

Hamlin Zoning Board of Appeals *Minutes*
Monday, June 16, 2008
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, Rocky Ellsworth, Ed Haight, Jerry Hoffman and Klaus Pohl.

Also present: Support Boards Attorney Charlie Welch, Town Board Liaison Mike Marchetti, Building Inspector B.J. Maier, Planning Board member Tom Jensen, Conservation Board members Jeanine Klopp and Ed Evans and residents Thor Jensen, Jim Polek, Susan and Anthony Cotsworth, Tim Voight, Gwen Comstra and Rich Maier.

A motion was made by Jerry Hoffman, seconded by Klaus Pohl to approve the minutes of the May 19, 2008 meeting as recorded. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion carried, minutes approved.

The Clerk showed Proof of Publication

PUBLIC HEARING

**SALVATORE ANSELMO
122 LAKE ROAD EAST FORK**

Attorney Welch stated that the Public Hearing was advertised for variances for Shoreline Residential. The property is zoned R-CW. Therefore the Public Hearing needs to be advertised again. The application was for SR zoning and the incorrect variances. No lot width variance is required. A front setback variance is required.

Attorney Welch apologized on behalf of the Board. The Board will advertise the Public Hearing at their expense.

A motion was made by Ed Haight, seconded by Rocky Ellsworth to schedule a Public Hearing for Monday, June 30, 2008 at 7:00pm for Salvatore Anselmo seeking relief from Town Code 125-32C(1)(a) for a 0.175 acre lot size variance and Town Code 125-32C(2)(a)(3) for a 4.9' front setback variance to construct an addition at 122 Lake Road East Fork. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion approved.

PUBLIC HEARING

JAMES POLEK 2281 N.HAMLIN ROAD

James Polek was present to seek relief from Town Code 125-18B(2)(a) for a 33.7' front setback variance for an existing house located at 2281 N. Hamlin Road.

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 Jerry Hoffman to grant relief from Town Code 125-18B(2)(a) for a 33.7' front setback variance for an existing house located at 2281 N. Hamlin Road. This is a Type II Negative SEQR declaration. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion approved.

PUBLIC HEARING

ES&L BANK 7016 BENEDICT BEACH

Attorney Welch stated that he represents the buyer Mr. Jensen and left the meeting for this presentation.

Rich Maier from Maier Surveying was present to represent the buyer Mr. Jensen who is seeking relief from Town Codes 125-31C(1)(a) for a 1.273 acre lot size variance, 125-31C(1)(b) for a 59.92' lot width variance, 125-31C(5) for a 5% impervious surface variance and relief for building a portion of the house forward of the landward limit of structural hazard to construct a single-family house located at 7016 Benedict Beach. Mr. Maier explained that the original house was demolished due to mold. Several years ago the variances were granted to the owner then but a building permit was never obtained. Since then the bank has taken over the property. Mr. Jensen has a contingent offer in on the property providing variances and Site Plan approval can be granted for the location. Mr. Jensen lives out of state. He is proposing a smaller house than the original in a slightly different location than 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.

Theresa Croce of 7008 Benedict Beach questioned ES&L Bank not being at the site on Saturday. It was explained that the Board reviews the site on the Saturday prior to the Public Hearing. She also had flooding concerns. Mr. Maier explained that catch basins would be added to take water to the lake. This was approved by the Town Engineer. It

was explained that this was a Planning Board issue and should be addressed at the Planning Board Public Hearing. Impervious Surface was questioned. Mr. Maier explained that the existing cabana would be removed and possibly the existing garage which would improve the impervious surface on the property.

At this time Chairman Norman Baase closed the Public Hearing.

Klaus Pohl questioned the driveway location. Mr. Maier stated that it would be in the same location just shorter due to the house location being moved back.

A motion was made by Ed Haight, seconded by Rocky Ellsworth to grant relief from Town Codes 125-31C(1)(a) for a 1.273 acre lot size variance, 125-31C(1)(b) for a 59.92' lot width variance, 125-31C(5) for a 5% impervious surface variance for the construction of a single-family house located at 7016 Benedict Beach. The Planning Board should be aware of the concerns of the neighbor at 7008 Benedict Beach. This is a Type II Negative SEQR declaration. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion approved.

