

Hamlin Zoning Board of Appeals *Minutes*  
Monday, September 19, 2005  
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 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, Councilpersons Paul Rath and Dave Rose, Conservation Board members Craig Goodrich and Glenn Quetschenbach, Building Inspector Dick Bauman, residents Susan, David and Andrew Rinere, Tom Jensen, Sherry J. Dobson, John Curtis Jr., Bill Valinus, Jen Smith, David Swan, Cody and Karen Howe, Richard Burch, Denny Roach, Debra Caliri, Mike Marchetti, Ron Fey, Alex Rasbach and several other interested residents.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to approve the minutes of the August 15, 2005 meeting as recorded. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried, minutes approved.

**The Clerk read the Proof of Publication**

**PUBLIC HEARING**

**COUNTRY LIVING SUBDIVISION  
1406 LAKE ROAD**

Bob LaDieu of LaDieu Associates was present to seek relief from Town Code 125-20B(1)(a)(1) for lot size minimum of 0.3 acre, 125-20B(1)(a)(2) minimum lot widths of 85', 125-20B(2)(a) for minimum front setback of 50', 125-20B(2)(b) for minimum side setback of 10' for the Country Living Subdivision located at 1406 Lake Road for 70 lots. Mr. LaDieu explained that they are proposing to divide the existing 51.6 acres into 70 separate lots. In exchange for the variances they are proposing a drainage swale to help with the existing drainage concerns in the area. The drainage ditch would be along the south property line to control the water flow and divert it to the east.

Ed Haight asked the number of lots without the swale and variances. Mr. LaDieu stated about 58-60 lots. Attorney Welch asked if a map was done with the lots per code. Mr. LaDieu stated that they did not have a map for that. Chairman Norman Baase asked if the subdivision could be completed per code. Mr. LaDieu stated yes that three detention ponds would be required.

At this time Chairman Norman Baase opened the Public Hearing for anyone to speak for or against the proposal.

Fred Paye of 1385 Brookedge asked the location of the retention ponds. The location of the ponds was shown on the map. Mr. Paye asked where the new track would be connecting to Lake Breeze Estates and where the sewer connection would be. Mr. LaDieu stated that it would be connected at the existing dead end. Mr. Paye was concerned if the existing sewer could handle the increase.

Richard Burch of 1369 Brookedge questioned the swale location. Mr. LaDuiou stated that it would be along the south property line.

Jean Smith of 1371 Brookedge stated that she has to keep the existing drainage ditch on her property cleaned out or her yard gets flooded. Mr. LaDieu stated that the swale would restrict the water into Lake Breeze Estates.

Mr. Rinere of 1339 Brookedge asked the location of the drains. Attorney Welch stated that they would be along 1372 to 1391 Brookedge.

Tom Jensen of 1 Roadside Drive stated that if the swale drains into the wetlands there is no drop in the land so the water wouldn't have any place to go and would come back around from the opposite direction. The wetlands would need to be cleaned out.

Attorney Welch stated that the Town Engineer did a study on the drainage to keep it from entering Brookedge.

Richard Burch of 1369 Brookedge stated that the field absorbs the water now but with roads and houses it wouldn't be absorbed any more.

Attorney Welch stated according to Phase 2 Development regulations they can't put water off onto other properties.

Mr. Swan of 1377 Brookedge questioned the price of the homes. Mr. LaDieu stated that the proposed homes would be \$160,000-180,000.

Councilperson Paul Rath of 1928 Moscow Road stated that the Town Board re-zoning presentation was to change to R-M not R-H. The Town Board might have had a different outcome if it was presented as 0.3-acre lots.

Builder Victor Tifone stated that they presented 0.5-acre lots to the Town Board but then they lost acreage because of the ponds and wetlands.

Councilperson Paul Rath stated that the ponds and wetlands were part of the presentation to the Town Board.

Sherry Dobson of 19 Settlers Lane stated that this property was presented for re-zoning before and it didn't go forward. She stated that she currently lives on an 85' x 106' lot in the Ryan track and you can't build on a small lot. It causes problems when variances are granted. Smaller lots probably only work in the senior zoning.

Councilperson Dave Rose stated that he agrees with Paul Rath that when the Town Board voted they voted on R-M zoning with 0.5-acre lots not smaller lots.

The location of the new lots was questioned. Mr. LaDieu stated that the new lots would butt up to the existing lots.

