

Hamlin Zoning Board of Appeals *Minutes*
Monday, October 19, 2009
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 Chairperson Norman Baase at 7:30pm with the location of the fire exits and AED explained for those present.

Present: Norman Baase, Rocky Ellsworth, Ed Haight, Jerry Hoffman and Klaus Pohl.

Also present: Support Boards Attorney Charlie Welch, Town Board Liaison Mike Marchetti, Building Inspector Lee Nettnin, Planning Board member Peter Tonery and Conservation Board members Nick Kramer and Jason Baxter, residents Ray O'Dell, Jeff Ackles, Paul Lapinski, Joseph Kupper, Tom and Sandy Tuschong and Martin Emrich.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to approve the minutes of the September 21, 2009 meeting as recorded. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried, minutes approved.

The Clerk showed the Proof of Publication

PUBLIC HEARING

**KEVIN AND KATHLEEN NOON
7622 NEWCO DRIVE**

Jeff Ackles was present representing Kevin and Kathleen Noon seeking relief from Town Code 125-31C(3)(b) for an 8' height variance to construct a 24' x 30' x 23' detached garage located at 7622 Newco Drive. Mr. Ackles explained that the owner requested a garage with a gambrel roof that would exceed that height limit so a variance was needed. The Board questioned the DEC permit. Mr. Ackles showed the DEC permit to the Board. Ed Haight asked if the garage would be used for storage only. Mr. Ackles stated yes just for storage. Building Inspector Lee Nettnin questioned the truss load. Mr. Ackles stated they were designed to support the load.

At this time Chairperson 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 Chairperson Norman Baase closed the Public Hearing.

The Conservation Board had no issues with this proposal.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to grant Mr. and Mrs. Noon relief from Town Code 125-31C(3)(b) for an 8' height variance to construct a 24' x 30' x 23' detached garage located at 7622 Newco Drive. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

PUBLIC HEARING

RAY O'DELL 140 WESTPHAL DRIVE

Ray O'Dell was present seeking relief from Town Code 125-45A(3) for a 41' height variance to construct a 91' wind tower on his property located at 140 Westphal Drive. Mr. O'Dell explained that he previously got a variance for a shorter wind tower however the State sent him an email stating that the tower had to be at least 80'. The blades are 11' long. There are 3 blades on the turbine. Everything else is staying the same. He now needs a 41' height variance so he can reapply to NYS for an 80' wind tower. Building Inspector Lee Nettin questioned the tower location. Mr. O'Dell stated that the tower location had been moved to meet the requirements of the code.

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

Mr. Kupper of 139 Westphal Drive was concerned that this variance would set a precedent for other towers in the town. He was also concerned with the crop dusters in the area hitting the tower. He stated that the tower is designed to blend into the environment so he is concerned that the planes won't see it and might run into it. Mr. O'Dell stated that he has changed the make and model of the tower. Chairperson Norman Baase stated that the crop dusters are notified by the FAA about the tower location. Mr. O'Dell stated that he has talked to the farmers in the area. He also stated that there are rules that dictate height for planes to fly. Mr. Kupper stated that he is concerned that a plane would hit the tower and the debris would hit neighboring homes. Mr. Kupper stated at the last Public Hearing a neighbor on Roosevelt Highway was concerned about visual screening and that wasn't addressed by the Board according to the minutes. Chairperson Norman Baase explained that they are following the current code. Mr. Kupper stated that there needs to be more consideration for variances. He was concerned that a precedent would be set for tower height. Attorney Welch explained that the Board reviews each individual application separately. This Board does not work on precedent. He also explained that meeting minutes aren't verbatim they are a summary of the meeting. He explained that because a neighbor objects doesn't mean that the variance

is denied. The Board weighs the safety and welfare of everyone involved. Mr. Kupper stated that if a precedent is set then he is concerned because his other neighbor could put up a tower with no visual screening. Attorney Welch stated again that this Board doesn't work on precedent and this is a Public Hearing for Mr. O'Dell only. Chairperson Norman Baase asked Mr. Kupper if he had any concerns with Mr. O'Dell's proposal. Mr. Kupper stated no but he would like more information on the new model being proposed. Some tower model discussion took place. Mr. Kupper questioned flicker concerns. Mr. O'Dell stated that this is a smaller tower with smaller blades and flicker is not an issue. Chairperson Norman Baase stated that this is an additional 11' variance to the previous variance granted a few months ago.

Paul Lapinski of 417 Redman Road questioned the 11' statement and asked if it was actually a 41' height variance. Chairperson Norman Baase stated yes he was just referring to the previous variance that was already granted. Mr. Lapinski questioned if there was a limit on variances. Attorney Welch stated that the Board determines if the request is a substantial variance based on circumstances of the variance.

Building Inspector Lee Nettin questioned the height requirement for FAA lighting. Attorney Welch stated 200'.

At this time Chairperson Norman Baase closed the Public Hearing.

A motion was made by Klaus Pohl, seconded by Rocky Ellsworth to grant relief to Ray O'Dell from Town Code 125-45A(3) for a 41' height variance to construct a 91' wind tower on his property located at 140 Westphal Drive. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

**THOMAS AND SANDY TUSCHONG
3897 BRICK SCHOOLHOUSE RD.**

Thomas and Sandy Tuschong were present seeking relief from Town Code 125-42A to have two sheds on their property located at 3897 Brick Schoolhouse Road. They explained that they already have an existing shed and would like to have another 7' x 7' shed for storage. The property is zoned R-M so according to the code only one shed is allowed.

A motion was made by Ed Haight, seconded by Jerry Hoffman to schedule a Public Hearing for Mr. and Mrs. Tuschong seeking relief from Town Code 125-42A to have two sheds on their property located at 3897 Brick Schoolhouse Road for November 16, 2009 at 7:30pm. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

Rocky Ellsworth stated that the Board would do an inspection on November 14, 2009 and reminded them to have their fees into the Clerk by the deadline.

DISCUSSION

Town Board Liaison Mike Marchetti stated that they are working on the budget and there is a workshop tomorrow night. He reminded everyone that re-appointment letters are due by November 6, 2009.

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, Ellsworth aye, Haight aye Hoffman aye, Pohl 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, November 16, 2009 at 7:30pm. Deadline for all fees is Monday, November 2, 2009 at 12:00.