

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 July 2018

PRESENT:

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

ABSENT:

Joe Cassidy

ALSO PRESENT:

William Kramer, Code Enforcement Officer
Nancy Burkhardt, Deputy Village Clerk
Rachel Smith, 502 Main Street
Molly Flynn, 812 Oakwood Ave
Robert Chapman, 472 Oakwood Ave
Barbara Davis, 274 Perry Street
Doug & Amy Catlin, 871 East Main Street
Tony Rosati, 350 Oakwood Ave
Michael Smith, 97 North Grove
Lance Over, 253 Prospect Ave
Pamela & Dennis Sieracki, 505 Fillmore

Chairman John Spooner opened the meeting at 5:57 PM. Chairman Spooner requested a motion to approve the minutes from June 14, 2018. Member Bruce Mitchell motioned to approve the minutes. Motion seconded by Member John Pagliaccio, passed with unanimous approval of the minutes with no changes.

Member Michael Croft motioned to close the meeting of the Zoning Board of Appeals at 5:58 PM, seconded by Molly Flynn with unanimous approval.

**IN THE MATTER OF THE APPLICATION OF
Rachel Smith – 502 Main Street
§285-43 which states fences are not to exceed 3.5' in the front or side yard.**

Chairman, John Spooner opened the meeting at 6:00 pm and introduced the (5) 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 28th 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 Rachel Smith:

1. The denial letter from the Code Enforcement Officer dated May 10th, 2018 stating that relief is needed from Village Code Sections §285-23G(2) which states no pavement is to be within 10' of the side lot line.
2. The letter of appeal from Rachel Smith 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'. A letter of support from Helen Weiser was read aloud and made part of the record. An email written by Steven Krastev requesting the ZBA to deny the variance request by the applicant was read aloud and made part of the record.

Chairman Spooner asked Rachel Smith, to presenting her case to the Zoning Board of Appeals.

Rachel Smith explained she is opening a new business at this location (East Aurora Acupuncture & Center for Wellbeing), which will have eight treatment rooms shared between the two buildings on the property. With consideration to the nature of the business, and the additional 2-bedroom apartment located in the front-facing building, there will be a total need of 15 parking spaces. The parking study performed on her property shows there are 14 allowable parking spaces for the business. The development plan Ms. Smith presented accommodates the 14 needed spots, however, to meet the requirements of the code, Ms. Smith would need to change the current configuration of the parking lot she inherited when purchasing the property. The reconfiguration of the parking lot would be costly and prohibit her business from meeting the parking needs of the practitioners, patients, and tenants. Additionally, by removing the parking lot already installed when purchasing the home/business, the new layout would be dangerous for drivers backing out as the turning radius would prove to be too tight.

Michael Smith of 97 North Grove, Lance Over of 253 Prospect Ave, and Tony Rosati of 350 Oakwood Ave, spoke in favor of the ZBA granting the variance due to the high demand of off-street parking. Pamela Sieracki of 505 Fillmore Avenue spoke in favor of tabling the hearing until there was a compromise discussed to have additional plantings to replace the trees removed by Ms. Smith when she first purchased the property in Spring 2018.

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

Chairman, Spooner called the meeting back into order at read the following findings Rachel Smith for 502 Main Street .

1. 502 Main Street is in a MM District.

2. The residence was constructed in 1890 and the barn was remodeled for business use in 2006.
3. With staff, patients and a two bedroom apartment on the second floor of the main building there will be a need for a minimum of 15 parking spaces.
4. The proposed business plan and parking study allows for 14 parking spaces.
5. Off-street parking is at a minimum due to existing businesses in this area of the Mid-Main district.
6. The requested variance would allow for parking an maneuvering space on the premises.
7. There is an existing fence on the west property line which would afford some screening from Main Street.
8. The neighbor to the west has a parking area directly adjacent to the lot-line and has no objection to the proposed variance.
9. The requested 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. There were 36 notices sent out and 6 responses; 4 in favor, and 2 against.
12. This is a type II action under SEQR.

