

Hamlin Zoning Board of Appeals *Minutes*
Monday, August 21, 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 and AED explained for those present.

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

Excused: Jerry Hoffman

Also present: Support Boards Attorney Charlie Welch, Town Board Liaison Mike Marchetti, Supervisor Denny Roach, Building Inspector B.J. Maier, Conservation Board member Craig Goodrich, Tom Jensen, Anne Daggs, Brenda Honeck, David Strabel, Roxanne Zambito, Bethany and Craig Zarembo, John Cleaveland, Ron and Vicki Breslawski, Ed Martin, Adam Freeman, Keith O'Toole, Reid Foertsch, Lori and Mark Polka, Honey DeLapa, David and Tanya Grugnale, Mark and Marisa Koehler and several other interested residents.

A motion was made by Klaus Pohl, seconded by Ed Haight to approve the minutes of the July 17, 2006 meeting as recorded. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried, minutes approved.

Clerk showed Proof of Publication

PUBLIC HEARING

**MR. AND MRS. ZAREMBA
4 BLOSSOMDALE CIRCLE**

Mr. and Mrs. Zarembo of 4 Blossomdale Circle were present to seek relief from Town Code 125-21B(2)(f)(2) for a 2.5' west side setback variance to construct a 12' x 18' library addition to their home. They explained that the addition would be similar construction as the original house.

At this time Chairman 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 Chairman Norman Baase closed the Public Hearing.

A motion was made by Terry Dingee, seconded by Ed Haight to grant relief from Town Code 125-21B(2)(f)(2) to Mr. and Mrs. Zarembo of 4 Blossomdale Circle for a 2.5' west side setback variance to construct a 12' x 18' library addition to their home. This is a Type II SEQR determination. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried.

PUBLIC HEARING

WALTER FOERTSCH 6528 SHORE ACRES

Walter Foertsch of 6528 Shore Acres was present to seek relief from Town Code 125-31C(4)(a) for a 4' height variance to construct a 39' lighthouse structure. Mr. Foertsch explained that he has received all other variances and Approval from the Planning Board and now just needs a height variance for the lighthouse structure. Terry Dingee asked if he received approval from the Coast Guard. Mr. Foertsch stated that he had a letter stating it was approved by the Coast Guard. No spot light or any other kind of light is allowed on the structure per the Coast Guard.

At this time Chairman 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 Chairman Norman Baase closed the Public Hearing.

A motion was made by Klaus Pohl, seconded by Donna Stassen to grant relief from Town Code 125-31C(4)(a) to Mr. Foertsch of 6528 Shore Acres for a 4' height variance to construct a 39' lighthouse structure. This is a Type II SEQR determination. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried.

A motion was made by Rocky Ellsworth, seconded by Donna Stassen to reconsider the application for John Cleaveland for the property located at 704 Monroe Orleans County Line Road seeking relief from Town Codes 125-18B(1)(a) for a 4.123 acre variance, 125-18B(1)(b) for a 40' lot width variance and 125-18B(5) for an 8.2% impervious surface variance to construct a single family home. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried.

PUBLIC HEARING

JOHN CLEAVELAND 704 MONROE ORLEANS CO. LINE RD.

Attorney Keith O'Toole was present to represent Mr. Cleaveland seeking relief from Town Codes 125-18B(1)(a) for a 4.123 acre variance, 125-18B(1)(b) for a 40' lot width variance and 125-18B(5) for an 8.2% impervious surface variance to construct a single family home located at 704 Monroe Orleans County Line Road. Attorney O'Toole explained that the property is zoned R-VL and previously there was a single family home on the property that burned down. Before Mr. Cleaveland purchased the property he was told by a Town Official that he could rebuild the house without any problem. Then he found out that variances were required to rebuild and that the Board could deny the

variances. His client would lose his investment if he couldn't rebuild on the property. The well and septic will have to be approved by Monroe County Health Dept. Donna Stassen asked for his interpretation of pre-existing non-conforming. Attorney O'Toole stated that another house could be built in the district. Chairman Norman Baase asked if the owner attempted to purchase additional land. Attorney O'Toole stated that at the previous Public Hearing the owner of the surrounding property stated that he was opposed to the proposal so purchasing additional land from him was not an option. Terry Dingee stated that Ron Breslawski said that he was in the business to buy land not sell it at the previous Public Hearing.

