

Hamlin Zoning Board of Appeals *Minutes*
Monday, August 18, 2008
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, Rocky Ellsworth, Jerry Hoffman and Klaus Pohl.

Excused: Ed Haight

Also present: Support Boards Attorney Charlie Welch, Town Board Liaison Mike Marchetti, Planning Board member Tom Jensen, Conservation Board members Jeanine Klopp, Aaron LaFaro and Ed Evans, Building Inspector Charlie Hungerford, Engineer Dave Matt and residents Terry Newbauer, Brad and Andrea Tomaszewski, Lauren Nevil-Foos and Matthew Capuano.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to approve the minutes of the July 21, 2008 meeting as recorded. Members polled, Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion carried, minutes approved.

The Clerk showed Proof of Publication

PUBLIC HEARING

**MARY JANE DREHER
6676 GREENWOOD PARKWAY**

Dave Matt from Schultz Associates was present representing Mary Jane Dreher seeking relief from Town Codes 125-31C(1)(a) for a 1.0 acre area variance, 125-31C(1)(b) for a 18' lot width variance, 125-31C(5) for a 3% impervious surface variance and 42-10 for building in a Coastal Erosion Hazard Area to construct a single-family house located at 6676 Greenwood Parkway. Mr. Matt explained that the owner is tearing down the existing structures on the property. She is proposing to construct a 4200 sq. ft. ranch type house with attached garage. The driveway will have a loop of brick pavers to help reduce the impervious surface. However, an impervious surface variance is still needed. Mr. Matt stated that they were able to move the septic out of the conservation overlay district so that variance is no longer required. The existing garage and two sheds on the property are being removed. The existing gazebo is being relocated. The two large trees on the property will remain. The chainlink fence for the tennis courts will be removed.

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

Lauren Nevil-Foos of 6668 Greenwood Parkway asked if the existing septic was being removed. Dave Matt stated that it would not be used any more because it is located where the foundation of the new house will be.

Building Inspector Charlie Hungerford asked why the house couldn't be built further back on the lot out of the structural hazard area. Dave Matt explained that they have a good break wall existing now and do plan on applying for a permit to increase the break wall. Charlie Hungerford stated if they raise the lake level the house would be underwater. We can't keep allowing construction so close to the shoreline. Number one it raises the cost of Flood Insurance for all of the residents along the lake and number two 50 years from now the houses won't be there. They should move the houses back when there is enough room on the lots. What is the hardship for the variance? The house could be built in another location out of the hazard zone. The septic has been moved which is good. He is very concerned about the location of the house. Jeanine Klopp from the Conservation Board agrees. She stated if the house is moved back the driveway would be shorter reducing the impervious surface also. Klaus Pohl stated if you move the house back then the neighboring houses obstruct the view of the lake. Dave Matt stated if the house goes underwater the whole street will be underwater regardless of the location of the house on the lot.

At this time Chairman Norman Baase closed the Public Hearing.

Klaus Pohl stated if you move the house back from the shore it changes the character of the neighborhood. Chairman Norman Baase stated if the house is moved back they would lose the two mature trees on the lot. Attorney Welch stated if the house is built in the proposed location the code states that flood provisions need to be in place. The Board could make that a condition of the variance. Dave Matt added that the property does have a substantial break wall existing.

A motion was made by Klaus Pohl, seconded by Rocky Ellsworth to grant relief from Town Codes 125-31C(1)(a) for a 1.0 acre area variance, 125-31C(1)(b) for a 18' lot width variance and 125-31C(5) for a 3% impervious surface variance to Mary Jane Dreher to construct a single family house located at 6676 Greenwood Parkway. This is a Type II SEQR determination. Members polled, Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion approved.

A motion was made by Klaus Pohl, seconded by Rocky Ellsworth to grant relief from Town Code 42-10 to Mary Jane Dreyer to construct a single family house to be built in a coastal erosion hazard area and a structural hazard area located at 6676 Greenwood Parkway. This is a pre-existing lot for re-construction. No reasonable other site is available. All reasonable means and measures to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the activities design at the owners' expense. The development will be made safe from flood and erosion damage. This is the minimum to provide relief. No formal complaints have been filed from the neighbors. Members polled, Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion approved.

PUBLIC HEARING

DONALD CAPUANO 6456 SHORE ACRES

Rich Maier from Maier Surveying was present to represent Donald Capuano seeking relief from Town Codes 125-31C(1)(a) for a 1.88 acre area variance, 125-31C(1)(b) for a 109.5 lot width variance, 125-31(5) for a 6% impervious surface variance, 125-34D(1)(b)(15) for a 69.0' variance to build a septic system within 150' of a wetland buffer area and 42-10 for building within the Coastal Erosion Hazard area to construct a single-family house located at 6456 Shore Acres Drive. Rich Maier explained that the owner would be tearing down the existing cottage and would be rebuilding further back from the lake. Several variances are required. The owner is proposing a new 2-story house. Rocky Ellsworth stated that they were there to look at the property and noticed that they are working on the break wall now. He stated that the break wall would need to be completed. Matt Capuano stated that they could not continue on the break wall until the existing structure is removed.

