a basement. Terry Dingee asked if there had been any water testing done. Mr. Freeman stated that he wasn't sure if any drilling had been done on the property yet. Attorney Welch asked if the neighboring houses were on similar small lots. Mr. Freeman stated that the lot to the south is a small lot but vacant farmland surrounds this parcel. Attorney Welch asked if it was possible to buy additional land to make the lot meet the requirements. Mr. Freeman wasn't sure. Attorney Welch asked when Mr. Cleveland purchased the property. Mr. Freeman stated about a year ago. Attorney Welch asked if he was aware of the zoning. Mr. Freeman stated he wasn't sure. Attorney Welch stated that he should have been

aware of the codes when the lot was purchased. Mr. Freeman stated that it was an existing lot. Attorney Welch stated that per the code once the house is destroyed in a fire it must be rebuilt in compliance with the code. When the property was purchased Mr. Cleveland should have known that he couldn't build on the lot without variances.

At this time Chairman Norman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal.

Ron Breslawski of 501 Priem Road stated that he was the owner of the neighboring farmland. He stated that the previous house never had running water or a septic system. The current well is actually located on Mr. Breslawski's land and he was told that it has black water in it, which would kill cows if they drank it. The excavator started digging on his property to bury the house and Mr. Breslawski had to stop him and tell him he was on his property not Mr. Cleveland's. He has drainage concerns and leach field concerns if a house is built on this parcel.

Peter Toney of Moscow Road stated that a person could buy a parcel of land for any number of reasons and they should take responsibility for their decisions.

At this time Chairman Norman Baase closed the Public Hearing.

Rocky Ellsworth asked whom Mr. Cleveland bought the property from. Mr. Freeman stated it was purchased from Fabry.

Mr. Breslawski stated that the property was never surveyed until Mr. Cleveland tried to bury the house on his land. Mr. Cleveland thought he owned more land than he actually does.

Chairman Norman Baase asked if the Conservation Board had any comments. Craig Goodrich stated they had none at this time.

Donna Stassen asked when the house burned down. Mr. Freeman stated he was not certain how long ago it was.

Donna Stassen asked if the land had once been part of the farmland. Mr. Freeman stated yes and it had previously been subdivided out.

Mr. Breslawski stated when he bought the farmland in 1976 the house was already subdivided out.

Terry Dingee stated that it was a shame to leave the lot an unapproved lot that couldn't be built on. However, it is a substantial variance request.

Donna Stassen asked how much Mr. Cleveland paid for the lot. Mr. Freeman stated he wasn't sure.

Norman Baase suggested giving the owner some time to purchase additional land to be in compliance because it's a shame to buy a lot and not be able to build on it.

A motion was made by Donna Stassen, seconded by Ed Haight to deny the variance requests for John Cleveland of 704 Monroe Orleans County Line Road to construct a single family house. Members polled Baase no, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

The reason was due to the substantial variance request.

PUBLIC HEARING

R & L SUBDIVISION 1419 LAKE ROAD

Rich Maier was present to represent the owners of the R & L Subdivision located at 1419 Lake Road seeking relief from Town Codes 125-26B(1)(a) for a 17' lot width variance, 125-26B(1)(b) for a 50.50' lot depth variance, 125-26B(2)(b) for a 5.4' south side setback variance, 125-26B(40 for an 8% impervious surface variance and 125-26B(2)(c) for a 23.4' rear setback variance for Lot 1 and relief from Town Codes 125-26B(1)(a) for a 49.11' lot depth variance, 125-26B(2)(b) for a 4' side setback variance and 125-26B(2)(c) for a 1' rear setback variance for Lot 2. Mr. Maier explained that there are currently two separate businesses operating on the one lot and they are trying to divide them into two separate lots. Both lots have existing buildings. Donna Stassen asked if both businesses would be staying. Mr. Maier stated that yes everything would be staying the same.

At this time Chairman Norman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal. There were no replies. At this time Chairman Norman Baase closed the Public Hearing.