A motion was made by Ed Haight, seconded by Rocky Ellsworth to grant relief from Town Code 42-10B to construct a single-family house on an existing lot in the Coastal Erosion Hazard Area. This is the minimum to provide relief and will not alter the characteristic of the neighborhood. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion approved.

Attorney Welch returned to the meeting.

COLOPIETRO SUBDIVISION 882 REDMAN ROAD

Rich Maier from Maier Surveying was present to represent Mr. Colopietro seeking relief from Town Code 125-18B(1)(b) for a 29.45' lot width variance for lot #3 of the amended Colopietro Subdivision located at 882 Redman Road. Mr. Maier explained that this Subdivision was previously approved but then the neighbor brought to his attention that the lot lines were incorrect. The map needs to be amended and a new variance is required for Lot #3.

A motion was made by Ed Haight, seconded by Jerry Hoffman to schedule a Public Hearing for July 21, 2008 after 7:30pm for Mr. Colopietro seeking relief from Town Code 125-18B(1)(b) for a 29.45' lot width variance for Lot #3 of the amended Colopietro Subdivision located at 882 Redman Road. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion approved.

**TONY AND SUSIE COTSWORTH
1 SUMMER HAVEN**

Tony and Susie Contsworth were present seeking a Use variance to operate a Retreat and Renewal Center located at 1 Summer Haven. They explained that they applied for a Special Use Permit to operate a Bed and Breakfast at 1 Summer Haven but were denied because they do not reside there. A time line of the process was given. Attorney Welch explained that the Town employees couldn't give legal advice. He stated that he has told them that they should hire an attorney. Mr. Welch stated that they should have checked with the Town prior to purchasing the property to see if a retreat was an allowable use for the property since that was their plan. There are deed restrictions on this property also that prohibit operating a business there. Attorney Welch explained that a Use variance is asking the Zoning Board to grant a Use for the property that is not permitted by code. There are higher standards for asking for a Use variance. He advised them to hire an attorney. It was explained that they would need to meet every standard required and if they didn't no variance could be granted. Back up figures are needed to support the statement from the realtor. An appraisal needs to be done for selling the property as a Bed and Breakfast. It was noted that this is a self-created problem. The character of the neighborhood cannot be altered because of this business. The situation must be unique to this property. The list of improvements needed to be specific to those needed for the business. Some of the expenses listed are not improvements. Lawn mowers, chainsaws and taxes are not improvements. You claim deductions for the taxes paid on the property. It was explained that these improvements were done to the property without any approval from the Town. If they don't have substantial evidence then there are no grounds for a variance. Rocky Ellsworth stated that there hasn't been a Use variance granted in about 30 years. Use variances are very difficult to get. Plus the property has deed restrictions that don't allow a business so the neighbors could sue and the business would not be allowed to operate. Attorney Welch stated that all evidence would be required to be presented with the fee by the deadline July 7, 2008 at 2:00pm. The Board would not accept any evidence the day of the Public Hearing. Attorney Welch asked how the neighbors feel about the business. It was stated that the neighbors are not happy and are opposed to the business. Rocky stated that the neighbor's comments would be heard at the Public Hearing and taken into consideration. Mrs. Cotsworth asked what she should do. Attorney Welch again suggested she get advice from an Attorney. A lengthy discussion took place. A Public Hearing can be scheduled but if they don't have the supporting evidence and want to cancel it they must get a written request to the Clerk prior to the deadline. Mrs. Cotsworth agreed.

A motion was made by Ed Haight, seconded by Rocky Ellsworth to schedule a Public Hearing for Mr. and Mrs. Cotsworth seeking a Use variance to operate a Retreat and Renewal Center located at 1 Summer Haven. All required information needed to be submitted to the Clerk by the deadline July 7, 2008 at 2:00pm. Members polled, Baase aye, Ellsworth aye, Haight aye, Hoffman aye, Pohl aye. Motion approved.

DISCUSSION

Town Board Liaison Mike Marchetti stated that there was no Zoning Workshop scheduled this month.

ADJOURNMENT

A motion was made by Ed Haight, seconded by Klaus Pohl to adjourn tonight's meeting barring no further business. Members polled Ellsworth aye, Haight aye, Hoffman aye, Pohl 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, July 21, 2008 at 7:30pm. Deadline for all fees is Monday, July 7, 2008 at 2:00pm.