

HAMLIN ZONING BOARD OF APPEALS MINUTES
Monday, March 20, 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 was 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, Rocky Ellsworth, Ed Haight, Carl Rath, Jonathan Vogler.

Approval of the February 21, 2023 meeting minutes. Additions, deletion, or corrections to tonight's meeting. A motion was made by Carl Rath, seconded by, Jonathan Vogler to approve the meeting minutes of February 21, 2023 as recorded. Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Carl Rath aye, Jonathan Vogler.

Present: Zoning Board of Appeals Attorney Maureen Werner, Nathan Pacelli, James Lynch, Jerry Maier, Jennie Lynch, Nate & Amy Smith, David Herring, Town Councilperson Liaison Jennifer Voelkl, Rich Maier, Jim Burch.

PUBLIC HEARING
AREA VARIANCE

JAMES & JENNIE LYNCH
1360 LAKE ROAD

Application of James & Jennie Lynch, owners, James & Jennie Lynch, seeking relief from Town Code §520-41B(1)(a)[1] which states that 10 chickens are allowed on a lot of one acre. They are proposing to have chickens on a lot size of .38 acre. This is in the C-GB Zoning District. Tax account# 021.01-3-42.

James Lynch represented himself before the board. He would like to have 6 chickens next to the barn in the rear yard of his property. They will be 32' from the property line. The waste will be placed in plastic bags and placed in a refuse container. There will be no roosters.

There were no comments from the board.

Chairperson Norman Baase 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 present wishing to speak.

Chairperson Norman Baase 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.

Rocky Ellsworth commented that the board usually asks for the applicant to request 6 chickens on their application. They have in the past stated the renewal date to be 4-5 years. The Code Enforcement Officer will contact the resident when the renewal is close for renewal if they wish.

A motion was made by Rocky Ellsworth, seconded by Carl Rath, to grant the Area Variance for the Application of James & Jennie Lynch, owners, James & Jennie Lynch, seeking relief from Town Code§520-41B(1)(a)[1] which states that 10 chickens are allowed on a lot of one acre. They are proposing to have chickens on a lot size of .38 acre. This is in the C-GB Zoning District. Tax account# 021.01-3-42. The board has reviewed the 5 criteria required for this application. There have been no negative comments from the board or persons in attendance. There will be 6 chickens/hens allowed for a period of 4 years to expire on March 20, 2027. The waste will be disposed of in a refuse container. No roosters will be allowed. This is a Type II Action Under SEQR.

Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Carl Rath aye, Jonathan Vogler aye. Motion carried.

PUBLIC HEARING

AREA VARIANCES

**NATHAN & AMY SMITH
6984 BENEDICT BEACH ROAD**

Application of Nathan & Amy Smith, owners, Nathan & Amy Smith, seeking relief from §520-21B(2)(a) 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 21' in the S/R zoning district where it is not a specified accessory structure. The maximum height of an accessory structure in the S/R zone is 15' high per code§521C(3)(b). Tax account# 007.01-1-21. This is in the S/R zone and LWRP.

Nathan and Amy Smith represented themselves before the board. They are asking for an additional 6" in height for the outbuilding to be built in the roadside yard of their property. The building will be 32' x 48' in size. The height will be 22' high. The impervious surface calculation will be 18%.

A motion was made by Ed Haight, seconded dually by, Rocky Ellsworth and Jonathan Vogler, to re-advertise for a Public Hearing to be held on April 17, 2023 after 7:00pm.

Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Carl Rath aye, Jonathan Vogler aye. Motion carried.

PUBLIC HEARING

ACCESSORY USE VARIANCE

**KEELER CONSTRUCTION CO., INC.
1700 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. 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. He is here to discuss the mine expansion and formalize the Use V. A permit has been issued by the DEC for the storage of Construction debris, i.e.: concrete, asphalt, wood chips (the wood chips will go to Albion for storage).

Norm Baase asked how deep can the mine go past the current depth of 32 feet deep. Dave herring responded that they have no request before the board to go deeper.