A motion was made by Ed Haight, seconded by Klaus Pohl to grant Lot 1 of the R & L Subdivision located at 1419 Lake Road a 17' lot width variance, a 50.50' lot depth variance, a 5.4' south side setback variance, an 8% impervious surface variance and a 23.4' rear setback variance for the existing building. This is the minimum to provide relief. This is a Type II SEQR determination. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

A motion was made by Ed Haight, seconded by Klaus Pohl to grant Lot 2 of the R & L Subdivision located at 1419 Lake Road a 49.11' lot depth variance, a 4' side setback variance and a 1' rear setback variance for the existing building. This is the minimum to provide relief. This is a Type II SEQR determination. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

PUBLIC HEARING

TIMES SQUARE SUBDIVISION 1722 LAKE ROAD

Rich Maier was present to represent the owner of the Times Square Subdivision located at 1722 Lake Road seeking relief from Town Code 125-26B for a 15% impervious surface variance for Lot 1 and relief from Town Code 125-54A(2) for a 20' buffer variance for Lot 2. Mr. Maier explained that the owner would like to separate the existing building from the land behind creating two separate lots. Norman Baase asked if there was any other access. Mr. Maier stated no there was not but the access would become a deeded right of way when the Subdivision was filed. Rocky Ellsworth stated that the buffer zone to residential property is sensitive. Donna Stassen asked if the driveway could be moved. Mr. Maier stated it would need a permit and DOT approval. Terry Dingee stated that there were some concerns with the truck traffic. The Board asked the future plans for the land. Mr. Maier stated it was unknown.

At this time Chairman Norman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal.

Harry Petro of 2811 Roosevelt Highway stated that he was a neighbor and had some concerns with the impervious surface. He stated that currently the parking lot water runs off down a small stream behind his property making his back yard very wet. Snowmelt is another issue. He also stated that a creek and wetlands exist on the vacant property behind him and asked why they didn't show on the map. He also asked if the zoning was changing. Attorney Welch stated that a Site Plan map for development would show wetlands and the creek this is just a subdivision map and it doesn't need to be shown for the variance. Attorney Welch also stated that the zoning is not changing. Mr. Petro had drainage concerns also and would like them addressed at this stage because if Lot 1 is sold then the drainage issues won't be addressed. Rocky Ellsworth agreed that the drainage issues should be addressed in the motion. Attorney Welch stated that the drainage is a Planning Board issue and if development is proposed the drainage would be addressed then. Mr. Maier stated that the owner could put in a swale behind the houses if there are drainage concerns at the Planning Board meeting.

Kelly Smith of 1752 Lake Road asked what the impact would be on her property. Chairman Norman Baase stated that no changes are being proposed they are just requesting to subdivide the lot into two separate parcels. Nothing is changing at this time.

Peter Tonery of Moscow Road stated that there is some history of buffer issues between Lot 1 and the gas station next door. He stressed that conflicts arise between neighbors when buffers don't exist and stated that a variance to reduce the buffer may not be a good idea due to neighbor conflicts.

At this time Chairman Norman Baase closed the Public Hearing.

A motion was made by Klaus Pohl, seconded by Terry Dingee to grant Lot 1 of the Times Square Subdivision located at 1722 Lake Road a 15% impervious surface variance. This is the minimum to provide relief. This is a Type II SEQR. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

A motion was made by Klaus Pohl, seconded by Terry Dingee to grant Lot 2 of the Times Square Subdivision located at 1722 Lake Road a 20' buffer variance with the condition that proper drainage be provided at time of development. This is the minimum to provide relief. This is a Type II SEQR. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

**JOSEPH LANCIA
75 WALKER ROAD**

Joseph Lancia was present to seek relief from Town Code 125-42C to build a pole barn for his business on his vacant property located at 75 Walker Road. Mr. Lancia explained that the barn would be in compliance of the code for horses. It would be used for his business Equine Assisted Psychotherapy Practice. The horses would be brought to the property for a couple hours a day. He lives on the lot next door and that is where the horses are kept. He is currently before the Planning Board applying for a Special Use Permit for the business. Attorney Welch asked about the location of the neighboring houses to the lot line. Mr. Lancia stated that his house is far from the lot line and Ryan Printing is next door and is far from the lot line also. The size of the pole barn was asked. Mr. Lancia stated that it would be 20' x 60'. Donna Stassen asked if there would be parking on the property. Mr. Lancia stated yes about six spaces. Klaus Pohl asked why he didn't just purchase the property. Mr. Lancia explained that due to insurance purposes he was not able to have the business on his residence it requires it be on a separate property so he put the vacant property next door in the name of Windhorse Farms, LLC and he is the owner.

