

HAMLIN ZONING BOARD OF APPEALS MINUTES
Monday, April 17, 2023
7:00 P.M.

The regular scheduled meeting of the Hamlin Zoning Board of Appeals will be held at the Hamlin Town Hall located at 1658 Lake Road, Hamlin and will be called to order by Chairperson Norman Baase at 7:00 p.m. with the location of the fire exits and AED explained for those present. It was asked that all cell phones and pagers be turned off for the duration of the meeting.

Roll call: Norman Baase (Excused), Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler.

Present: Attorney Maureen L. Werner, Nathan and Amy Smith, Nathan Pacelli, Dave Herring, Zach Parker - Aces Energy, Brianna Wright, Lia Alonzo, John Baker, Jackie Lingl, Richard Olson, Mark Crane, Tom Pschierer, Cassidy martin, Christopher Walker (sp), Kim Robinson, Brandon Prince, Town Council liaison Jennifer Voelkl.

Approval of the March 20, 2023 meeting minutes. Additions, deletion, or corrections to tonight's meeting

PUBLIC HEARING CONTINUATION
AREA VARIANCES

NATHAN & AMY SMITH
6984 BENEDICT BEACH ROAD

Application of Nathan & Amy Smith, owners, Nathan & Amy Smith, seeking relief from §520-21C(4)(b) in order to construct an outbuilding/pole barn 32' x 48' to be placed in the rear roadside yard and to have a height of 22' in the S/R zoning district where it is not a specified accessory structure per 520-21B(2)(a). The maximum height of an accessory structure in the S/R zone is 15' high per code §521C(4)(b). Also, seeking relief from §520-21C (5) in order to have 18% impervious surface area where the code allows a 15% impervious surface. This would require a 3% impervious surface variance. Tax account# 007.01-1-21. This is in the S/R zone and LWRP.

Nathan & Amy Smith represented themselves before the board. They are seeking Height and Impervious surface variances.

There were no concerns from the board.

Vice Chairperson Rocky Ellsworth opened the Public Hearing.

It was asked that anyone wishing to speak to please stand and state their name and address.

There was no one wishing to speak.

Vice Chairperson Rocky Ellsworth closed the Public Hearing.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment of health, safety, and welfare of the neighborhood or community by such grant. The Statute provides that in balancing the interests of the applicant and those of the neighborhood or community, the Zoning Board of Appeals must consider the following five (5) factors:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance. Board members commented no.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than an Area Variance. Board members commented no.
3. Whether the requested area variance is substantial. The Board members commented no.
4. Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood district. Board members commented no.

- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance. Board members commented yes.

A motion was made by Ed Haight, seconded by Jonathan Vogler to grant the variances for the Application of Nathan & Amy Smith, owners, Nathan & Amy Smith, seeking relief from §520-21C(4)(b) in order to construct an outbuilding/pole barn 32' x 48' to be placed in the rear roadside yard and to have a height of 22' in the S/R zoning district where it is not a specified accessory structure per 520-21B(2)(a). The maximum height of an accessory structure in the S/R zone is 15' high per code§521C(4)(b). Also, seeking relief from §520-21C (5) in order to have 18% impervious surface area where the code allows a 15% impervious surface. This would require a 3% impervious surface variance. Tax account# 007.01-1-21. This is in the S/R zone and LWRP. These is the minimum variances allowed. This is a Type II SEQR.

Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried.

PUBLIC HEARING
AREA VARIANCE

NATHAN PACELLI
61 HILLCREST DRIVE

Application of Nathan Pacelli, owner, Nathan Pacelli seeking relief from Town Code§520-41B (1) (a) [1] to have chickens on less than 1 acre of land. He would like to have 6 chickens. He is also asking for less than 50 Quail. A permit from the DEC for the Quail has been submitted with the application. This is in the R-M Zoning District. Tax account# 021.030-06-053.

Nathan Pacelli represented himself before the board. He is seeking to have 6 chickens and less than 50 Quail. He does have a Class B use License for the Quail from the DEC. The waste will be used as compost for his garden.

Vice Chairperson Rocky Ellsworth opened the Public Hearing.

It was asked that anyone wishing to speak to please stand and state their name and address.

Mark Crane of 63 Hillcrest Drive stated that he does not want any farm animal on the property.

Rocky Ellsworth added that it is quite prevalent in the town that the residents ask for chickens. The town stresses the importance on taking care of the litter. No roosters are allowed on less than 5 acres due to the noise. There is usually a time frame set of 3-5 years for the duration of the permit which may be renewed.

Nathan Pacelli added the cages would be a smaller size for the birds.

Attorney Werner stated the codes need to be checked. The request for 50 Quail is a large variance for the R-M setbacks.

Nathan Pacelli added that he would lessen the number of Quail to 25 birds if that would be acceptable.

A motion was made by Rocky Ellsworth to close the Public Hearing barring no new business.

A motion was made by Ed Haight, seconded by Carl Rath, to have the applicant return to the board when more information has been submitted.

Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried.