He is here for a Use Variance. The county has no record of this item being recorded in the past. The mining permit is from the DEC.

Chairperson Norman Baase opened the Public Hearing.

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

Jerry Maier of 1624 Moscow Road asked about the quality of his water and if the mining operation would be responsible if his water became undrinkable. The attorney stated that any resident would have to prove that the mining operation corrupted their water. He is also concerned that trucks and cars might be stored at the bottom of the pit. Dave Herring added that there will be a 25- foot privacy berm placed around portions of the pit. This pit has been in operation for up to 70 years and would like the to continue operating.

Dave Herring also added that material in the pit (wood chips) could be stored there for months at a time. He also stated that the Keeler's have no tolerance of dirt bikes or ATV's or any other type of vehicle trespassing onto/into the pit. He has asked that if this happens to please notify the Keelers. There is no intention of changing the current work hours. They are willing to work with the town on the work hours.

Jim Burch who has a farm operation the aligns with the pit has issues with the water table on the outer side. The water does not seem to be available for the crops that are there and seems to cause a drought condition. It seems that the trees are stunted and the dust and dirt that comes from the pit hurts the finish on the cherries.

Chairperson Norman Baase 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 charter 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 no.

A motion was made by Ed Haight, seconded by, Carl Rath to grant the Accessory Use Permit for 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 1700 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. This is a Type II Action Under SEQR. The following conditions apply:

- Maximum depth of the pit to be no more than 32 feet deep.
- Hours of operation to be: Monday-Friday 8:00am – 4:00 pm. Saturday – 9:00am – 12 noon. Emergent Sundays – 10:00am – 2:00pm.
- There will be berms to the north and east, lined with trees to limit the dirt and dust to the crops.
- Use Best Practices to minimize damage to existing surrounding agricultural areas.
- Work with the 2 neighbors whom had valid concerns and work best with them to continue to operate the pit as it always has, and working with the neighbors to the east with farming operations and those residents with houses to the east.

Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Carl Rath aye, Jonathan Vogler aye. Motion carried.

AGENDA
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 5 chickens. This is in the R-M Zoning District. Tax account# 021.030-06-053.

Nathan Pacelli represented himself before the board. He would like to have 6 chickens on his property. They will be housed in the rear portion of the property. The waste will be composted. He has a DEC permit to be a Domestic Game Bird Breeder – Class B. He is also asking to have less than 50 Quail.

A motion was made by Carl Rath, seconded by Ed Haight, to schedule a Public Hearing for April 17, 2023 after 7:00pm. Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Carl Rath aye, Jonathan Vogler aye. 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

There was no one present to represent the application. Contact will be made with the applicant to see if they wish to continue with the process.

DISCUSSION

Norman Baase added that there is another scam whether it be by phone or email targeting seniors for money. Always be aware of who is calling and what they are asking for. Always verify the information. Contact your family with these inquiries.

Town Councilperson Jennifer Voelkl added that there were resolutions of law passed for battery storage, Barbed wire fencing, noise, and the size allowed for propane tanks requiring a permit. At the Zoning Workshop there was a discussion on the code for chickens, but there were no modifications brought forward. Smaller homes in the Shoreline Residential District were also discussed. She handed out the new law for barbed wire fencing as she felt the Zoning Board would benefit from this information.

ADJOURNMENT

A motion was made by Ed Haight, seconded by, Carl Rath to adjourn tonight’s meeting barring no further business. Members polled: Norman Baase aye, Rocky Ellsworth aye, Ed Haight aye, Carl Rath aye, Jonathan Vogler aye. Motion carried

Minutes respectfully submitted by:

Cheryl J. Pacelli
Clerk to the Zoning Board of Appeals

The next scheduled meeting of the Hamlin Zoning Board of Appeals will be held on Monday, April 17, 2023 at the Hamlin Town Hall located at 1658 Lake Road, Hamlin. The deadline for all applications and fees is April 3, 2023 at 12 noon.