

At a meeting of the Zoning Board of Appeals of the Village of East Aurora, New York, held at the Village Hall, East Aurora, New York on the 10th day of May 2018

PRESENT:

John Spooner, Chairman
Michael Croft
Joe Cassidy
Bruce Mitchell, Alternate

ABSENT:

John Pagliaccio
Molly Flynn

ALSO PRESENT:

William Kramer, Code Enforcement Officer
Nancy Burkhardt, Deputy Village Clerk
Robert & Ronnie Bauer, 205 Olean Street
Betsy Graves, 258 Olean Street
Dave Grober, 757 Chestnut Hill
Jane Green, 201 Olean Street
Tom Breen, 666 Chilton Ave, Niagara Falls

Chairman John Spooner opened the meeting at 6:02 PM.

**IN THE MATTER OF THE APPLICATION OF
Robert Bauer – 205 Olean Street
§285-17B(3) prohibits accessory buildings to not to exceed 15 Ft. in mean height.**

Chairman, John Spooner opened the meeting at 6:07 pm and introduced the (4) members of the Zoning Board of Appeals which constitutes a quorum.

IT APPEARING that all parties entitled to notice pursuant to statute were given due and timely notice of the hearing in this matter as it appears from an affidavit of mailing filed herein and made a part of the record in this matter and that the required notice of hearing was published in the official newspaper of the Village of East Aurora on May 3rd, 2018 as it appears from the affidavit of publication filed herein and made a part of the record in this proceeding; and findings.

Chairman John Spooner requested Code Enforcement Officer, William Kramer, to read the denial letter sent to Robert Bauer:

1. The denial letter from the Code Enforcement Officer dated March 2nd, 2018 stating that relief is needed from Village Code Sections §285-17B(3) accessory building not to exceed 15' mean height.
2. The letter of appeal from Robert Bauer was read aloud by CEO Bill Kramer and made a part of the record.

IT APPEARING that this matter was not referred to the Erie County Division of Planning with Erie County giving no recommendation.

Chairman Spooner asked if there were any other communications received on the matter. CEO Bill Kramer responded 'Yes'. (see appendix A for attached letter).

Chairman Spooner asked Robert to present his case to the Zoning Board of Appeals.

Mr. Bauer explained the variances requested as he has recently purchased this empty lot on Olean Street, and he has begun clearing out the dead overgrowth to accommodate a new home and garage. Many of the trees on the property were dead ash trees devastated by the Emerald Ash Borer. The accessory building is the planned garage which needs to be this height to accommodate several vehicles he has, along with the machinery that will be utilized to construct his new home.

Mr. Bauer pointed out the variety of homes on Olean Street, and that many of these homes already have large garages constructed on their properties, so his proposed building will not be an oddity for the area. Additionally, the house will be constructed in a craftsman style and the garage will be matching in design, these will be designed by the architect Tom Breen.

Chairman Spooner asked if there was any way in which the accessory building could have the mean height lowered so Mr. Bauer would be able to comply with the Zoning Code. Mr. Bauer stated he would be able to do so, however, it would result in a less visually appealing building. Instead of having a two-story accessory building, the building will be only one-story, which would break up the sightlines in an unappealing manner. Mr. Bauer stated he was aware of a similar variance being approved at the ZBA's meeting just one month prior, he was hoping it would be amenable to the Board considering this recent approval. Member Mitchell replied that the similarly granted variance was for considerably less than the 4'3" being requested in this instance.

Betsy Graves, 258 Olean Street stated she has a barn on her property, the neighbors across the street have a barn on their property, barns are a consistent feature in their neighborhood. She has seen the past homes constructed by the Bauers, and they are meticulous, and the proposed construction will most likely improve the appearance of the neighborhood.

Dave Grober, 757 Chestnut Hill, asked if this will be a primary residence, or a rental property, and also expressed a concern of a future rezoning of the property which would have this area reclassified as industrial. Chairman Spooner confirmed this zoning hearing would have no bearing on any rezoning classifications, and the applicant replied the property will be used as a primary residence.

Member Mitchell asked if there will be water or utilities at this accessory building. Mr. Bauer replied he is thinking a wash sink, and possibly gas delivery for a hanging heater.

Chairman Spooner closed the hearing at 6:27 PM for deliberations.

Chairman, Spooner called the meeting back into order at 6:41 PM and read the following findings for Robert Bauer at 205 Olean Street. .