PUBLIC HEARING
ACCESSORY USE VARIANCE

KEELER CONSTRUCTION CO, INC.
1712 MOSCOW ROAD

Application of Keeler Construction Co., Inc., owners, Keeler Construction Co., Inc. seeking Area/Use variance to mine an additional 10.32 acres of the existing mine located at 1712 Moscow Road. Also, modification approval to import and process Construction and Demolition debris (C & D) materials, where processing would only include crushing and screening with existing equipment. Tax account# 005.01-1-1.211. This is in the R-VL Zoning District.

Dave Herring represented the applicant before the board. Last month the gravel pit for 1700 Moscow Road was approved. This application is for 1712 Moscow Road which address was not included in the previous application that was approved.

Vice Chairperson Rocky Ellsworth opened the Public Hearing.

It was asked that anyone wishing to speak to please stand and state their name and address.

There was no one wishing to speak.

Vice Chairperson Rocky Ellsworth closed the Public Hearing.

Attorney Maureen Werner stated that this is for a Use Variance which is seldom granted. This location has been used as a gravel pit for at least 70 years. The board thought that the Use Variance was granted years ago.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment of health, safety, and welfare of the neighborhood or community by such grant. The Statute provides that in balancing the interests of the applicant and those of the neighborhood or community, the Zoning Board of Appeals must consider the following five (5) factors:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance. Board members commented no.
2. Whether the benefit sought by the applicant can be achieved by some feasible method other than an Area Variance. Board members commented no.
3. Whether the requested area variance is substantial. The Board members commented no.
4. Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood district. Board members commented no.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance. Board members commented yes.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the Use Variance is granted, as weighed against the detriment of health, safety, and welfare of the neighborhood or community by such grant. The Statute provides that in balancing the interests of the applicant and those of the neighborhood or community, the Zoning Board of Appeals must consider the following four (4) factors:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by complete financial evidence. Board Members commented No.
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial Portion of the district or neighborhood. Board Members commented No.
3. That the requested Use Variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self-created. Board members commented No to #3 & #4.

This is on the tax rolls mining designation of property.

A motion was made by Carl Rath, seconded by, Ed Haight, to designate the Application of Keeler Construction Co., Inc., owners, Keeler Construction Co., Inc. seeking Area/Use variance to mine an additional 10.32 acres of the existing mine located at 1712 Moscow Road. Also, modification approval to import and process Construction and Demolition debris (C & D) materials, where processing would only include crushing and screening with existing equipment as a Type II SEQR. It is also pre-existing non-conforming and is being brought into compliance. It has been a gravel pit for years. Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried.

A motion was made by Carl Rath, seconded by, Ed Haight, to grant the Use Variance Application of Keeler Construction Co., Inc., owners, Keeler Construction Co., Inc. seeking Area/Use variance to mine an additional 10.32 acres of the existing mine located at 1712 Moscow Road. Also, modification approval to import and process Construction and Demolition debris (C & D) materials, where processing would only include crushing and screening with existing equipment. It is also pre-existing non-conforming and is being brought into compliance. It has been a gravel pit for years.

Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried.

AGENDA

COASTAL EROSION HAZARD AREA PERMIT

**KATHLEEN MARTIN/ ACES ENERGY
6968 BENEDICT BEACH ROAD**

Application of Aces Energy, owner, Kathleen Martin, seeking Coastal Erosion Hazard Area Permit to install a geothermal heating and cooling system in the lakeside yard of 6869 Benedict Beach Road. The Town of Hamlin regulates the CEHA. This is in the S/R Zoning District. Tax account# 007.01-1-23.

Acres Energy represented the applicant before the board. They would like to dig 5 holes that will be 150” deep for the installation of a Geo thermal system. They will need a 30-foot variance to be 170 feet from the lake. The CEHA requires a 200 -foot setback from the lake.

A motion was made by Ed Haight, seconded by, Carl Rath, to schedule a Public Hearing on May 15, 2023 for the Application of Aces Energy, owner, Kathleen Martin, seeking Coastal Erosion Hazard Area Permit to install a geothermal heating and cooling system in the lakeside yard of 6869 Benedict Beach Road. The Town of Hamlin regulates the CEHA. This is in the S/R Zoning District. Tax account# 007.01-1-23.

Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried.

AGENDA

AREA VARIANCE

**BRIANNA WRIGHT
911 CHURCH ROAD**

Application of Brianna Wright, owner, Brianna Wright, seeking relief from Town Code§520-41B(1)(a)[2](a)[iii] to have 4 goats on less than 5 acres where the code states that 5 acres are required. Tax account# 014.040-02-002.100. This is in the R-VL Zoning District

Brianna Wright represented herself before the board. She resides on less than 5 acres and would like to have 4 goats which are allowed on lots of 5 acres. She has a horse barn for which to house them.

A motion was made by Ed Haight, seconded by, Carl Rath to schedule a Public Hearing for May 15, 2023 for the Application of Brianna Wright, owner, Brianna Wright, seeking relief from Town Code§520-41B(1)(a)[2](a)[iii] to have 4 goats on less than 5 acres where the code states that 5 acres are required. Tax account# 014.040-02-002.100. This is in the R-VL Zoning District

Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried.

