

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 14<sup>th</sup> day of June 2018

PRESENT:

John Spooner, Chairman  
John Pagliaccio  
Molly Flynn  
Michael Croft  
Joe Cassidy  
Bruce Mitchell, Alternate

ABSENT:

ALSO PRESENT:

William Kramer, Code Enforcement Officer  
Nancy Burkhardt, Deputy Village Clerk  
Anita Conron, 106 Elmwood Ave  
Stuart Flack, 446 North Street  
Patti & O'Leary, 271 Perry Street  
Scott & Emily More, 77 Pine Street  
Julian Leggett, 83 Pine Street

Chairman John Spooner opened the meeting at 5:58 PM. Chairman Spooner requested a motion to approve the minutes from May 10, 2018. Member Bruce Mitchell motioned to approve the minutes. Motion seconded by Member Croft, passed with unanimous approval of the minutes with no changes. Chairman Spooner advised the Board and the audience that he did not have the authority to confirm the meeting for the applicant at 502 Main Street, and advised the hearing shall be tabled until the next regularly scheduled meeting. With concern the timing of the July 12<sup>th</sup> meeting, and to accommodate scheduling needs, the members agreed to move the regularly scheduled Zoning Board of Appeals meeting from Thursday, July 12<sup>th</sup> to Tuesday, July 10<sup>th</sup>. Public notice will be moved in accordance to meet the required timeframes as dictated by the Village Code.

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**IN THE MATTER OF THE APPLICATION OF  
Dan & MaryCeleste Conron – 69 Church Street  
§285-43 which states fences are not to exceed 3.5' in the front or side yard.**

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Chairman, John Spooner opened the meeting at 6:02 pm and introduced the (6) 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 June 7<sup>th</sup> 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 May 7<sup>th</sup>, 2018 stating that relief is needed from Village Code Sections §285-43 which states fences are not to exceed 3.5' in the front or side yard.
2. The letter of appeal from Dan & MaryCeleste Conron 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 'No'.

Chairman Spooner asked Anita Conron, presenting the case on behalf of Dan & MaryCeleste Conron, to present her/their case to the Zoning Board of Appeals.

Ms. Conron explained the variance requested is due to the increased traffic around her daughter and son-in-law's home. The area of Church and Fillmore has seen an influx of businesses, leading to greater parking and foot traffic. In an attempt to gain back some of the privacy once offered by their yard; they hope to construct an attractive 7 foot cedar fence. The fence will be constructed on the south-side of their home, towards Tannery Brook. The fence will be constructed to reach from the end of their porch, to the bank of trees lining Tannery Brook. CEO Kramer inquired if there was a pool in their backyard, to which Ms. Conron replied, "yes, however it was removed". Member Cassidy inquired if the porch is raised at this residence, and if so, by how much? Ms. Conron confirmed the porch is raised, by an estimate of 2-3' in height, thus prompting the applicant's request for a 7' fence.

Chairman Spooner closed the hearing at 6:13 PM for deliberations.

Chairman, Spooner called the meeting back into order at read the following findings Dan & MaryCeleste Conron of 69 Church Street .

1. 69 Church Street is in a R District.
2. The residence was constructed in 1930 and is located 21.8' ft off the Church Street right-of-way.
3. The residence is on the corner of Church and E. Fillmore Ave.
4. The fence will run parallel to Church Street from Tannery Brook to the Southeast corner of the residence.
5. The 6' fence will provide screening for the back yard blocking the view of both pedestrian and vehicular traffic on Church Street.

6. The variance will involve approximately 65' of fencing 6' in height.
7. The variance will not change the character of the neighborhood.
8. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.
9. There were 38 notices sent out and 0 responses.
10. This is a type II action under SEQR.

Member Cassidy made a motion to accept the proposed findings and to **GRANT** a variance for the amended fence height of 6'. The motion was seconded by Member Croft with unanimous approval.