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

Chairman Spooner requested a motion to close the hearing at 7:59PM, motioned by Member Flynn, seconded by Member Croft, unanimous approval.

**IN THE MATTER OF THE APPLICATION OF
Aileen Flynn – 812 Oakwood Ave
§285-43 which states fences are not to exceed 3.5' in the front or side yard.**

Chairman, John Spooner opened the hearing at 6:305 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 28th 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 Aileen Flynn:

1. The denial letter from the Code Enforcement Officer dated May 23rd, 2018 stating 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 Aileen Flynn 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 Molly Flynn, presenting on behalf of Aileen Flynn, to present her case to the Zoning Board of Appeals.

Ms. Flynn stated the area along the driveway used to be wooded, however, the trees have been removed which allows for headlight's to shine through her mother's bedroom window. By having a solid fence opposed to a picket fence, the fencing will act as a snow-block and prevent it from being pushed through their yard. There is a drop in the grading of the property, which is why the applicant has requested for the 6' and the 4' height. The applicant further stated the 3.5' fence is troublesome as the contractor along with most home improvement stores don't offer anything less than 4' fence.

Chairman, Spooner called the meeting back into order to read the following findings Aileen Flynn of 812 Oakwood Ave.

1. 812 Oakwood Ave is in a R District.
2. The residence was constructed in 1962 and is located 46.5 ft off the Oakwood Ave right-of-way.
3. There are existing fences 4' in height in the location of the proposed variance. These fences were erected 25 years ago and are in disrepair.
4. The requested fence will run 101 feet parallel to the east property line and would be 6' in height along the house and transition to 4' along the driveway to end 18" from the sidewalk along Oakwood Ave.
5. The requested fence would provide screening from vehicular noise, lights and protection from snow accumulation from the neighbor's driveway snow plowing which at times blocks access to utility service areas located on the east wall of the residence.
6. The requested variance will not change the character of the neighborhood and is not a self-created hardship due to the removal of shrubs and trees and the relocation of the neighbor's driveway closer to the applicant's east property line.

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 27 notices sent out and 2 responses in favor of granting the variance.
9. 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 Mitchell with unanimous approval.

Chairman Spooner requested a motion to close the hearing at 8:11 PM, motioned by Member Mitchell, seconded by Member Croft, unanimous approval.

**IN THE MATTER OF THE APPLICATION OF
Robert Chapman – 472 Oakwood Ave
§285-43 which states fences are not to exceed 3.5’ in the front or side yard.**

Chairman Spooner opened the hearing for 472 Oakwood at 6:49PM.

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 28th 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 June 5th, 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 Robert Chapman 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.

Mr. Chapman stated it is his intention to enclose his rear yard on the north, east, and west property lines. The fence is to serve as a visual shield from the adjacent properties. Additionally, Mr. Chapman has two grandchildren that share his residence. There are large dogs owned by nearby neighbors, and his hope is to provide both privacy and protection for his grandchildren. The fencing itself is only 4’ in height, but there is an additional 1’ of lattice above the fencing. Mr. Chapman has spoken with his neighbors to make them aware of his plan, and will be waiting until the fall, if the variance is granted, to accommodate the harvest season of his neighbor’s recently installed vegetable garden.

Member Croft stated it appears the only reason in which the applicant was required to come before the Zoning Board of Appeals was due to the proposed fencing being attached to the home.

1. 472 Oakwood Ave is in an R District.
2. The residence was constructed in 1882 with an attached garage addition constructed in 2010.
3. The requested variance for a 5' fence would run approximately 20 feet along the east property line and would be 5' along the garage.
4. The requested fence would provide screening and security for the resident's young grandchildren.
5. The location of an attached garage erected in 2010 has created the need for this requested variance.
6. The requested variance will not change the character of the neighborhood and is not a self-created hardship.
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 34 Notices sent out with no responses.
9. This is a Type II Action under SEQR.