AGENDA

AREA VARIANCE

**LIA ALONZO
34 BARRINGER DRIVE**

Application of Lia Alonzo, owner, Lia Alonzo, seeking relief from Town Code§520-41B(1)(a) to have chickens on less than 1 acre of land where the code states that 1 acre of land is required. Tax account# 029.07-2-2. This is in the R-H Zoning District

Lia Alonzo represented herself before the board. She would like to have 6 chickens on her property less than 1 acre. She has a shed on the property to use as a coop. They will not be free range; The compost will go in the existing garden.

A motion was made by Ed Haight, seconded by Jonathan Vogler, to schedule a Public Hearing for May 15, 2023 for the Application of Lia Alonzo, owner, Lia Alonzo, seeking relief from Town Code§520-41B(1)(a) to have chickens on less than 1 acre of land where the code states that 1 acre of land is required. Tax account# 029.07-2-2. This is in the R-H Zoning District.

Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried

AGENDA

AREA VARIANCE

**PHILIP THOMAS
1370 LAKE ROAD**

Application of Philip Thomas, owner, Philip Thomas, seeking relief from Town Code§520-41B(1)(a) to have chickens on less than 1 acre of land where the code states that 1 acre of land is required. Tax account# 021.010-03-044. This is in the C-GB Zoning District. This is in the C-GB Zoning District

No one was present to represent the application.

AGENDA

AREA VARIANCE

**JOHN D. BAKER
7876 NEWCO DRIVE**

Application of John D. Baker, owner, John D. Baker, seeking relief from Town Code§520-31A to have a shed on the property located at 7876 Newco Drive that has no dwelling. Also, relief from Town Code§520-31B, which states that a shed or similar Accessory structure must be erected behind the main front foundation line of the principal dwelling or building on the lot. Tax account# 006.07-1-40. This is in the Shoreline Residential Zoning District and the LWRP.

John Baker represented himself before the board. He would like to add a shed for the storage of lawn equipment to

A motion was made by Ed Haight, seconded by Carl Rath, to schedule a Public Hearing on May 15, 2023 for the Application of John D. Baker, owner, John D. Baker, seeking relief from Town Code§520-31A to have a shed on the property located at 7876 Newco Drive that has no dwelling. Also, relief from Town Code§520-31B, which states that a shed or similar Accessory structure must be erected behind the main front foundation line of the principal dwelling or building on the lot. Tax account# 006.07-1-40. This is in the Shoreline Residential Zoning District and the LWRP.

AGENDA

CEHA PERMIT

**JACKIE LINGL
6378 SHORE ACRES DRIVE**

Application of Jackie Lingl, owner, Jackie Lingl, to have a generator installed on property located at 6378 Shore Acres Drive within the CEHA Area. Tax account# 006.45-1-5. This is in the Shoreline Residential Zoning District, CEHA, LWRP, Floodplain

Jackie was represented by the contractor. This generator will be placed on the west side of the dwelling.

A motion was made by Carl Rath, seconded by, Ed Haight to grant the Application of Jackie Lingl, owner, Jackie Lingl, to have a generator installed on property located at 6378 Shore Acres Drive within the CEHA Area. Tax account# 006.45-1-5. This is in the Shoreline Residential Zoning District, CEHA, LWRP, Floodplain. This resident will be scheduled for the Planning Board meeting on May 1, 2023 for a Conservation Corridor Development Permit for the generator to be installed within 100 feet of the lake.

Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried

ADDITION TO EXISTING AGENDA

AGENDA

AREA VARIANCE

**RICHARD OLSON
78 LAKE ROAD EAST FORK**

Application of Richard Olson, owner, Richard Olson, seeking relief from Town Code§520-22C(2)(a)[2] which states that the side setback in the R-CW Zoning District shall be 15 feet. He is proposing the installation of a generator and is

seeking a 1- foot side setback variance to install the generator. This is in the R-CW Zoning District. Tax account#006.12-1-15.

Richard Olson represented himself before the board. He is seeking a 1- foot area variance to have a generator installed within 15-feet of the side setback.

A motion was made by Carl Rath, seconded by Jonathan Vogler, to schedule a Public Hearing for May 15, 2023 for the Application of Richard Olson, owner, Richard Olson, seeking relief from Town Code§520-22C(2)(a)[2] which states that the side setback in the R-CW Zoning District shall be 15 feet. He is proposing the installation of a generator and is seeking a 1- foot side setback variance to install the generator. This is in the R-CW Zoning District. Tax account#006.12-1-15.

Members Polled: Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler. Motion carried

DISCUSSION

ADJOURNMENT

The next scheduled meeting of the Hamlin Zoning Board of Appeals will be held on Monday, May 15, 2023 at the Hamlin Town Hall located at 1658 Lake Road, Hamlin. The deadline for all applications and fees is May 2, 2023 at 12 noon.