

Hamlin Zoning Board of Appeals *Minutes*
Monday, November 18, 2013
7:30 p.m.

The regular scheduled meeting of the Hamlin Zoning Board of Appeals was held at the Hamlin Town Hall located at 1658 Lake Road, Hamlin and was called to order by Chairperson, Norman Baase at 7:30 p.m. with the location of the fire exits and AED explained for those present. Please turn off all cell phones and pagers.

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

Also Present: Ken Licht Town Attorney, Ed Evans Conservation Advisory Board Member. Chad Fabry Building Inspector absent.

Resident representatives: Rich Maier, D.D.S.

Residents: John & Linda DeRue, Paul Rath, Eric Peters, Cindy Lutwiller, Jim Kruger, and John Kilburn.

A motion to approve to October 21, 2013 meeting minutes as submitted was made by Klaus Pohl, seconded by Jerry Hoffman.

Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Jerry Hoffman aye, and Klaus Pohl aye. All in favor. Motion carried.

Proof of publication

The clerk showed the proof of publication.

Chairperson Norman Baase opened the Public Hearings.

PUBLIC HEARING
VARIANCE APPLICATION

JOHN AND LINDA DERUE
317 REDMAN ROAD, HAMLIN

Application for John and Linda DeRue seeking relief from Town Code §520-11B(1)(a). The current zoning is R-VL with a required minimum lot size of 5 acres. They are seeking relief for a 3 acre variance for a 2 acre parcel located at 317 Redman Road, Hamlin.

Mr. DeRue represented himself. Mr. Burch had a question on the easement. That information has been received and will be put on the drawings. The engineer has done the perks on the property and the county health department will be out tomorrow morning. The seals have not been put on the drawings because the distance on the one property line might have been changed if the perks didn't make it. The perk test passed so the original drawings that we have will be the ones to go with. The reason the stamp is not on there is that the architect wants to check the two corners before they put the stamp on the drawings. The maps are not completed at this point. The Public hearing was postponed from last month. It was never opened. The county referrals have not been received. We can hold the Public Hearing and leave it open and continue for another 30 days. We actually have 62 days in which to make a decision. Rocky asked about the Burch easement and if it would be on the new map. There were 2 easements, back in 1991 when they purchased the property there was an easement right through the barn and Burch Farms signed off on that and released all right of ways. There is a drainage easement that basically states that any part of the drainage tile easement interferes with any new development it can be moved. That is at the north end of the property so it is not an issue. That will also be on the new drawings. Norman Baase asked how close the rear lot line is. Mr. DeRue responded 80 – 100 feet. Would anyone be offended if there was an orchard placed Burch's property. Actually there are trees on that property now so it is not an issue.

Norman Baase asked if there were any other questions.

Chairman Norman Baase opened the Public Hearing.

If anyone has any comments please state your name and address.

Chairperson Norman Baase said that the Public Hearing will be left open for 30 days from now in case any comments come in.

A motion was made by Ed Haight to continue this Public Hearing until December 16, 2013 until we receive the county comments and the new stamped map with all of the easements on it, seconded by Klaus Pohl to postpone the hearing and keep the hearing open and postpone any decisions until next month when the requested information is received.

Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Jerry Hoffman aye, and Klaus Pohl aye. All in favor. Motion carried.

PUBLIC HEARING
VARIANCE APPLICATION

PAUL S. RATH
60 LAKE ROAD EAST FORK, HAMLIN

Application for Paul S. Rath seeking relief from Town Code§520-21C(2)(b) to extend a 7' section of the existing cottage to the south by 3' to conform to existing side of cottage. He is requesting a 14' side setback variance for premises located at 60 Lake Road East Fork, Hamlin. The current zoning is R-CW with a required minimum side setback of 15 feet.

Paul S. Rath represented himself before the board. He wants to use the addition to move his bathroom from the bedroom into the new area. It will be a 3' x 7' addition. It is on the south side of the cottage heading west away from the creek.

Norman Baase asked for comments from the board. There were no comments from the board.

The comments from the LWRP are consistent with the policies of the LWRP and recommends a certificate of consistency.

Chairperson Norman Baase opened the Public Hearing.

There were no comments from the residents present.

Chairperson, Norman Baase closed the Public hearing.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to grant the variance application for Paul S. Rath seeking relief from Town Code§520-21C(2)(b) to extend a 7' section of the existing cottage to the south by 3' to conform to existing side of cottage so he may have a larger bathroom. He is requesting a 14' side setback variance for premise located at 60 Lake Road East Fork, Hamlin. This is a Type II SEQR.

Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Jerry Hoffman aye, and Klaus Pohl aye. All in favor. Motion carried.

PUBLIC HEARING
VARIANCE APPLICATION

JAMES KRUGER
981 CHASE ROAD, HAMLIN

Application for James Kruger seeking relief from Town Code§520-11B(1)(a). The current zoning is R-VL with a required lot size of 5 acres. Mr. Kruger is seeking relief for a 2.33 acre variance for a 2.50 acre parcel located at 981 Chase Road, Hilton.

Rich Maier of D.D.S. represented Mr. Kruger.

