

Hamlin Zoning Board of Appeals *Minutes*
Monday, February 20, 2006
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 Chairman Norman Baase at 7:30pm with the location of the fire exits explained for those present.

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

Excused: Terry Dingee

Also present: Support Boards Attorney Charlie Welch, Conservation Board member Craig Goodrich, Town Supervisor Denny Roach, Town Board Liaison Mike Marchetti, Tom Jensen and several other interested residents.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to approve the minutes of the January 16, 2006 meeting as recorded. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried.

January 16, 2006 Public Hearing decision for Kevin Clark of 5733 Wautoma Beach.

Chairman Norman Baase stated that on January 16, 2006 the Board tabled the Public Hearing decision for Kevin Clark of 5733 Wautoma Beach Road. A work session was held to discuss the application and the variances requested. Attorney Welch stated that there were some conditions that would have to be met if the variances were granted. Mr. Clark stated that he understood that. Attorney Welch stated that he prepared a decision that addressed the area and lot width variances together and the house size and setback variance would be a separate motion. Ed Haight stated that in the past the Board had requested that the Town Board address this situation. Attorney Welch stated that after tonight's meeting the proposal still needs to go to the Planning Board to separate the lot. It would still be only one lot after tonight's decision. The Planning Board is the only Board that can divide lots.

Attorney Welch read the following decision:

Applicant Kevin Clark of 5733 Wautoma Beach Road
Zoning District SR

Published notice on 1-1-06

Hearing Held on 1-16-06

Variances requested: 1.5-acre variance from Section 125-31C(1)(a)
1.3-acre variance from Section 125-31C(1)(a)
95 foot variance from Section 125-31C(1)(b)
50-foot variance from Section 125-31C(1)(a)

Factors Considered:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to neighborhood or a detriment to nearby properties? No, because the average size and lot widths of the properties in the neighborhood is smaller than the area of the two proposed lots. The proposed lots would be indistinguishable from nearby properties and there is no evidence that this would cause a detriment.
2. Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance? No, because there is no vacant additional land adjoining the property to allow the two lots to comply with the existing zoning code. However, if the applicant is ultimately seeking to make a profit on his investment, this benefit might be achieved by creating a single larger house on one lot but we received no testimony or evidence on this point. This would not eliminate the need for variances because the property is not conforming in regards to the acreage requirement. In addition, this point would carry more weight if the property was on the lakeside of the street as property values on that side of the street are significantly more. The applicant did testify to his financial situation with this property and indicated it would take splitting these lots to make a reasonable profit.
3. Whether the requested variance is substantial? Yes, the acreage variances are 75% and 65%. The lot width variances are 66% and 33%. However, the resulting lots would be larger and wider than most of the lots in the area.
4. Would the variances have an adverse impact on the physical or environmental conditions in the neighborhood? No, because of the size of the surrounding lots and any drainage and septic issues can be mitigated by the Planning Board and County agencies.
5. Whether the alleged difficulty was self-created? Yes, because the applicant bought these properties knowing the problems. However, the applicant did not create the underlying circumstances that have made the property an issue.

Determination of the Zoning Board of Appeals based on the above factors:

The Zoning Board of Appeals, taking into consideration the above five factors, finds that: the benefit to the applicant DOES outweigh the detriment to the neighborhood or community because the character of the neighborhood will not be changed because the two lots will be in conformance with the existing lots and there will be very little or no detriment to the neighborhood.

The Zoning Board of Appeals further finds that a variance of 1.5 acre for Section 125-31C(1)(a) of the Zoning Code and a variance of 1.3 acre for Section 125-31C(1)(a) of the Zoning Code and a variance of 95' for Section 125-31C(1)(b) of the Zoning Code and a variance of 50' for Section 125-31C(1)(b) of the Zoning Code are the minimum variances that should be granted in order to preserve and protect the character of the neighborhood

and the health, safety and welfare of the community because the area variances for acreage as presented creates no need for setback variances and the resulting lots would be of size in character with the neighborhood.

Conditions:

The Zoning Board of Appeals finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the following reasons:

Condition No. 1: That the applicant continues the subdivision and site plan process as proposed in his application to the Planning Board and obtain final approvals from that board within six months of this variance. Adverse impact to be minimized: because the variances are substantial, the Zoning Board of Appeals does not wish the variance to run with the land without the development as proposed being accomplished and in a timely manner. If another significantly different development proposal is offered, i.e. the tearing down of one of the structures, the variance is void.

Condition No. 2: That the applicant obtains a Certificate of Occupancy for the existing structure on the eastern lot within one year of this approval. Adverse impact to be minimized: same as Condition No. 1.

Condition No. 3: That in the site plan approval process that all drainage issues are addressed and that a new approval from the County be obtained for the existing septic system before site plan approval. Adverse impact to be minimized: To address any possible environmental impacts on neighboring lots.

A motion was made by Klaus Pohl, seconded by Jerry Hoffman to grant area and lot width variances to Kevin Clark of 5733 Wautoma Beach Road for variances requested per decision. Members polled Baase aye, Ellsworth no, Haight no, Hoffman aye, Pohl aye, Stassen aye. Motion carried, variances granted.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to grant a 3' side setback variance the minimum relief from Town Code 125-31C(2)(b)(1) and a 216 sq. ft. minimum house size variance the minimum relief from Town Code 125-31C(3)(a) to Kevin Clark for 5733 Wautoma Beach Road as requested. This is a Type II SEQR determination. Members polled Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye, Stassen aye. Motion carried, variances granted.

DISCUSSION

Chairman Norman Baase stated that he had been approached by a farmer in Town requesting to put a mobile home trailer on his property to use as an office for the farm. Chairman Norman Baase questioned whether this was acceptable and what could be done. Attorney Welch stated that in the past a variance was granted for a temporary situation but nothing permanent. He suggested making part of the barn into office space. Chairman Norman Baase stated that would be too costly for the farmer. Attorney Welch stated the would look through the code and get back to the Board.

Building Inspector Dick Bauman had nothing to report at this time.

Town Board Liaison Mike Marchetti informed the Board that there would be a Wind Tower presentation at the next Town Board meeting and suggested that Board attend the April 10, 2006 meeting.

Conservation Board member Craig Goodrich had nothing to report at this time. Chairman Norman Baase thanked Craig for the letter from the Conservation Board regarding their concerns with the 5733 Wautoma Beach Road proposal.

Town Supervisor Denny Roach had nothing to report at this time.

Chairman Norman Baase thanked the Board for their time and efforts spent on the 5733 Wautoma Beach Road project.

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, Stassen aye. Motion carried, meeting adjourned.

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, March 20, 2006 at 7:30pm. Deadline for all fees is March 6, 2006 at 2:00pm.