Member Mitchell 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.

**IN THE MATTER OF THE APPLICATION OF
Barbara Davis – 274 Perry Street
285-17 D(1) required front yard is to be 20% of the lot depth (39.07').**

Chairman, John Spooner opened the hearing at 7:00 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 28th 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 Barbara Davis:

1. The denial letter from the Code Enforcement Officer dated June 15th, 2018 stating that relief is needed from Village Code Section 285-17 D(1) required front yard is to be 20% of the lot depth (39.07').
2. The letter of appeal from Barbara Davis 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.

Ms. Davis spoke to her desire to increase the living space downstairs in her home, however, there is no ways to access this proposed addition without passing through a bedroom or bathroom, or destroying the current layout and starting fresh. Therefore, by adding the living space in front of the home, she will be able to have a living space without needing the discomfort of having guests walk through private areas.

Chairman Spooner inquired about the validity of the submitted drawings as the numbers differ from the survey. The survey shows the right of way as 34', however the applicant's renderings reflect 40'.

After discussion amongst the members of the ZBA, it was decided it would be best to table the hearing until the applicant clarified the measurements and verify the survey is indeed correct.

The Chairman tabled the hearing for 274 Perry Street until the next ZBA meeting on Thursday August 9th, 2018 pending the verification of the submitted survey.

**IN THE MATTER OF THE APPLICATION OF
Doug & Amy Catlin – 871 East Main Street
§285-17B(3) prohibits accessory buildings to not to exceed 15 Ft. in mean height.**

Chairman, John Spooner opened the meeting at 7:30 pm and introduced the (5) 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 28th 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:

3. The denial letter from the Code Enforcement Officer dated June 5th, 2018 stating that relief is needed from Village Code Sections §285-17B(3) accessory building not to exceed 15' mean height.

4. The letter of appeal from Doug & Amy Catlin 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 Mr. Catlin to present his case to the Zoning Board of Appeals.

Mr. Caitlin explained the variance requested is for the planned accessory building is to construct a garage. He believes their home, which currently stands at 2.5 stories, will be complemented by this 1.5 story garage. The garage at this height will also blend in with many other carriage homes/garages on the block which stand at a similar height, and is typical for the area. The proposed garage will be period-correct in construction and appearance. The ultimate goal for the upstairs portion of the garage is to store wood removed from their home during past construction projects.

Michael Jones, 893 Main Street, spoke against the proposed variance as his property directly overlooks the area of the proposed garage. Additionally, there is not much room between the two lot lines, so a height variance of any sort will disrupt the sight-lines.

Chairman Spooner closed the hearing at 7:47 PM for deliberations.

Chairman, Spooner called the meeting back into order at 8:21 PM and read the following findings for Doug & Amy Catlin of 871 Main Street.

1. 871 Main Street is in a R District.
2. The residence was constructed in 1885.
3. The proposed 25.5' x 33.5' garage would be a new accessory structure used as a one car garage and personal storage, and there is not garage on the property today.
4. The requested variance is for 3.5' height variance. The code requires a mean height of an accessory building not to exceed 15'.
5. There were 20 notices sent out and 3 responses. 2 were in favor of granting the variance, and 1 in opposition.
6. The Village code does not allow the proposed accessory structure to be used as habitable space.
7. The requested 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 is a Type II Action under SEQR.

Member Mitchell 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 8:32PM, motioned by Member Croft, seconded by Member Pagliaccio, unanimous approval.

The Chairman asked for a motion to close this meeting of the Zoning Board of Appeals, motioned by Member Croft, seconded by Member Flynn, unanimous “aye”, Zoning Board of Appeals meeting for July 10th, closed.

Respectfully submitted,

Nancy A. Burkhardt
Deputy Village Clerk