

Hamlin Zoning Board of Appeals *Minutes*
Monday, September 20, 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 Vice Chairperson Rocky Ellsworth 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 Ken Licht, Town Board Liaison Craig Goodrich, Building Inspector Lee Nettin, Planning Board member Tom Jensen, Conservation Board members Nick Kramer and Ed Evans, Engineer Dave Matt and residents Bruce and Donna Proctor, Steve Rice, Thad and Jeanne Maxwell, David Dudley and Janet and Wayne Healey.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to approve the minutes of the August 16, 2010 meeting as recorded. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Clerk showed the Proof of Publication

PUBLIC HEARING

**MR. AND MRS. GREEN
7920 NEWCO DRIVE**

Dave Matt from Schultz Associates was present representing Mr. and Mrs. Green seeking relief from Town Codes 125-31C(1)(a) for a 1.52 acre area variance, 125-31C(1)(b) for a 49.70' lot width variance, 125-31C(5) for a 3% impervious surface variance, 125-34D(1)(15) for building a septic system within 150' of Lake Ontario and 125-41.1 for a 2' variance to construct a 12' front deck on a proposed single family house located at 7920 Newco Drive. Mr. Matt explained that this is a pre existing non conforming lot on the lake. It needs several variances for the lot plus the proposed house has a front deck that requires a 2' variance per code. The code allows for a 10' front deck. They are proposing a 12' front deck. They have received Conceptual Site Plan approval from the Planning Board and were referred here for variances.

Jerry Hoffman questioned the distance of the proposed septic from the lake. Mr. Matt stated about 140'.

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

Steve Rice of 7904 Newco Drive questioned the 2' variance for the deck. He questioned the location of the proposed foundation. He stated that the code states that the house can't be built more than 10' in front of the neighbor's front foundation. It was explained that is not in the Town Code. The variance request is to have a 12' front deck when a 10' front deck is the maximum allowed per the code. Mr. Rice asked the Board to protect the neighbor's rights.

Donna Proctor of 7908 Newco Drive asked the Board to revisit the 10' ruling that was previously made. She stated it was put into the code. It was explained that there is no 10' ruling in our current code. Mrs. Proctor stated that the proposed deck is intrusive to long time neighbors. She questioned the house location. Attorney Licht explained that the Zoning Board is bound to the Zoning Code that determines the setbacks. This proposal meets those setback requirements and no variances are needed for setbacks.

Building Inspector Lee Nettin stated that the owners previously got approval to build a house on this lot. Per the code 10' front decks are allowed as long as the setbacks are met. For this proposal the setbacks are met.

Wayne Healey of 7924 Newco Drive had elevation concerns. He asked if a raised septic was proposed. Dave Matt stated yes a raised septic is proposed. The elevation of the first floor is 254.1'. The elevation of 7924 Newco Drive was determined to be 252'. Mr. Matt explained that there would be an open swale along the property line that would drain towards the lake. A catch basin would be located in the front yard approximately 30' from the property line and 15' from the break wall.

Mrs. Proctor stated that the lake level changes and was concerned that the lake water would flow back through the drainage pipe. It was explained that there would be a check valve at the end of the pipe that would prevent water from flowing back through the pipe. Chairperson Norman Baase stated that with all new builds the drainage is being directed towards the lake. Mrs. Proctor stated that the drainage would be worse on the lot when the trees are removed. Dave Matt stated that the owner would like to keep as many of the existing trees as possible.

The location of the house and driveway were discussed. A map of the lot and house drawing were shown. Rocky Ellsworth questioned the house location. Dave Matt stated that the plans have changed. The owner is now proposing the house 20' from the west property line. The new plan shortens the driveway and reduces the impervious surface.

Mr. Healey questioned the height of the house and stated that it is way above the neighboring houses which causes privacy issues. The Board stated that the height of the structure is under the height requirement per the code.

Chairperson Norman Baase questioned if there would be a railing around the deck. Dave Matt stated yes there would be a railing. It is required per code to have a railing.

Ed Evans of 976 Hamlin Center Road questioned the hardship for the 12' front deck. Chairperson Norman Baase stated that is just what was proposed. Ed Haight stated bigger decks are generally requested for more space. Mrs. Proctor stated that there was no hardship for the deck. Chairperson Norman Baase stated no hardship was given for the deck. Attorney Licht explained that there isn't any criteria for a hardship. The Board determines if the request is substantial or if it will change the character of the neighborhood or impact the environment. It is a balancing act. They weigh the benefit to the owner against the impact of the request.

Rocky Ellsworth explained that the lot is pre existing, non-conforming. He stated that the Proctor's house is 90' from the lake and the proposed house is 80' from the lake. Mrs. Proctor questioned how the setback is measured due to the lake level changing. Mr. Matt explained that the mean water level is used. The code requires a 35' setback from the lake. This proposed house is 80' back from the lake. Chairperson Norman Baase stated that they are allowed to build a house on this lot. The variances requested are standard along the lake. Just the 2' variance for the front deck is different. All of the other issues discussed tonight are Planning Board issues.

The deck was discussed. Dave Matt stated that no first floor deck is being proposed. There will be posts in the ground for the second story deck.

Mrs. Proctor questioned the foundation for the deck being allowed to be 22' in front of her front foundation. Klaus Pohl explained that the deck foundation would be different from the house foundation. Building Inspector Lee Nettnin stated that the house to the east has an existing deck. You have to look at deck to deck. Chairperson Norman Baase stated that this Board is bound by the existing code. Dave Matt explained that 13 years ago this lot was approved for building. It received variances from the Zoning Board. At that time the Planning Board recommended that the proposed house not be built more than 10' in front of the front foundation of the neighbor's house for that proposal. Lee Nettnin explained that doesn't make it a code. This is a new proposal before the Boards.