Chairman Spooner requested a motion to close the hearing at 6:22PM, motioned by Member Flynn, seconded by Member Pagliaccio, unanimous approval.

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**IN THE MATTER OF THE APPLICATION OF  
Stuart & Kristy Flack – 446 North Street  
285-17D(4) required side yard setback is a minimum of 5' and 284-17D(4) no accessory  
building is to be within 10' feet of the applicant's residence.**

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Chairman, John Spooner opened the hearing at 6:23 PM.

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 June 7<sup>th</sup> 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 Stuart & Kristy Flack:

1. The denial letter from the Code Enforcement Officer dated April 25<sup>th</sup>, 2018 stating that relief is needed from Village Code Sections 285-17D(4) required side yard setback is a minimum of 5' and 284-17D(4) no accessory building is to be within 10' feet of the applicant's residence.
2. The letter of appeal from Stuart & Kristy Flack 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, an email was received from a neighbor located at 452 North

Street.” CEO Kramer read aloud the email received, urging the members to consider not granting this variance due to the height of the proposed building, and that it would be located directly on top of their property line.

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

Mr. Flack stated the proposed structure is to be placed in the same location of a prior garage which was demolished before they purchased their home. The way the property line is drawn alongside their driveway, does not present them any other options for moving the garage elsewhere on their parcel. The foundation and rocks are still present from the former structure, but they will be removing these. They will not be removing the tree that has its stump and trunk located on their neighbor’s property, but a 1/3 of the branches overhang into their parcel. They may have to trim back some of the branches, but will be leaving as much as possible intact.

CEO Kramer asked how they intend to redo the concrete without impacting the neighbor’s property? Mr. Flack replied the removal will be completed with a Bobcat, however he will be hiring out the job to contractors. While he is not sure how the contractors will be accomplishing this task, he is sure they will take corrective measures to prevent or fix any ensuing damages. CEO Kramer inquired further as to if parts of this proposed structure will hang over into the neighbor’s property. Mr. Flack stated only a minimal amount, possibly the soffit portion of the garage. Mr. Flack followed in stating he would be happy to move the structure 2 feet off of the property line to alleviate the issue. He also confirmed the need of the second story of the garage as they have a small basement in the home and need the additional storage; however, no electricity will be supplied to the garage.

Chairman, Spooner called the meeting back into order at 7:04PM to read the following findings Stuart & Kristy Flack of 446 North Street.

1. 446 North Street is in an R District.
2. The residence was constructed in the early 1924.
3. The lot at 446 North Street is a legal non-conforming lot due to the width of 60’. The current requirement is 70’.
4. The new construction would be approximately a 14’ x 20’ garage placed on the existing garage foundation, and would include a second story to be used for personal storage or workspace only.
5. The location of the garage much have a minimum of a 2’ side yard on the east property line, to the east wall of the proposed garage, and 9’ off of the main structure.
6. There is an existing custom cobblestone driveway from the street to the existing garage.
7. The proposed garage would be located in the only place suitable for its intended use without incurring considerable costs and usefulness of the rear yard.
8. There were 30 notices sent out to the required neighbors and there was one negative response.

9. The variance will not change the character of the neighborhood.
10. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.
11. This is a type II action under SEQR.

Member Flynn made a motion to accept the proposed findings and to **GRANT** a variance. The motion was seconded by Member Cassidy with unanimous approval.

Chairman Spooner requested a motion to close the hearing at 6:28PM, motioned by Member Cassidy, seconded by Member Croft, unanimous approval.

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**IN THE MATTER OF THE APPLICATION OF  
Patti & Edward O’Leary – 271 Perry Street  
§285-43 which states fences are not to exceed 3.5’ in the front or side yard.**

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Chairman Spooner opened the hearing for 271 Perry Street at 6:30PM.

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 June 7<sup>th</sup> 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 Patti & Edward O’Leary.