At this time Chairman Norman Baase opened the Public Hearing and asked if there was anyone wishing 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 Rocky Ellsworth, seconded by Klaus Pohl to grant relief from Town Codes 125-31C(1)(a) for a 1.88 acre area variance, 125-31C(1)(b) for a 109.5 lot width variance, 125-31(5) for a 6% impervious surface variance and 125-34D(1)(b)(15) for a 69.0' variance to build a septic system within 150' of a wetland buffer area to construct a single-family house located at 6456 Shore Acres Drive. This is a Type II SEQR determination. This is the minimum to provide relief. It will not change the character of the neighborhood. Members polled, Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion approved.

A motion was made by Rocky Ellsworth, seconded by Klaus Pohl to grant relief from Town Code 42-10 to Donald Capuano to construct a single family house to be built in a coastal erosion hazard area and a structural hazard area located at 6456 Shore Acres. This is a pre-existing lot for re-construction. No reasonable other site is available. All reasonable means and measures to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the activities design at the owners' expense. The development will be made safe from flood and erosion damage with the condition that the break wall needs to be completed by the owner. This is the minimum to provide relief. No formal complaints have been filed from the neighbors. Members polled, Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion approved.

PUBLIC HEARING

MR. AND MRS. TOMASZEWSKI 7858 NEWCO DRIVE

Brad Tomaszewski was present seeking relief from Town Code 125-31C(4)(b) for a 3' height variance for his garage located at 7858 Newco Drive. Mr. Tomaszewski explained that he built a detached garage to replace an existing shed. Plans were presented and a permit was issued. While the garage was being built a complaint came into the office regarding the height of the garage exceeding the code. The garage is 18' and the code allows for only 15'. Klaus Pohl asked if the garage was built per code. Mr. Tomaszewski stated yes it was. Attorney Welch reviewed that plans and it was determined that the height of the garage was not indicated on the plans.

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

At this time Chairman Norman Baase closed the Public Hearing.

Attorney Welch asked if Mr. Tomaszewski was aware of the height restriction. Mr. Tomaszewski stated no he wasn't. He would of built the garage per code had he known.

A motion was made by Jerry Hoffman, seconded by Rocky Ellsworth to grant relief to Mr. and Mrs. Tomaszewski from Town Code 125-31C(4)(b) for a 3' height variance for a garage located at 7858 Newco Drive. This is the minimum to provide relief. No formal complaints have been filed from the neighbors. This is a Type II SEQR determination. Members polled, Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion approved.

TERRY NEWBAUER 94 CHURCH ROAD

Terry Newbauer was present seeking relief from Town Code 125-18B(2)(b) for a 5' east side setback variance to construct an addition onto his existing garage located at 94 Church Road. Mr. Newbauer explained that he would like to widen his garage 10' to the east and 17' to the north. This would make his garage only 10' from the east property line. Therefore he needs a 5' east side setback variance.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to schedule a Public Hearing for Mr. Newbauer seeking relief from Town Code 125-18B(2)(b) for a 5' east side setback variance for a garage addition located at 94 Church Road for September 15, 2008 after 7:30pm. Members polled, Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion approved.

Mr. Newbauer was reminded to have his fee into the Clerk by the deadline August 29, 2008.

1352 BROOKEDGE DRIVE

Attorney Welch explained that several years ago his clients sold 1352 Brookedge Drive. They failed to get permits for a shed and a deck. Attorney Welch signed a guarantee that his clients would get the permits and pay the fees involved. They never got the permits. Now the house is being sold and he is responsible for getting the permits and paying the fees. However the shed is also too close to the property line. The current owner is looking into moving the shed to meet the code. If the shed can't be moved he would like the Board to schedule a Public Hearing now so he won't have to wait another month. The current owners would make the application for the variance if it is needed and Attorney Welch would pay the fees involved.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to schedule a Public Hearing for Mr. and Mrs. Williams seeking relief from Town Code 125-42B for a 2.5' side and rear setback variance for an existing shed located at 1352 Brookedge Drive for September 15, 2008 after 7:30pm. Members polled, Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion approved.

ADJOURNMENT

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to adjourn tonight's meeting barring no further business. Members polled Baase aye, Ellsworth aye, Hoffman aye, Pohl 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, September 15, 2008 at 7:30pm. Deadline for all fees is Monday, August 29, 2008 at 2:00pm.