

Hamlin Zoning Board of Appeals *Minutes*
Monday, January 18, 2010
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, Jerry Hoffman and Klaus Pohl.

Excused: Ed Haight

Also present: Town Board Liaison Craig Goodrich, Town Board member Paul Rath, Building Inspector Lee Nettin, Planning Board members Tom Jensen and Peter Toney, Conservation Board members Nick Kramer, Ed Evans and Jason Baxter, residents Jeff Ackles, Doretta Arva, Bryan Loomis, Tim Holt, Paul and Madeline Teremy, Honey and Frank DeLapa, Deb Rath, Craig and Shawn Baxter and Engineer Dave Matt.

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

The Clerk showed the Proof of Publication

PUBLIC HEARING

**KEVIN NOON
7622 NEWCO DRIVE**

Jeff Ackles was present representing Kevin Noon of 7622 Newco Drive 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. Mr. Ackles explained that they were in for a height variance a couple months ago and then when they staked out the location of the garage they realized that they needed a 17' rear setback variance also. Nothing has changed. They have DEC approval for the location.

Chairperson Norman Baase stated that he spoke to the Highway Superintendent and he stated that the culvert size is correct but he requested that some fill be added. Mr. Ackles stated that Mr. Noon plans on adding some stone.

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.

A motion was made by Jerry Hoffman, seconded by Ed Haight to grant relief to Mr. Noon 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. There were no comments from the neighbors. This will not change the character of the neighborhood. This is the minimum to grant relief. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion carried.

PUBLIC HEARING

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)(b)(1) for a 3.8' side setback variance, 125-31C(2)(c) for a 8.7' front setback variance and 125-31D(4) for a 17% impervious surface variance to re-construct a single family house located at 5711 Wautoma Beach Road. Mr. Matt explained that the front portion is actually a porch so a side setback variance was needed also. He stated that they have been to the Planning Board and were referred to the Zoning Board for variances.

Rocky Ellsworth discussed the porch and questioned why the owner wanted it. Mr. Matt explained that it is part of the house plans. Sliding glass doors exist that go out to the porch.

Chairman Norman Baase questioned the existing meter pit on the east side where the electric is attached. Mr. Matt stated he wasn't sure of the owner's plans for that. Building Inspector Lee Nettin stated that the wires wouldn't be allowed per code. Mr. Matt stated that everything would have to be per code before the owner moves in.

The Board questioned when this project was started. Mr. Matt stated that he wasn't sure but the new owner would like to finish it and have a nice looking house when it is finished.

Rocky Ellsworth discussed a letter from the Building Inspector/Fire Marshal regarding the side porch. Mr. Nettin explained that currently it is not an issue but per code the neighbor could add on to their house which would create an emergency vehicle access concern.

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

Michael Barbarita, brother of the owner, stated that they will take all of the proper measures to make sure that the electric is all up to code. They would like to keep the porch because the windows and doors already exist and for the view of the lake. It was the main feature for purchasing the house.

Craig Baxter of 5691 Wautoma Beach questioned the porch being only 3' from the lot line. He stated that when he wanted to build his barn he was told that the State mandates a 5' setback from the property line. He questioned if the foundation would be checked. Chairman Norman Baase explained that the foundation is a Planning Board issue.

Tim Holt of 5713 Wautoma Beach stated that it has been 2 ½ years since the project was started. It was built over night with no permits or inspections and nothing was done about it. It is twice the size of the original house. It is not to code and should be returned to the original size. It shouldn't be allowed.

Frank DeLapa of 5728 Wautoma Beach stated that they won't even mention the garage with storage.

Craig Baxter of 5691 Wautoma Beach stated that they told the Building Inspector 2 ½ years ago and he ignored them. He questioned the first floor elevation. He questioned if it should be torn down and rebuilt because it is not to code. He stated that the owner should of done some research before he purchased the property.

Michael Barbarita stated that he understands that there are current issues with the property. He stated that there are several shacks on the road and his brother will finish this house right and it will be beautiful.

Tim Holt stated that the owner walked into a hornet's nest. There was not a septic system for the original house. He looked into buying the house too but was told there wasn't enough room on the property for a septic system.

Madeline Teremy of 5714 Wautoma Beach stated that she lives across the street and is concerned about the septic system also. She also has drainage concerns. The Board explained that those were Planning Board issues.

Chairman Norman Baase explained that this is the first time this project has come before this Board. They are asking for common variances for along the lake.

At this time Chairperson Norman Baase closed the Public Hearing.

Dave Matt stated that there was a septic inspector at the property today but they haven't gotten a report yet. They will design a leach field for the Planning Board based on his report.

Chairman Norman Baase explained that leach fields are the Monroe County Health Departments jurisdiction. The Planning Board won't approve the proposal without the approval from the Health Department.