1. The denial letter from the Code Enforcement Officer dated May 15<sup>th</sup>, 2018 stating that relief is needed from Village Code Sections §285-43 which states fences are not to exceed 3.5’ in the front or side yard.
2. The letter of appeal from Patti & Edward O’Leary 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.

Mrs. O’Leary stated in their residence, there is a bathroom window that is very close to their neighbor’s driveway, main entrance, and kitchen. The requested fence variance is hoped to be utilized as a privacy fence. The fence will be flanking the side of their home, but not to the edge. The O’Learys have spoken with all of their neighbors, and no one had any issues with their proposed fence, and understand the nature of why they are requested this height. Chairman, Spooner called the meeting back into order at read the following findings for Patti & Edward O’Leary of 271 Perry Street.

1. 271 Perry Street is in a R District.

2. The residence was constructed in 1947 and is located 32.9 ft off the Perry Street right-of-way.
3. The proposed fence would be in the west side of the yard.
4. The requested fence will provide screening from their bathroom window to the neighbor's side entrance.
5. The variance will involve approximately 46' of fencing 7' in height which is necessary to provide a minimum of privacy.
6. The requested variance will not change the character of the neighborhood.
7. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.
8. There were 41 notices sent out and 0 responses.
9. This is a type II action under SEQR.

Member Cassidy made a motion to accept the proposed findings and to **GRANT** a variance. The motion was seconded by Member Flynn with unanimous approval.

Chairman Spooner requested a motion to close the hearing at 7:02PM, motioned by Member Flynn, seconded by Member Pagliaccio, unanimous approval.

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**IN THE MATTER OF THE APPLICATION OF  
Scott & Emily More – 77 Pine Street  
285-47B(2) required side yard to not be less than 6ft. Combined side yards are to be not less  
than 30% of the lot width.**

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Chairman, John Spooner opened the hearing at 7:07 PM.

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 June 7<sup>th</sup> 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 Stuart & Kristy Flack:

1. The denial letter from the Code Enforcement Officer dated May 14<sup>th</sup>, 2018 stating that relief is needed from Village Code Section 285-47B(2) required side yard to not be less than 6ft. Combined side yards are to be not less than 30% of the lot width.

2. The letter of appeal from Scott & Emily More 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.

Scott and Emily More spoke to the need of a garage for their property. They would like to have one installed to accommodate their growing family. If they were to build an additional bedroom, this will allow for them to add both a garage and bedroom, as the bedroom would then be added at a late date as a second story. The back of the garage will have French Doors to allow for a mower to go through the backyard.

Julian Leggett, 83 Pine Street, spoke in favor of the Board granting this variance.

Chairman, Spooner called the meeting back into order at 7:26PM to read the following findings Scott and Emily More of 77 Pine Street.

1. 77 Pine Street is in an R District.
2. The residence was constructed in the early 1914.
3. The lot at 77 Pine Street is a legal non-conforming lot due to the width of 49.5'. The current requirement is 70'.
4. The new construction would be approximately a 19' x 35' attached garage with a second story bedroom that would be 3.67' off the south property line and will result in 8.7'ft of total combined side yard variances.
5. The proposed garage would be located in the only place suitable for its intended use without incurring considerable costs and usefulness of the rear yard.
6. There were 34 notices sent out to the required neighbors and there was one positive response.
7. The variance will not change the character of the neighborhood.
8. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.
9. This hardship is not self-created.
10. This is a type II action under SEQR.

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

Chairman Spooner requested a motion to close the hearing at 6:30PM, motioned by Member Croft, seconded by Member Flynn, unanimous approval.

The Chairman asked for a motion to close this meeting at 7:31 PM, motioned by Member Croft, seconded by Member Cassidy, unanimous “aye”, Zoning Board of Appeals meeting for June 14<sup>th</sup>, closed.

Respectfully submitted,

Nancy A. Burkhardt  
Deputy Village Clerk