

Zoning Board of Appeal Meeting *Minutes*
Monday, June 21st, 2004
7:30pm

The regularly scheduled meeting of the Hamlin Zoning Board of Appeals was held in the Hamlin Town Hall at 1658 Lake Road and was called to order by Chairman Norman Baase at 7:30pm with the location of the fire exits explained for those present.

Present: Norman Baase, Terry Dingee, Rocky Ellsworth, Ed Haight, Jerry Hoffman, Klaus Pohl and Donna Stassen.

Also present: Building Inspector Dick Bauman, Support Board Attorney Charlie Welch, Conservation Board liaisons Glenn Quetschenbach, Merritt Ackles, Frank Marando, James Krempasky-Board of Assessment Review, Supervisor Austin Warner, Town Attorney Kenneth Licht, Town Board liaison George Todd and several interested citizens.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to approve the minutes of the May 17th, 2004 meeting. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, minutes approved.

THE CLERK READ THE PROOF OF PUBLICATION

PUBLIC HEARING

**Mr. and Mrs. Ritchie
7 Acclaim Drive**

Mr. Jim Guion of Guion Construction was present to represent Mr. and Mrs. Ritchie of 7 Acclaim Drive who seek a 5' south side setback to construct a 22' garage onto their residence. Mr. Guion explained that a 22' x 24' garage would be constructed. It will be a single story garage. The siding will be vinyl and similar to what is already on the house. At that time Chairman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal? There were no replies. He then closed the Public Hearing.

A motion was made by Klaus Pohl, seconded by Ed Haight to grant a variance for Mr. and Mrs. Alistiar Ritchie of 7 Acclaim Drive. They seek relief from Town Code 125-20 B 2 (b) for a 5' side setback. They plan to construct an attached 22' x24' garage. There were no negative comments from neighbors. This will not alter the characteristic of the neighborhood. This is the minimum to provide relief. This is a TYPE II SEQR. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, variance granted.

June 21st, 2004

PUBLIC HEARING

**Mr. and Mrs. Stevens
6512 Shore Acres**

Mr. Chris Karelus of Schultz Associates was present to request several variances for Mr. and Mrs. Stevens of 6512 Shore Acres who plan to construct a new single family residential dwelling. Mr. Karelus explained that this is an existing lot. The existing site is over 2/10 of an acre. There is an existing gravel driveway. It has been used in the past as a seasonal residence; now they would like to make it a permanent home. The septic system will be placed into the ground in the front of the property. This doesn't pose an environmental threat. This will not change the characteristic of the neighborhood. They are proposing to build a 2 bedroom home. There will be a new breakwall installed which will be placed above the flood zone elevation. There will be no cellar or crawl space, it will be built on a slab. Board Member Terry Dingee stated that the Stevens should be aware that on occasion that area is known to flood. Mr. Stevens said he is aware of that and he feels that he will be building the house in the best possible location. Building Inspector Dick Bauman asked where the roof drainage would be directed? Mr. Karelus replied that the drainage off the roof would flow east and west. Craig Goodrich from the Conservation Board stated that he had already been out to view the site and saw no problem with it as long as they stayed with the proposed plans.

At that time Chairman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal? There were no replies. He then closed the Public Hearing.

A motion was made by Rocky Ellsworth, seconded by Klaus Pohl to grant Mr. and Mrs. Stevens of 6512 Shore Acres several variances to construct a new single family residential dwelling. The approved variances are:

- 1). Relief from Town Code 125-31 C 1 (a) for a 1.819 acre area variance.
- 2). Relief from Town Code 125-31 C 1 (b) for a 90' lot width variance.
- 3). Relief from Town Code 125-31 C 5 for impervious surface area to be 25% instead of the required 15%. These are the minimum variances to provide relief. This is a pre-existing lot. This will not change the characteristic of the neighborhood or nearby properties. It will not have an adverse affect on the neighborhood. This is a TYPE II SEQR. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, variances granted.

A motion was made by Rocky Ellsworth, seconded by Terry Dingee to approve a variance for Mr. and Mrs. Stevens of 6512 Shore Acres. They are granted relief from Town Code 42-10 B for building a new 2 story residential home in a coastal erosion hazard area. This is a pre-existing lot for re-construction. No other site is available. This is the minimum to provide relief. All reasonable means and measures, to mitigate adverse impacts on natural systems and their functions and values have been incorporated into the

STEVENS-6512 SHORE ACRES

activities design at the property owner's expense. The development will be safe from flood and erosion damage. This will not alter the characteristic of the neighborhood. This is a TYPE II SEQR. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, variances granted.