Lynn Oliver of 52 Railroad Ave. questioned how close the swale would be to the railroad and if the Duffy Mott ponds would be used. Mr. LaDieu stated the swale would be to the north of the railroad bed and the existing ponds would not be involved.

Mr. Caliri of 1347 Brookedge questioned a buffer between the lots. Mr. LaDieu stated that there would not be any buffer between the lots the drainage would be along there and some trees would need to be removed.

Mr. Godin of 1366 Brookedge had drainage and flooding concerns and stated that the properties on the north side are lower.

Builder Victor Tifone stated that if they don't do the swale they couldn't say that anything would be done with the drainage in Lake Breeze Estates. If the variances weren't granted than no swale would be constructed.

Mr. Fey of 60 Alder Bush was concerned that if the swale takes the water to the south and exits to the east that the water would come back on his property.

Builder Victor Tifone stated that they are going by the recommendation of the Town Engineer for the drainage.

Richard Burch of 1369 Brookedge stated that they were originally 0.5-acre lots and they would be responsible for their own water. The lots are too close together.

Mr. Houck of 1373 Brookedge stated that in 1987 he purchased a wooded lot and was concerned with the trees being removed.

Mike Marchetti of 3847 Brick Schoolhouse Road stated that he attended the Town Board meeting and 0.5-acre lots were presented.

Fred Paye questioned if the variances weren't granted and they build 0.5-acre lots how many lots would there be. Attorney Welch stated 50-60 lots.

At this time Chairman Norman Baase closed the Public Hearing.

Terry Dingee stated that they came to the Town Board to be re-zoned to R-M with 0.5-acre lots. Now they are asking the Board to change the lot sizes. 70 homes are being proposed. Growing families need sheds, pools and decks and that doesn't all fit on smaller lots.

Rocky Ellsworth stated that smaller lots lead to continual requests for variances.

Ed Haight stated that they are actually asking the Board to rezone the property.

A motion was made by Donna Stassen, seconded by Klaus Pohl that the application for Sunset Builders for area wide subdivision variances for Country Living Subdivision located at 1406 Lake Road be denied based on the following findings: The Zoning Board routinely denies variances for newly created sub standard lots, the benefit sought by the applicant can be achieved by some other method, which would be feasible for the applicant to pursue other than the requested significant area variances, the requested area variance is substantial, the lots would be 0.3 acres whereas 0.5 acres are required in the current R-M zoning, the proposed variances will have an adverse effect of impact on the physical or environmental conditions in the neighborhood, whereas, additional variances would be required for any additional sheds, pools, etc. which would not conform to setback requirements and the alleged difficulty has been self created whereas the applicant had such area rezoned from Industrial to Residential Medium density which requires lot sizes of 0.5 acre and knew such at the time of rezoning. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

## **PUBLIC HEARING**

### **MR. AND MRS. RASBACH 6304 SHORE ACRES**

Mr. Rasbach of 6304 Shore Acres was present to seek relief from Town Code 125-39C for a 9' side setback and a 9' rear setback variance to construct a 14' x 32' detached garage on his property. Mr. Rasbach explained that the property had an easement and utility pole guide wire that he was trying to build around and would require the variances for the detached garage.

At this time Chairman Norman Baase opened the Public Hearing for anyone to speak for or against the proposal. There were no replies.

At this time Chairman Norman Baase closed the Public Hearing.

A motion was made by Klaus Pohl, seconded by Rocky Ellsworth to grant relief from Town Code 125-39C for a 9' side setback and a 9' rear setback variance for Mr. and Mrs. Rasback of 6304 Shore Acres to construct a 14' x 32' detached garage on their property. This is a Type II SEQR determination and the minimum to provide relief. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried, variances granted.

## **PUBLIC HEARING**

### **HAMLIN VOLUNTEER AMBULANCE CORP. 1483 LAKE ROAD**

John Curtis was present to seek relief from Town Code 125-47B(21)(e)(8) for a 4' area variance and relief from Town Code 125-47B(21)(a) for a 9' front setback variance for a 6'8" x 4'4" illuminated sign on their property. Mr. Curtis explained that the Ambulance Corp. purchased a sign to go in front of the building by the road to replace the existing sign and found out that a variance was needed for the location of the sign and that with the frame the sign was larger than the code allowed so another variance was needed for the size of the sign.