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

Ron Breslawski of 501 Priem Road stated that he owned the surrounding property. He explained that the previous house never had running water or a septic system. He is concerned about runoff onto his property and crops. This is a substantial variance request. He stated that there are laws against having sewer water leaking on crops. A representative from Land Tech Engineers stated that there is a 10' separation from the leach field to the property line. The well and leach field meet the 100' regulation. He stated that there is no threat of sewage water leaking. The perk test passed and there will not be any surface or under ground runoff to surrounding property. Rocky Ellsworth asked what kind of septic system is being proposed. It would be an in ground system. Monroe County Health Dept. approved it and witnessed the perk test. Attorney O'Toole explained that septic systems have changed and improved over the years and 5 acres is no longer needed for septic systems. Ron Breslawski asked if he could have it in writing that the system won't leak. Terry Dingee stated that if the system leaks report it to the Monroe County Health Dept. and they will respond to the complaint. Donna Stassen asked if there were similar size lots in the neighborhood. Attorney O'Toole stated that 3877 Roosevelt Highway is 0.83 acres and 704 Monroe Orleans County Line Road is 0.65 acres and is zoned R-VL. Attorney O'Toole stated that the house would fit the character of the neighborhood. Conservation Board member Craig Goodrich asked if the well had been tested or drilled yet. Attorney O'Toole stated that it hadn't been drilled yet but would be tested by Monroe County Health Dept for approval. Mr. Goodrich asked if they had looked into the depth and purity of other wells in the neighborhood. Attorney O'Toole stated that they had not but they would continue to dig and spend money until it was acceptable. Terry Dingee stated that if they hit water high that is good. The deeper you go the more problems you seem to have in Hamlin. Ron Breslawski stated that the property was in the Ag. District so he didn't want any complaints about farm equipment noise or dust. Attorney O'Toole stated that his client is aware of the right to farm law and will comply.

At this time Chairman Norman Baase closed the Public Hearing.

Rocky Ellsworth stated that this application was previously denied and he would like the attorney's input on the pre-existing non-conforming issue. Attorney Welch stated that it doesn't apply here. The previous house burned down and variances are required to

rebuild per the code. A discussion on pre existing non-conforming took place. Attorney Welch stated that the new house has to comply with the existing codes. Rocky Ellsworth questioned the impervious surface variance. Attorney O'Toole explained that the owner originally requested two driveways but the DOT would only allow one driveway. With the two black top driveways an impervious surface variance is required. The owner would like to still request the variance in case the DOT changes its mind and allows him to have two driveways. Attorney Welch stated that one of the main determining factors when the application was denied was the fact that the difficulty was self created but now that it was stated that the owner was told by a Town official that he could rebuild the house it is not self created. Donna Stassen stated that at the last Public Hearing no one was present to answer those questions. Terry Dingee stated that he was uncomfortable before with granting the variances because the difficulty was self created but now that he realizes that it wasn't he is willing to change his decision. Donna Stassen asked if Ron Breslawski tried to purchase the property. Mr. Breslawski stated that his mother wanted to purchase the property years ago but they were asking too much money for it. Donna Stassen asked what Mr. Cleaveland paid for the property. Mr. Cleaveland stated that he paid \$10,000 for the property plus engineering costs.