A motion was made by Rocky Ellsworth, seconded by Ed Haight to approve the application for a variance for Mr. and Mrs. Stevens of 6512 Shore Acres for reconstruction of a new home. An effort has been made to move the house forward to allow more room for the septic system. They are granted relief from Town Code 125-34 D (1) (b) [15] for building a septic system within 150' of a wetland buffer zone, and Lake Ontario. This is the minimum to provide relief. The septic system plan will revert back to the map signed on May 17th, 2004 by designer Ralph DiTucci. This is the minimum to provide relief. It will not alter the characteristic of the neighborhood. This is a TYPE II SEQR. This variance approval is contingent upon written approval of the Monroe County Health Department. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, variance granted.

PUBLIC HEARING**Mr. Kevin Noon****Car wash – 1449 Lake Road**

Mr. Kevin Noon was present to seek two variances in order to construct a car wash behind the K and K food mart at 1449 Lake Road. Mr. Noon explained that he would be constructing a two bay car wash. One bay would be automatic and one bay would be a manual car wash. Board Member Ed Haight asked what the setback would be? Attorney Charlie Welch said this would require a 35 foot setback. The car wash will blend in and match the building. There are storm sewers. Mr. Noon said he is working with the highway department, to have the existing storm sewer carry water to the creek. Mr. Noon said upon being granted the variance he would be returning to the Planning Board for further direction and approvals. At that time Chairman Baase opened the Public Hearing and asked if there was anyone present to speak for or against this proposal? James Krempasky of 1960 Redman Road asked where the drainage would be carried? Mr. Noon stated that the drainage would be going directly to the storm sewer. At that time he closed the Public Hearing.

A motion was made by Terry Dingee, seconded by Jerry Hoffman to grant two variances to KTS Noon Assoc. LLC to construct a car wash at 1449 Lake Road. The variances granted are:

- 1). Relief from Town Code 125-26 B (2) (a) for a 35' front setback.
- 2). Relief from Town Code 125-26 C (2) for constructing a second principle structure on a site permitting only one principle structure. This will not change the characteristic of the neighborhood. There were no complaints from area residents. This is the minimum to provide relief. This is a TYPE II SEQR. Members polled Baase aye, Dingee aye,

Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, variances granted.

PUBLIC HEARING
RICK VITO

5733 Wautoma Beach Road

Mr. Anthony Adams was present to represent Mr. Rick Vito of 5733 Wautoma Beach Road. Mr. Adams explained that Mr. Vito seeks two variances to bring his structure into compliance. He stated that he had passed out a packet prior to the meeting to all Board Members. It contains a copy of the tax map, and arial photo of the neighborhood, a copy of the original building permit along with sketches to obtain that building permit, also a letter from a neighbor Mr. Fairchild. He stated that a 9' height variance would be needed. The other variance requested is for a private garage to be used by a non-occupant. This structure was built according to the building permit. The new permit was issued on as built drawings. The main issue here is impact on the neighborhood. Mr. Adams further stated that this lot contained at one point 1.2 acres of land which is the largest in the neighborhood. This structure was tastefully built. It blends in with other structures on the street. It doesn't block any Lake views. There are many detached garages in the neighborhood that are in excess of 15' in height. It was designed to look like a 2000' square foot home. There is no more room on his property to build anything else. The Town is reviewing the Master Plan update which could relieve some of the restrictions. Mr. Adams stated that Rick has three vehicles that include a boat, 2 cars and jet skis. He can leave them in the street or park them in his garage. Allowing him to use the second bay of his garage will not hurt the neighborhood. There is no rational reason why he can't use this structure for storage. Board Member Klaus Pohl asked about knocking down the existing cottage. Mr. Adams said that it hasn't been reviewed yet. Board Member Rocky Ellsworth stated that every time the Board has been to 5733 Wautoma Beach Road, they see commercial trucks outside. Board Member Donna Stassen said that this garage is not to be used for anything pertaining to commercial activity. This is a residential area. The use of this garage by a non occupant is prohibited by Town Code. Attorney Charlie Welch said that we have always looked at this garage as a package. By separating the garage in half as to the legality of its contents we are defeating the whole purpose of the Code. Mr. Vito replied that he has been storing commercial items in the structure all along. He stated that he is a home investor and purchases cabinets that he stores at 5733 Wautoma Beach Rd. Mr. Vito said he is using the cabinets to refurbish homes, not to sell outright to the public.