Ed Haight asked if the new sign would replace the current rolling sign. Mr. Curtis stated that the rolling sign would be removed.

At this time Chairman Norman Baase opened the Public Hearing for anyone to speak for or against the proposal. There were no replies.

At this time Chairman Norman Baase closed the Public Hearing.

A motion was made by Ed Haight, seconded by Terry Dingee to grant relief from Town Code 125-47B(21)(e)(8) for a 4' area variance and relief from Town Code 125-47B(21)(a) for a 9' front setback variance to the Hamlin Volunteer Ambulance located at 1483 Lake Road for a 6'8" x 4'4" illuminated sign on their property as it won't interfere with any snow removal or maintenance of the sidewalk. This is a Type II SEQR and the minimum to provide relief. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried, variances granted.

### **RONALD FEY 60 ALDER BUSH LANE**

Mr. Fey was present to seek relief from Town Code 125-42B for a 3' east side setback variance for an 8' x 12' shed on his property. Mr. Fey explained that the shed was originally located behind his house but was told by the Building Inspector that it had to be moved per code. He moved the shed but because of the flooding that occurs in his back yard he would need a variance to put the shed in his side yard. The shed would be 2' from his property line and 10' from his house.

Rocky Ellsworth questioned the location of the shed. Mr. Fey stated that he couldn't put it in the back yard because of the flooding.

Terry Dingee asked if flooding occurred where the existing swing set was. Mr. Fey stated yes his yard floods up to his rear deck. The location of the door was discussed.

Mr. Fey stated that the shed would stay in the same location but he would move the door to face the rear of his property.

A motion was made by Rocky Ellsworth, seconded by Jerry Hoffman to schedule a Public Hearing for Mr. Fey of 60 Alder Bush for October 17, 2005 at 7:30 for a 3' east side setback variance for a 8' x 12' shed on his property. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

Chairman Norman Baase reminded Mr. Fey to have his \$75.00 for the Public Hearing and 12 copies of the map into the Clerk by October 3, 2005.

**ANDREW SIMPSON  
1246 MOSCOW ROAD**

Mr. Simpson was present to seek relief from Town Code 125-42C to construct a 48' x 56' Accessory Building on his vacant property at 1246 Moscow Road. Mr. Simpson stated that they are in the process of getting site plan approvals to construct a house at the location and would like to construct the barn first so it could be used to store building materials while the house is being built. The barn would be located behind the house to the northeast.

Terry Dingee asked what the barn would be used for in the future. Mr. Simpson stated for storage.

Rocky Ellsworth asked if the barn would be used for animals. Mr. Simpson stated no animals.

A motion was made by Jerry Hoffman, seconded by Ed Haight to schedule a Public Hearing for Mr. Simpson of 1246 Moscow Road to construct a 48' x 56' Accessory Building on a vacant lot. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

Chairman Norman Baase reminded Mr. Simpson to have his \$75.00 for the Public Hearing and 12 copies of the map into the Clerk by October 3, 2005.

**DISCUSSION**

Chairman Norman Baase asked if the Building Inspector had anything to report. Dick Bauman stated nothing at this time.

Chairman Norman Baase asked if Conservation Board member Craig Goodrich had anything to report. Mr. Goodrich stated nothing at this time since the variances for Country Living weren't granted. The Conservation Board did have some concerns with the proposal.

Chairman Norman Baase asked if Councilperson Dave Rose had anything from the Town Board. Mr. Rose stated that he was pleased with the outcome of tonight's Public Hearing and was willing to meet with the builders to come up with an alternative solution. He stated that Highway Superintendent Tom Ingraham sent out 55 letters to the residents in Lake Breeze Estates to try to get a grant for the drainage problem and only 10 people responded so they didn't qualify for the grant. Mr. Rose stated that they are in the Budget process now and that he plans on attending the Genesee/Finger Lakes Government Workshop in November.

Mike Marchetti stated that he spoke to the residents in Lake Breeze Estates about the grant and a lot of them didn't save their receipts for the repairs that they made caused by the flooding so they didn't have anything to submit to Mr. Ingraham for the grant but he did tell them to save their receipts in the future.

### **ADJOURNMENT**

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

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, October 17, 2005 at 7:30pm at the Hamlin Town Hall. Deadline for fees is Monday, October 3, 2005 at 2:00pm.