A motion was made by Terry Dingee, seconded by Klaus Pohl to grant relief to John Cleaveland from Town Codes 125-18B(1)(a) for a 4.123 acre variance, 125-18B(1)(b) for a 40' lot width variance and 125-18B(5) for an 8.2% impervious surface variance to construct a single family home located at 704 Monroe Orleans Country Line Road due to the fact that new circumstances were presented at this meeting that weren't presented at the previous meeting like being told by the Town that he would be able to rebuild therefore the difficulty was not self-created, the land cannot be expanded and other properties in the neighborhood are similar in characteristic. This is a Type II SEQR determination. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight no, Pohl aye, Stassen aye. Motion carried.

PUBLIC HEARING

LIFETIME ASSISTANCE 1 TRACIANN DRIVE

Robert LaDieu from LaDieu Associates was present to represent Lifetime Assistance seeking relief from Town Codes 125-20B(2)(a) for a 40' front setback variance and 125-20B(2)(d) for a 15' side yard setback to build an Individual Residential Alternative Residence located at 1 Traciann Drive. Mr. LaDieu explained that the lot was originally created in 1990. Now the code has changed so variances are required. They are proposing a one-story ranch house with 5 bedrooms to accommodate 5 individuals.

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

Mark Koehler of 20 Traciann Drive asked what kind of people would be living in the home and questioned the setback from the sidewalk. Mr. LaDieu explained that they were requesting a 15' side yard setback from the property line not the sidewalk. A representative from Lifetime Assistance explained that the residents would have mental and physical disabilities and would be between the ages of 40-60 years old. She explained that the facility located on the East Fork currently has 12 people living in an 8-bedroom home. Mr. Koehler stated that this is a residential neighborhood and he has traffic concerns.

Lisa Englert of 1829 Lake Road asked about the drainage easement between her property and 1 Traciann. She stated that it doesn't work and it gets really wet there. Mr. LaDieu stated that they would be repairing that drainage ditch to improve the drainage. Ms. Englert asked about the siding. Don Strable the Architect stated it would be a ranch house with vinyl siding and a shingles roof with a 7-car parking lot. Ms. Englert asked if there would be employees there 24 hours a day. It was stated yes there would be. Ms. Englert asked about garbage disposal. Mr. LaDieu stated that garbage would be picked up once a week.

Tanya Grugnale of 4 Traciann Drive asked the location of the driveway. Mr. LaDieu stated that it would be across from the dentist's driveway. Ms. Grugnale asked about lighting. The parking lot would not be lit and they are leaving the existing trees.

Mark Palka of 11 Traciann Drive stated that the house to the west was not allowed to build closer to the road and he was told by the builder that no one could build on this lot. Attorney Welch stated that the builder does not speak for the Town of Hamlin. A 70' setback from the road is required. Corner lots have two fronts and one side. The lot exists but variances are required. The other lots were buildable lots no variances were needed.

It was asked if the employees work at different times. It was stated that 2 or 3 people work on each shift. So there would be a couple of cars in and out during shift change.

Mr. Kohler stated that a realtor told him that his property value would decrease \$10-15,000 if a group home were built there. Attorney Welch stated that he has never seen that study.

Mr. Koehler stated that he bought the house because of the location and his kids walk and play in the neighborhood and he doesn't want the home on his road.

Marissa Koehler of 20 Traiann Drive stated that she works for a realtor and she knows for a fact that their property values will decrease and traffic will increase due to doctors, buses and other traffic in and out.

Attorney Welch explained that this was a Public Hearing for variances. Some of the concerns mentioned are Planning Board concerns. There will be another Public Hearing for the Planning Board to address most of these concerns. This Board only deals with variances. A Group Home is a permitted use in this district.

Rocky Ellsworth questioned the proposed parking. Mr. LaDieu showed him the parking. The location of the house was discussed.

A motion was made by Rocky Ellsworth, seconded by Donna Stassen to table this decision until the September 18, 2006 meeting. The Public Hearing will remain open. An on site inspection will take place on September 16, 2006 after 10:30am. There will be no other notifications mailed out. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried.

**DAVE CARIELLO
245 WESTPHAL DRIVE**

Dave Cariello of 245 Westphal Drive submitted a letter to the Board requesting an extension on the variances that he received to construct a 36' x 24' garage in 2004. He is planning on building the garage next year and didn't realize that the variances expired. Nothing has changed.