At that time Chairman Baase opened the Public Hearing and asked if there was anyone present to speak for or against proposal? Mr. Peter Toney of Moscow Road stated that the variance he is seeking has nothing to do with the parking of the vehicles. Mr. Vito came into the board for re-subdivision originally. He also submitted different plans on different occasions. He submitted the new plans and was given another permit by the former building inspector. Mr. Tonery asked how many height variances have been requested and granted in the past 20 years on that street? He stated that there was a stop

VITO-5733 WAUTOMA BEACH ROAD

work order placed on that property in 2002. At that time Mrs. DeLapa of 5728 Wautoma Beach Road played a video tape of Mr. Vito's activities around 5733 Wautoma Beach Road. Mrs. DeLapa then read a statement to the Board stating her frustration with this case and requesting the Board to use scrutiny before making a decision. Tom Jenson of Roadside Drive asked if anyone had actually measured from the high point of the house to obtain the correct height variance. Building Inspector Dick Bauman replied that 24' is an actual measurement. Mr. Vito stated that two days before the last Zoning Board of Appeals meeting in May, he was in the hospital due to illness. Therefore he was not in attendance at that May 17th, 2004 meeting. Mr. Vito stated that he felt that this a personal vendetta against him by the DeLapa's. At that time Chairman Baase closed the Public Hearing and said this Board will take a hard look at the law before making a decision. He asked the Board to make a motion to postpone the decision for a period of 62 days.

A motion was made by Ed Haight, seconded by Klaus Pohl to postpone making a decision on the structure at 5733 Wautoma Beach Road owned by Rick Vito, for a period of 62 days to go over all the information obtained at the Public Hearing tonight and all the information that has been gathered in the past pertaining to this Public Hearing. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, variance decision will be postponed for a period of 62 days.

DISCUSSION

Mr. Steven Clary of 2632 Roosevelt Highway was present to seek a height variance to construct an antenna in his rear yard. Mr. Clary stated that the ordinance allows for a 50' height antenna and he is asking to construct a 70' antenna. Attorney Welch stated that if you are looking for a 70' height variance, then you must request a 70' side setback variance also, in case the antenna falls onto the neighboring property. Mr. Welch asked if it is possible to move it more towards the center of the property? Mr. Clary replied that his trees really inhibit where he can place the tower. Board Member Rocky Ellsworth asked Mr. Clary to stake out the location of the antenna prior to inspection by the Board Members.

Mr. Clary stated that an extra 20' in height could gain him a substantial performance from the antenna. Also the surrounding trees are at least 70' in height.

A motion was made by Donna Stassen, seconded by Terry Dingee to schedule a Public Hearing for Mr. Steven Clary of 2632 Roosevelt Highway to construct an antenna in his rear yard. There will be two variances required. One will be for a height variance from Town Code 125-44 A 3. The other variance would be for a side setback variance from Town Code 125-44 A 4. The Public Hearing is scheduled for Monday, July 19th, 2004 at 7:30pm. With on site inspections beginning after 10:30pm on Saturday, July 17th, 2004.

DISCUSSION-CLARY 2632 ROOSEVELT HWY.

Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, Public Hearing scheduled.

DISCUSSION-NOON 7628 NEWCO DRIVE

Mr. Kevin Noon was present and stated that he is seeking a height variance to raise the roof on his garage located at 7628 Newco Drive. Mr. Noon explained that the roof would be 22' in height instead of the current 15' height. It is located on the far side of the lake. There are other garages that have similar height in the neighborhood.

A motion was made by Rocky Ellsworth, seconded by Terry Dingee to schedule a Public Hearing for Monday, July 19th, 2004 at 7:30pm for Mr. Kevin Noon of 7628 Newco Drive to raise the roof of their existing garage to create storage space. This will require a 7' height variance from 125-31 C 4 (b) to raise the roof on an existing garage. With onsite inspections beginning after 10:30am on Saturday, July 17th, 2004. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, Public Hearing scheduled.

Building Inspector Dick Bauman stated that he would like to be empowered to issue accessory permits for signs for new subdivisions. He would like to on a temporary basis be allowed to issue sign permits legally for a period of 9 months to a year. He is asking for temporary permission to issue signs for subdivisions until the local law can be modified to include a section for subdivision signs. Attorney Charlie Welch said that this Board can't issue permission carte blanche. However, Mr. Bauman could request a variance on an individual basis for each subdivision sign greater than 20 square feet.

Town Board Member George Todd stated that the Town Board would not change the sign code. The Town Board wouldn't possibly grant a Code Enforcement Official the power to grant variances. Mr. Todd said the contractors know the Code as well as we do. They know when to come for a variance.

ADJOURNMENT

A motion was made by Ed Haight, seconded by Klaus Pohl to adjourn the meeting barring no further business. Member polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye and Stassen aye. Motion carried, meeting adjourned.

Respectfully submitted,

Cindy Olds
Clerk to the Support Boards

The next scheduled meeting of the Hamlin Zoning Board of Appeal will be held on Monday, July 19th, 2004 at 7:30pm. Deadline for fees is Monday, July 5th, 2004.

