

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 11th day of October 2018

PRESENT:

John Spooner, Chairman
Molly Flynn
Joe Cassidy

ABSENT:

John Pagliaccio
Michael Croft
Bruce Mitchell, Alternate

ALSO PRESENT:

Liz Cassidy, Code Enforcement Officer
Nancy Burkhardt, Deputy Village Clerk
Gary Walawander, 289 Walnut Street
Thad Heimburg, 43 Knox Road
Charles Bull, 105 Knox Road
Bud Babcock, 382 Linden Ave
Tony Rosati, 350 Oakwood Ave

Chairman John Spooner opened the meeting at 5:58 PM. Chairman Spooner requested a motion to approve the minutes from September 13, 2018. Member Molly Flynn motioned to approve the minutes, Chairman John Spooner seconded the motion with unanimous approval.

Member Joe Cassidy motioned to close the meeting of the Zoning Board of Appeals at 5:59 PM, seconded by Chairman Spooner with unanimous approval.

IN THE MATTER OF THE APPLICATION OF

Gary Walawander - 63 Knox Road

227-18B – non-compliant division of property must seek relief from the ZBA; Village Code §285-17C(1)a - minimum lot size is to be 10,500 sq ft.; and Village Code §285-17C(1)b - minimum of 70 ft. lot width

Chairman, John Spooner opened the meeting at 6:00 pm and introduced the (3) 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 August 2nd 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 Gary Walawender:

1. The denial letter from the Code Enforcement Officer dated August 27th, 2018 stating that relief is needed from Village Code Sections 227-18B – non-compliant division of property must seek relief from the ZBA; Village Code §285-17C(1)a - minimum lot size is to be 10,500 sq ft.; and Village Code §285-17C(1)b - minimum of 70 ft. lot width.
2. The letter of appeal from Gary Walawender was read aloud and made 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 Gary Walawender, to present his case to the Zoning Board of Appeals.

Mr. Walawender stated he has owned this parcel for over 14 years. He is requesting the aforementioned variances for the purpose of dividing the present lot in order to turn a portion of the parcel into a “new building lot”. The building to be constructed with is a single family dwelling. Mr. Walawnder went on to state he is aware of the neighbor’s concerns about the trees that may be taken down to accommodate a new home. The only trees that will come down will be the pine trees along the line of the lot, the three Maple trees on the property will not be removed.

Member Cassidy inquired about the picture submitted to the Board – is the rough sketch showing the driveway also showing a garage? Mr. Walawander confirmed it is a drawing to showing the intended garage.

Member Flynn confirmed the proposed lot’s width sizing to be 55 feet instead of the current 77 feet, and the total square footage would be 6,400 square feet.

Bud Babcock of 382 Linden Ave, and Tony Rosati of 350 Oakwood Ave spoke in favor of the submitted application and for the future construction of the single-family home.

Chairman Spooner closed the hearing at 6:35 PM for deliberations.

Chairman, Spooner called the meeting back into order at read the following findings for Gary Walawander for 63 Knox Road.

1. 63 Knox Road is in a R District.
2. The residence was constructed in 1826 and existing garage in 1953.

3. The current owner purchased the property in October of 2005.
4. The existing residence is a duplex and is a legal non-conforming building as a duplex is not allowed in an R District under the current Village Code.
5. The current lot size is approximately 17,488 sq. ft. and conforms to the lot size requirements of the R District.
6. The proposed split of the property known as 63 Knox Rd. into two lots would create a minor sub-division. The proposed lot with the existing structures would be a legal lot with 77 ft. frontage and approximately 10,730 sq. ft. area. The second proposed lot would be non-conforming with 55' of frontage and approximately 6,470 sq. ft. of area. The minimum lot size allowed by code is 70' frontage and 10,500 sq. ft. in area.
7. The requested area variance is substantial. The proposed lot would be 15' short of the required frontage and would only be 62% of the required area.
8. There are several legal non-conforming lots in the neighborhood with frontage less than 70' and area of less than 10,500 sq. ft.
9. The owner of the property will make a best case use effort to preserve the life of three Maple trees along the west property line.
10. The need for a non-conforming lot is a self- created hardship.
11. There are very few buildable lots remaining in the Village.
12. There were 28 notices sent out and 4 responses, 2 of which spoke in favor, and 2 with not comment.
13. The proposed variance is the minimum variance which will prevent the practical difficulty herein without violating the spirit and intent of the zoning code.
14. 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 Chairman Spooner with unanimous approval.

The Chairman asked for a motion to close this meeting of the Zoning Board of Appeals, motioned by Member Cassidy, seconded by Member Flynn, unanimous "aye", Zoning Board of Appeals meeting for October 11th, closed.

Respectfully submitted,
Nancy A. Burkhardt
Deputy Village Clerk