At this time Chairperson Norman Baase closed the Public Hearing.

Lee Nettnin stated that he has no input regarding the variances. The proposed house meets the setback requirements. 10' front decks are allowed per the code.

Chairperson Norman Baase stated that County comments were received and there were no issues.

A motion was made by Klaus Pohl, seconded by Ed Haight to grant relief to for Mr. and Mrs. Green for relief from Town Codes 125-31C(1)(a) for a 1.52 acre area variance, 125-31C(1)(b) for a 49.70' lot width variance, 125-31C(5) for a 3% impervious surface variance, 125-34D(1)(15) for building a septic system within 150' of Lake Ontario and 125-41.1 for a 2' variance to construct a 12' front deck on a proposed single family house located at 7920 Newco Drive. This is a Type II SEQR determination. There were no negative comments received from the County. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

Chairperson Norman Baase thanked everyone for coming and suggested they bring their concerns to the Planning Board on October 4, 2010.

**WAYNE AND JANET HEALEY
7924 NEWCO DRIVE**

Mr. Healey was present seeking relief from Town Codes 125-31C(4) for a 10.3% Impervious Surface variance, 125-31C(2)(b)(1) for a 2' east side setback variance and 125-41.1 for a 4' variance to construct a 26' x 22' front porch located at 7924 Newco Drive. Mr. Healey explained that they wanted to build a 3 season front porch in front of their existing garage. It will extend 14' in front of their front foundation. They would like to build this front porch for privacy from the proposed house next door.

A motion was made by Jerry Hoffman, seconded by Rocky Ellsworth to schedule a Public Hearing for October 18, 2010 at 7:30pm for Mr. and Mrs. Healey seeking relief from Town Codes 125-31C(4) for a 10.3% Impervious Surface variance, 125-31C(2)(b)(1) for a 2' east side setback variance and 125-41.1 for a 4' variance to construct a 26' x 22' front porch located at 7924 Newco Drive. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Board reminded Mr. Healey to have his fees into the Clerk by the deadline and notified him that they would be doing an onsite inspection of the property on October 16, 2010.

**THAD AND JEANNE MAXWELL
7570 SANDY HARBOR DRIVE**

Thad Maxwell and Jeff Ackles were present seeking relief from Town Code 125-39B to add living space to the detached garage located at 7570 Sandy Harbor Drive. Mr. Ackles explained that they were proposing to raise the roof on the existing detached garage to add living space that would be used for storage of the owner's musical instrument collection which requires a controlled climate. The space would be insulated, heated and dry walled. No plumbing is being proposed.

Rocky Ellsworth questioned the final height of the garage. Mr. Ackles stated about 22'. Rocky Ellsworth stated that a height variance would be needed then. He explained that the exact height would need to be determined for the variance and Legal Notice. Mr. Ackles understood.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to schedule a Public Hearing for October 18, 2010 at 7:30pm for Mr. and Mrs. Maxwell seeking relief from Town Code 125-39B to add living space to the existing detached garage and a height variance to be determined for 7570 Sandy Harbor Drive. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Board reminded Mr. Maxwell to have his fees and variance request into the Clerk by the deadline and notified him that they would be doing an onsite inspection of the property on October 16, 2010.

DISCUSSION

David Dudley of 5922 Wautoma Beach was present to discuss revised plans for a 10' x 20' side porch that he previously received a variance for. Mr. Dudley explained that he changed his plans for the porch. He has decided to construct a wider roof line which will create an overhang area.

Chairperson Norman Baase explained that now this would be going beyond the variance that was previously granted. Attorney Licht explained that the previous motion was very specific for a 10' x 20' side porch. Now the porch size is increasing because of the roof and covered area.

It was determined that the roof would be extended 8' more in the 10' direction. This would make the roof size 18' x 20' which is a substantial increase. Rocky Ellsworth stated that the impervious surface could now be an issue on this lot. He told Mr. Dudley that the impervious surface with this addition needs to be calculated.

Mr. Dudley stated that this will result in a better more cost effective structure. Attorney Licht explained that this is a substantially different structure than what was previously proposed.

Chairperson Norman Baase explained that variances are granted on specific structures. Due to this change Mr. Dudley would need to come back for another variance. Mr. Dudley asked for relief because of the weather and he needs the structure for protection from the wind so he needs to build it now. He can't wait another month. Chairperson Norman Baase stated that the previous variance was granted on April 19, 2010 and now it's September. Mr. Dudley stated that he has been busy. Chairperson Norman Baase stated that they can't legally allow the new structure under the previous variance that was granted. Mr. Dudley stated that he has been very busy and doesn't want to have to come back for another variance.

Chairperson Norman Baase stated that the roof line has changed substantially. Another variance is needed. The Board can schedule a Public Hearing for next month. If the fees and impervious surface information isn't into the Clerk prior to the deadline then they won't have the Public Hearing.

A motion was made by Rocky Ellsworth, seconded by Klaus Pohl to schedule a Public Hearing for October 18, 2010 at 7:30pm for Mr. Dudley seeking two variances to construct an 18' x 20' side porch located at 5922 Wautoma Beach. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried.

The Board reminded Mr. Dudley to have his fees and variance request into the Clerk by the deadline and notified him that they would be doing an onsite inspection of the property on October 16, 2010.

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