1. 205 Olean Street is in a R District.
2. 205 Olean Rd. is in a newly purchased vacant lot on the west side of the Olean Street, north of the intersection of Olean and Chestnut Hill.
3. The property owner plans to build a single family residence on the newly purchased lot. There is a 3,900 sq ft house to be built in September 2018.
4. The proposed 35'8 x 56' Garage structure will be used for personal vehicles and a personal workshop.
5. The proposed Garage structure will be well screened from adjoining residential properties and will provide screening for the new residence from the adjacent industrial property and railroad tracks. The structure will be setback by 300' from Olean Street.
6. The request is for a 19'3" mean height. 4'3" greater than what is allowed by code.
7. There are several accessory structures in the neighborhood of similar size and height.
8. The Village Code does not allow for an accessory structure to be used as habitable space.
9. The requested variance is not substantial and will not change the character of the neighborhood.
10. There were 25 notices sent out and 1 response in opposition. There were two other neighbors who spoke in favor and one looking for information.
11. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.
12. The proposed Garage will be a two-story structure and will cover less ground space than a one-story structure. This will save green space and tree cover.
13. This is a Type II Action under SEQR.

Bruce Mitchell made a motion to accept the proposed findings and to **GRANT** a variance. The motion was seconded by Michael Croft with unanimous approval.

Chairman Spooner requested a motion to close the hearing, motioned by Member Croft, seconded by Member Cassidy, unanimous approval.

Chairman Spooner requested a motion to approve the minutes from April 5th, 2018. Member Mitchell motioned to approve the minutes, seconded by Member Croft, unanimous approval.

The Chairman asked for a motion to close this meeting at 6:49 PM, motioned by Member Cassidy, seconded by Member Croft, unanimous “aye”, Zoning Board of Appeals meeting for May 10th, closed.

Respectfully submitted,

Nancy A. Burkhardt
Deputy Village Clerk

(Appendix A on following page)

May 9, 2018

To the Attention of the East Aurora Village Zoning Board of Appeals:

My husband and I regret that we cannot attend the Board meeting of May 10, 2018 due to multiple prior commitments. Nevertheless, we respectfully request the reading of this letter at the meeting.

We hereby state our objections to Mr. Robert Bauer's application to build a garage/workshop/powerboat-sailboat-RV-full-size tractor storage facility in excess of the Village's height restrictions for accessory buildings. We disagree with many of the arguments presented by Mr. Bauer in his April 2018 letter in support of his effort to obtain a variance from the Board, and we offer the following facts for your consideration:

11/2/18

1. The railway embankment *is not* "of a considerable height" and has always been shielded by trees. Although Mr. Bauer has already destroyed a large section of the ancient woods on his property, enough to permit the building of his domicile, he has not yet destroyed *all* of the trees that act as a visual and auditory barrier to the rail embankment and the nightly sounds of passing trains, respectively. Simply put, it is Mr. Bauer, himself, who is creating the very problem he is proposing to correct through the building of a monstrous garage/workshop/powerboat-sailboat-RV-full-size tractor storage facility. If Mr. Bauer desires to have no view of the embankment from his home, the logical and ecologically-sound solution is simple - he should refrain from cutting down the remaining trees that are already doing the job! *IRRELEVANT*

2. The vast majority of detached garages along Olean Street are under 15' in height and are stylistically in keeping with the age and size of the neighborhood's homes. The houses on Olean Street are modest single-family and apartment dwellings. Mr. Bauer's proposed monstrosity of a garage/workshop/powerboat-sailboat-RV-full-size tractor storage facility would in no way be consistent with the style, spirit, or architecture of the fine, old neighborhood, its homes, or its garages.

3. Although Mr. Bauer claims that his property had been neglected by its previous owner, he seems to conflate the idea of neglect with the simple and admirable allowance for the flourishing of a well-established woodland area. We are of the opinion that Mr. Bauer's failure to recognize the difference between these two ideas betrays a lack of appreciation, if not a blatant disregard for the natural world. Since Mr. Bauer has purchased his property on Olean Street, our dear Village has lost one of its few remaining portions of that precious and limited natural world.

That Mr. Bauer is legally able to knock down every one of the thousands of trees on his Village property is not in dispute. What should be disputed by the good and decent

people of East Aurora, however, is any attempt by Mr. Bauer to sway the Board into granting him a variance to build an abnormally large structure to block the view of a railway embankment that is already blocked by living trees.

Thank you for your time and consideration.

Jane Green
201 Olean Street
East Aurora, NY

SELF CREATED