Chairman Norman Baase asked if the foundation would be brought to code. Mr. Matt stated absolutely.

Jerry Hoffman questioned the other issues. Mr. Baase stated that they are Planning Board issues. Mr. Matt explained that the porch is not part of the foundation. Most of the other issues are Code Enforcement issues.

Rocky Ellsworth questioned if they needed Planning Board approval prior to any inspections being done. Building Inspector Lee Nettin stated that it is up to the owner to call for inspections. There are some concerns regarding the depth of the foundation but there are several options if the foundation is not deep enough.

Chairman Norman Baase stated that something needs to be done with the property and it needs to be completed correctly.

Jerry Hoffman questioned if there was an original Site Plan for the work that was done. Building Inspector Lee Nettin stated that there was no Site Plan just a rough drawing. The footprint hasn't changed from the original.

Rocky Ellsworth stated that self inflicted hardships don't hold any weight. They would like to see this project move forward and get finished but he feels that the side porch is asking for too much.

The variances requested were discussed. Mr. Matt stated that they would just do the 4 variances instead of tabling the decision until next month.

A motion was made by Rocky Ellsworth, seconded by Klaus Pohl to grant relief to Anthony Barbarita 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 125-31C(4) for a 17% impervious surface variance to re-construct a single family house located at 5711 Wautoma Beach Road. This will not change the character of the neighborhood. This is the minimum to grant relief. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion carried.

PUBLIC HEARING

**DEBORAH WOOD RATH
2025 REDMAN ROAD**

Deborah Wood Rath was present to seek 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. She explained that the garage would have similar vinyl siding as the house.

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

Bryan Loomis of 2015 Redman Road stated that he was concerned about the building being in front of his foundation. He also had drainage concerns. The building is being proposed near the low part of his yard. He is concerned that he will look out his window and see this building. He questioned the height of the building. He stated that the stakes are only 32' not 40' the actual size of the building.

Paul Rath stated that the building would be less than 15' in height.

The Board stated that it would actually be the view from the garage window that's affected by this proposal.

Doretta Arva of 2015 Redman Road stated that they downloaded the code and it states that the building should be 15' from the lot line. She stated that something should be done to protect their property. She is concerned about how this will affect the value of their home. She has fire concerns and stated that in the code 30' between structures is required. Building Inspector Lee Nettin stated that he has never read that and asked where they saw that in the code. It was explained that they are coming before the Zoning Board to get a variance to be closer than 15' to the property line.

Chairperson Norman Baase asked if the barn could be moved to the west. Deborah Rath stated then it would be behind the existing garage and the setback would be the same. The leach field is located in front of the house also.

At this time Chairperson Norman Baase closed the Public Hearing.

Chairperson Norman Baase asked if the drainage concerns would be addressed. Paul Rath stated yes they would take care of whatever they needed to. They would take the drainage toward the road.

A motion was made by Klaus Pohl, seconded by Rocky Ellsworth to grant relief to Deborah Wood Rath for Town Code 125-39C for an 8' side setback variance to construct a garage and a variance from Town Code 125-39C to construct a 25' x 40' detached two car garage located at 2025 Redman Road with the proper drainage to be provided. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion carried.

PUBLIC HEARING

**PETER TONERY
937 MOSCOW ROAD**

Peter Tonery was present 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. He explained that he would like to have chickens on his property. He showed the Board the products from raising the chickens.

A motion was made by Jerry Hoffman, seconded by Rocky Ellsworth to grant relief to Peter Tonery from Town Code 125-50 for a 0.2 acre area variance to have animals on his property located at 937 Moscow Road. This won't change the character of the neighborhood. This is pre-existing. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Hoffman aye, Pohl aye. Motion carried.

DISCUSSION

Planning Board member Tom Jensen stated that they were concerned with the porch at 5711 Wautoma also.

Chairperson Norman Baase welcomed Craig Goodrich as the new Liaison to the Board. He stated that he hoped that communication between the Boards would be better in the future. Craig stated that since he would be at every meeting that communication would be better.

Chairperson Norman Baase read a Thank you note from previous Supervisor Denny Roach.

He also stated that Attorney Welch appreciated everything the Board did and he enjoyed working with all of them. Rocky Ellsworth stated that he feels more comfortable when there is an Attorney actually present at their meetings. It really would have helped tonight if the Attorney was present.

ADJOURNMENT

A motion was made by Rocky Ellsworth, seconded by Klaus Pohl to adjourn tonight's meeting barring no further business. Members polled Baase aye, Ellsworth 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, February 15, 2010 at 7:30pm. Deadline for all fees is Monday, February 1, 2010 at 12:00.