A motion was made by Ed Haight, seconded by Klaus Pohl to grant a 2-year extension from September 2005 until September 2007 for a 36' x 24' garage located at 245 Westphal Drive for Dave Cariello. Variance to expire September 2007. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried.

**JOHN DEFRANK
6290 SHORE ACRES**

John DeFrank was present to seek variances to construct a 36' x 50' x 15' garage 2' from his property line located at 6290 Shore Acres Drive. Mr. DeFrank stated that once the new garage is built he would tear down the old garage. A discussion took place concerning the water line and 10' easement on the property. The as built water line map shows a 10' easement and nothing can be built on that easement. It was suggested that he angle the garage to be parallel with the easement. Mr. DeFrank stated that he would do whatever needed to be done. Attorney Welch asked that Mr. DeFrank call the Monroe County Water Authority and have them mark where exactly the water line is on the property. Mr. DeFrank stated he would do that. A 13' side setback variance and a 33'

rear setback variance would be needed. Attorney Welch requested a better map and location of garage.

A motion was made by Rocky Ellsworth, seconded by Ed Haight to schedule a Public Hearing for John DeFrank of 6290 Shore Acres Drive for September 18, 2006 at 7:30pm for variances to construct a 26' x 50' x 15' garage 2' from property line with variances to be determined by September 1, 2006. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried.

**KEVIN CLARK
5733 WAUTOMA BEACH ROAD**

Kevin Clark was present to seek a six-month extension on variances he received for 5733 Wautoma Beach Road. Mr. Clark explained that he might be changing his plans for the property. Mr. Clark asked if he tore down the existing house could he keep the second garage on the property. Attorney Welch stated that a variance would be needed. Mr. Clark asked if he tore down the existing house could he subdivide out a lot with just the garage on it. Attorney Welch stated yes but it would require all new variances and new plans. Mr. Clark stated that Monroe County Health Dept. wouldn't approve the septic system. The neighbor across the street is interested in purchasing part of the property.

A motion was made by Klaus Pohl, seconded by Terry Dingee to grant a 6-month extension for Site Plan approval and a 6-month extension for a Certificate of Occupancy for Kevin Clark for 5733 Wautoma Beach Road. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried.

**BROMLEY SUBDIVISION
9544 BEACHWOOD PARK ROAD**

Dave Matt from Schultz Associates was present to seek relief from Town Codes 42-10B for building in the Coastal Erosion Hazard area for Lot 1, 125-31C(1)(a) for a 1.560 acre lot area variance for Lot 1, 125-31C(2)(a) for a 27' rear setback variance for Lot 1 and 125-31C(1)(a) for a 1.427 acre lot area variance for Lot 2 of the Bromley Subdivision located at 9544 Beachwood Park Road. Mr. Matt stated that the original proposal was for an east/ west subdivision. This proposal is for a north/ south site plan approval. The lots are existing. One house with a leach field is proposed on each lot. Erosion control has been added to the plan. Impervious surface was questioned. Mr. Matt stated it was at 11% so no variance was needed. Conservation Board member Craig Goodrich requested that gutters be added to the plan that drain towards the lake. Attorney Welch stated that was a Planning Board issue.

A motion was made by Donna Stassen, seconded by Ed Haight to schedule a Public Hearing for the Bromley Subdivision located at 9544 Beachwood Park Road for September 18, 2006 at 7:30pm for variances. Members polled Baase aye, Dingee aye, Ellsworth aye, Haight aye, Pohl aye, Stassen aye. Motion carried.

DISCUSSION

Town Board Liaison Mike Marchetti stated that the meeting last week with Bob King was a great meeting. 5-Acre lots were discussed.

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, Dingee aye, Ellsworth aye, Haight 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, September 18, 2006 at 7:30pm. Deadline for all fees is Friday, September 1, 2006.