

Hamlin Zoning Board of Appeals *Minutes*
Monday, December 21, 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, Town Board member Paul Rath, Building Inspector Lee Nettin, Planning Board members Tom Jensen and Peter Tonery, Conservation Board members Nick Kramer, Ed Evans and Merritt Ackles, residents Gordon Wandtke, Kevin P. Noon and Debbie Rath and Engineer Dave Matt.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to approve the minutes of the November 16, 2009 meeting as recorded. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried, minutes approved.

Chairman Norman Baase turned the meeting over to Vice Chairman Rocky Ellsworth.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to nominate Norman Baase as Chairperson of the Board for 2010. Members polled Baase abstain, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

Vice Chairman Rocky Ellsworth turned the meeting back over to Chairperson Norman Baase.

A motion was made by Ed Haight, seconded by Klaus Pohl to nominate Rocky Ellsworth as Vice Chairperson of the Board for 2010. Members polled Baase ayes, Ellsworth abstain, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Clerk showed the Proof of Publication

PUBLIC HEARING

**GORDON WANDTKE
7024 BENEDICT BEACH**

Gordon Wandtke was present seeking relief from Town Code 125-42A to have two sheds on his property located at 7024 Benedict Beach Road. Mr. Wandtke explained that he has one existing shed and he would like to add another shed to his property. His property

is zoned S-R. He has already poured a pad for the location of the second shed. It will be sided to match his house. They will use it as a gazebo.

Ed Haight questioned if the new structure would meet all of the setback requirements per the code. Mr. Wandtke stated yes it would.

At this time Chairman Norman 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 Rocky Ellsworth, seconded by Klaus Pohl to grant relief from Town Code 125-42A to Gordon Wandtke to have two sheds on his property located at 7024 Benedict Beach Road. This is the minimum variance to grant relief. This will not change the character of the neighborhood. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

**KEVIN NOON
7622 NEWCO DRIVE**

Kevin Noon of 7622 Newco Drive was present seeking relief from Town Code 125-31C(2)(a) for a 17' rear setback variance to construct a 24' x 30' detached garage on his property. He explained that this is the same garage project that he received a height variance for. When his builder got the building permit it stated that the setback would be 75' from the center of the road per the Building Inspector. When they measured they thought it was from the edge of the road not the right-of-way. Therefore a 17' rear setback variance is needed. The location of the garage cannot be moved back due to the DEC regulations.

A motion was made by Jerry Hoffman, seconded by Ed Haight to schedule Public Hearing for Mr. Noon seeking relief from Town Code 125-31C(2)(a) for a 17' rear setback variance to construct a 24' x 30' detached garage located at 7622 Newco Drive for January 18, 2010 at 7:30pm. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Board reminded Mr. Noon to have the fee into the Clerk by the deadline.

**ANTHONY BARBARITA
5711 WAUTOMA BEACH**

Dave Matt from Schultz Associates was present representing Anthony Barbarita seeking relief from Town Codes 125-31C(1)(a) for a 1.857 acre lot size variance, 125-31C(1)(b) for a 105' lot width variance, 125-31C(2)(c) for a 8.7' front setback variance and 125-31D(5) for a 15% impervious surface variance to re-construct a single family house located at 5711 Wautoma Beach Road. Mr. Matt explained that Mr. Barbarita purchased the property and thought he was getting a good deal. It is an existing lot with an existing house. The previous owner renovated the house without the proper approvals and permits. Mr. Barbarita would like to get the needed variances and approvals so he can finish the house and eventually live in it. Currently he is in the process of removing the previous owner from the property. They have been to the Planning Board and were referred here for variances.

Chairman Norman Baase stated that the variances are not uncommon for along the lake shore.

Ed Haight questioned if the existing location and size of the house is what is being proposed. Mr. Matt stated yes. Mr. Barbarita would just like to finish what was started.

Chairman Norman Baase agreed that it does need to be finished. The neighbors would like to see something done with the house too.

Rocky Ellsworth questioned if more variances were needed. Mr. Matt stated that no side setback variance is needed because on the plans it is just a second story deck. Rocky questioned the septic location and the Conservation Overlay District. Mr. Matt stated that this property is ok but he will double check it.