It is known that the Kruger's are getting out of farming. They are selling their lands to another local farmer. The property was first developed in 1982. We want to split the present property in half making it approx. 2 1/2 acres. By asking for this change we feel as it will fit with the neighborhood as there are lots smaller than what we are asking for.

Norman Baase asked if the board had any questions.

Ed Haight stated that this request is similar to the Tenny Farm. There have been agricultural discussions in the past at the Zoning Workshops. The county comments are in.

Klaus Pohl stated that leaving the 5 acre minimum lot size in place takes away from farming. Norman Baase suggested looking into smaller lots at the Zoning Workshop.

Norman Baase opened the Public Hearing.

There were no comments.

Norman Baase closed the Public Hearing.

A motion was made by Ed Haight, seconded by Jerry Hoffman and Klaus Pohl to grant the variance application for James Kruger seeking relief from Town Code§520-11B(1)(a). The current zoning is R-VL with a required lot size of 5 acres. He is seeking relief for 2.33 acre variance for a 2.50 acre parcel located at 981 Chase Road, Hilton. The county comments have been received. We have discussed in zoning committees about trying to develop a type of AG zoning for lots of these sizes. This is a Type II SEQR.

Members polled: Norman Baase aye, Rocky Ellsworth nay, Ed Haight aye, Jerry Hoffman aye, and Klaus Pohl aye. Motion carried.

Chairperson, Norman Baase closed the Public Hearings.

AGENDA
FRONT SETBACK VARIANCE
SIDE SETBACK VARIANCE

JOHN KILBURN
628 WILER ROAD, HILTON

Application for John Kilburn seeking relief from Town Code§520-12B(2)(b). The current zoning is R-L with a minimum required side setback of 15 feet. He is requesting an 8' side setback variance for premises located at 628 Wiler Road, Hilton. The current zoning for this property is R-L.

Application for John Kilburn seeking relief from Town Code §520-27C. He is requesting a 22' variance in order to construct a 40' x 48' pole barn in front of the front foundation of his home located at 628 Wiler Road, Hilton. The current zoning for this property is R-L.

Mr. Kilburn represented himself before the board.

He wants to construct a pole barn on his property for personal belongings and RV storage. His current vehicle will not fit in his existing garage. He has approx. 10 acres of property 6 acres of which is woods and 4 acres is manicured lawn. The side variance is next to a "forever wild" 10 acre lot and he has spoken to his neighbor and there are no issues with his plans for the pole barn. The reason for the front variance is that the pole barn is required to be behind the front foundation of the main residence. He is trying to tilt the position of the barn so that the prevailing winds won't interfere with the open area of the structure. If it was placed further back it would require a substantial amount of blacktop and other materials to reach the barn. His neighbor across the street also has a variance in place for his detached garage. Chad Fabry stated for clarity what variances he should request. The main foundation is the way the code is worded; I have always considered the main foundation to be the front setback of the house. He has requested a variance based on the front setback of the house instead of the main foundation line.

Norman Baase asked for other questions.

Ken Licht had a comment. Before any advertisement goes in for a Public Hearing, we need to be more specific by having the exact side setback and front setback requested set forth in the variance application so it can go as part of the legal notice. Also, those 2 setbacks that are requested should be added to the map and there is no street address on the map that should also be added to the map. It can also be 1 map and 1 legal notice setting forth the request for both variances. Chad stated that he and Mr. Kilburn arrived at the exact numbers for the variance requests.

Klaus Pohl asked if there were 2 sheds on the property. There is 1 shed. There was 1 shed in the back corner which has been removed. Ken Licht added that should be added to the map as removed.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to schedule a Public Hearing for December 16, 2013 at 7:30 p.m. for John Kilburn, 628 Wiler Road, Hilton, NY 14468 who is seeking relief from Town Code §520-12B(2)(b) for an 8' side setback and from Town Code §520-27C for a 22' variance in front of the front foundation.

Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Jerry Hoffman aye, and Klaus Pohl aye. All in favor. Motion carried.

In regards to the Agenda item scheduled for the Manville project. There were no representatives in attendance. Therefore, the item was taken off the Agenda.

DISCUSSION

There was no Town Board liaison present for a report

Ken Licht had nothing to report.

Chad Fabry had no comments.

The Conservation Advisory Board had no concerns.

Rocky Ellsworth added that he was present at the last Town Board meeting to present the Zoning Board of Appeals Annual report when the Chairperson of the Planning Board asked to have their own attorney instead of using the Town Attorney. It was discussed by the Zoning Board members and it was decided that they would like to have the current attorney attend the Zoning Board of Appeals meetings and advise them. A letter will be drafted by the clerk for approval by Norman Baase, Zoning Board of Appeals Chairperson.

ADJOURNMENT

A motion to adjourn tonight's meeting was made by Ed Haight, seconded by Klaus Pohl barring no further business.

Members polled: Norman Baase aye, Rocky Ellsworth Aye, Ed Haight aye, Jerry Hoffman aye, and Klaus Pohl aye. All in favor. Motion carried.

Minutes respectfully Submitted by

Cheryl J. Pacelli
Clerk to the Support Boards

The next scheduled meeting of the Hamlin Board of Appeals will be held on Monday, December 16, 2013 at 7:30 p.m. The deadline for all applications and fees is 12 noon.