A motion was made by Rocky Ellsworth, seconded by Jerry Hoffman to schedule a Public Hearing for July 17, 2006 at 7:30pm for Windhorse Farms LLC located at 75 Walker Road for relief from Town Code 125-42C to construct a 20' x 60' pole barn on a vacant lot. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

**VIRGINIA LOCURCIO
9693 BEACHWOOD PARK**

Virginia Locurcio of 9693 Beachwood Park was present to seek a front setback variance to construct a 18' x 24' detached garage on her property. She explained that she had been talking with the former Building Inspector and because it was a private road they weren't sure if she needed a variance or not. Attorney Welch asked the age of the house. She wasn't sure but stated it was built before 1991. Attorney Welch stated that according to the code the front setback becomes the front foundation line of the house so a variance for the front was not needed. Chairman Norman Baase stated that they received a letter from her neighbor stating that she was building a garage on his property. Ms. Locurcio stated that she had the property surveyed and she was on her property. Norman Baase asked if she would consider reducing the size of the garage. Ms. Locurcio stated that it was a small garage and she would like to keep the size and location if she could. Attorney Welch stated that according to Town Code 125-39 a detached garage needs to be 15' from the property line. She only has 8' so a 7' side setback variance would be needed. Klaus Pohl asked what type of driveway and where. Ms. Locurcio stated she was thinking either a brick driveway or paved and it would come straight in from Beachwood Park. Attorney Welch stated that an impervious surface variance would also be needed.

A motion was made by Rocky Ellsworth, seconded by Ed Haight to schedule a Public Hearing for July 17, 2006 at 7:30pm for Virginia Locurcio of 9693 Beachwood Park for an impervious surface variance to be determined and a 7' impervious surface variance to construct a 18' x 24' detached garage. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

**SHERRY MILLER
1728 MONROE ORLEANS COUNTY LINE RD.**

Sherry Miller of 1728 Monroe Orleans County Line Road was present to seek relief from Town Code 125-47B(21)(e)(7) for a 5.75 sq. ft. sign variance to put up a sign to advertise her business. Ms. Miller explained that she recently moved to Hamlin and lives on a main road and she needs a larger sign for her customers to see so they know where her new house is. Attorney Welch questioned the location of the sign. He stated that a freestanding sign requires a 15' setback from the right of way. Ms. Miller stated that the sign is 39' back from the center of the road. Attorney Welch also stated that the sign is illuminated so it would require a variance also. Some discussion took place on the sign location. Ms. Miller stated that if the sign was too far back it couldn't be seen from the road. The Board would have the Building Inspector take a look at the location and if she wanted to keep the location of the sign then a variance would be required.

A motion was made by Jerry Hoffman, seconded by Rocky Ellsworth to schedule a Public Hearing for July 17, 2006 at 7:30pm for Sherry Miller of 1728 Monroe Orleans

County Line Road for a sign area variance, illuminated sign variance and a front setback variance to be determined for a sign to advertise her business. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

**GUY RE-SUBDIVISION
380 WALKER ROAD**

Dave Matt from Schultz Associates was present to represent the owners of the Guy Re-Subdivision located at 380 Walker Road seeking relief from Town Code 125-42B for the existing shed and barn on Lot 2 and the existing garage on Lot 3. Mr. Matt explained that this was originally a 5-lot subdivision. They are changing the lot lines and the shed and barn on Lot 2 are staying and the garage on Lot 3 is staying. The existing house is being removed. They are changing the lot lines so a new house can be built on Lot 2 first.

A motion was made by Ed Haight, seconded by Klaus Pohl to schedule a Public Hearing for July 17, 2006 at 7:30pm for the Guy Re-Subdivision located at 380 Walker Road seeking relief from Town Code 125-42B for the shed and barn on Lot 2 and the garage on Lot 3. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

**BROMLEY SUBDIVISION
9544 BEACHWOOD PARK**

Dave Matt of Schultz Associates was present to represent the owner of the Bromley Subdivision located at 9544 Beachwood Park seeking relief from Town Codes 42-10B for building in a Coastal Erosion Hazard area, 125-31C(1)(a) for a lot area variance and 125-31C(1)(b) for lot width variance to construct two single family houses. Mr. Matt explained that currently the two lots run north and south. The owner would like to make two east and west lots both with lake frontage. The leach fields would be located on the other side. Rocky Ellsworth requested Conservation Board comments.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to schedule a Public Hearing for July 17, 2006 at 7:30pm for the Bromley Subdivision located at 9544 Beachwood Park for several variances to construct two single family homes. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

DISCUSSION

Town Board Liaison Mike Marchetti reminded everyone of the Master Plan meeting Tuesday, June 20, 2006 at 6:00pm and the Zoning meeting at 7:00pm.

ADJOURNMENT

A motion was made by Ed Haight, seconded by Klaus Pohl to adjourn tonight's meeting barring no further business. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

Minutes respectively submitted by:

Heather Norman
Clerk to the Support Boards

The next scheduled meeting of the Hamlin Zoning Board of Appeals will be held on Monday, July 17, 2006 at 7:30pm. Deadline for all fees is June 30, 2006 at 2:00pm.