A motion was made by Ed Haight, seconded by Klaus Pohl to schedule a Public Hearing for Anthony Barbarita for January 18, 2010 at 7:30pm for several variances to renovate a single family house located at 5711 Wautoma Beach Road. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Board reminded Mr. Matt to have the fee into the Clerk by the deadline.

**DEBORAH WOOD RATH
2025 REDMAN ROAD**

Deborah Wood Rath and Paul Rath were present seeking relief from Town Code 125-39C for an 8' side setback variance to construct a 25' x 40' detached two car garage in front of the front foundation of the house located at 2025 Redman Road. They explained that they were proposing to construct a two car garage in the location staked out. It would be sided to match the house.

Rocky Ellsworth questioned the height of the garage. Mr. Rath stated the height would be 12' to the peak.

Ed Haight questioned the location of the septic. They stated it is located on the other side of the driveway.

A motion was made by Rocky Ellsworth, seconded by Ed Haight to schedule a Public Hearing for Deborah Wood Rath for January 18, 2010 at 7:30pm for variances to construct a 25' x 40' detached two car garage located at 2025 Redman Road. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Board reminded Deborah Wood Rath to have the fee into the Clerk by the deadline.

DISCUSSION

**PETER TONERY
937 MOSCOW ROAD**

Peter Tonery stated that he was present to discuss the citation he received for the keeping of livestock. He explained that he received a violation notice from the Building Inspector for Town Code 125-50 the keeping of animals which states a minimum of 5 acres are needed to have animals. He stated that he was confused because according to the map filed with Monroe County he has 5 acres. So he questioned if a variance is needed and why. Chairman Norman Baase stated that this is one of many lots that were affected when the State changed the code to not include the right-of-way in the lot size.

Building Inspector Lee Nettnin stated that 4.8 acres is actually what he has.

Mr. Tonery questioned who changed the code and when. Chairman Norman Baase stated that he thought it was the State.

Attorney Welch stated that the Zoning Code definition of lot area stated that said area is exclusive of the right-of-way. He stated that was when the lot went from conforming to non conforming. You do not pay taxes on the right-of-way.

Mr. Tonery stated that the definition of lot size is determined by the map filed with Monroe County. His deed states that the lot goes to the center line of the road. Therefore some compensation needs to be made to him for the land that is being seized by the code.

Attorney Welch explained that he is not actually losing property. In regards to the area it's exclusive of the right-of-way. The road is determined not useable therefore that portion of the lot is not useable. It deals with useable space. You do not have 5 useable acres. No property has been taken away its just less useable property. No taxes are paid on this space either.

Chairman Norman Baase explained that several other lots have gotten variances due to this.

Klaus Pohl stated then if its 5 full acres then you should pay taxes on 5 acres.

Attorney Welch questioned when Mr. Tonery got the chickens. Mr. Tonery stated that it wasn't relevant when he got the chickens.

Chairman Norman Baase questioned how many chickens Mr. Tonery had. Mr. Tonery stated 7 or 8 chickens.

Mr. Tonery requested that the Board seek the opinion of the Town Attorney.

Town Board Liaison Mike Marchetti stated that they already asked Town Attorney Ken Licht and he agreed with Attorney Welch.

A motion was made by Rocky Ellsworth, seconded by Klaus Pohl to schedule a Public Hearing for January 18, 2010 at 7:30pm for Peter Tonery seeking relief from Town Code 125-50 for a 0.2 acre area variance to have animals on his property located at 937 Moscow Road. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Board reminded Mr. Tonery to have the fee into the Clerk by the deadline.

Town Board Liaison Mike Marchetti stated that Town Board member Craig Goodrich would be the new Liaison for 2010. He wished everyone a Happy Holiday.

Chairman Norman Baase questioned what the Town Board's decision was for the Support Boards Attorney. Mike Marchetti stated it was under discussion. The Board stated that no one had asked the Board their opinion. Mike suggested they talk with the new Supervisor.

A motion was made by Ed Haight, seconded by Jerry Hoffman to write a letter of recommendation that Attorney Charlie Welch remain the Support Board Attorney for 2010. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

Chairman Norman Baase wished everyone Happy Holidays from his wife and him.

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, January 18, 2010 at 7:30pm. Deadline for all fees is Monday, January 4, 2010 at 12:00.