

ZONING BOARD OF APPEALS

The hearing on Tuesday, April 1, 2025, is called to order by Chairman Kalinowski at 7:02 pm.

Members Present:	John Jimenez	Also:	Phyllis Todoro, Town Atty
	Greg Kalinowski		Ray Balcerzak, Building Inspector
	Shawn Pralow	Absent:	Jim Lembke, Alternate
	Ron Carey		Harry Kwiek
	Robert Schafer, Alternate		

Appeals Case #1474 for Christopher Burg of 2323 Woodard Road, Elma, NY, who is requesting an area variance to build a pole barn less than 20’ of property line §144-98 C4, Residential B.

Mr. Burg would like to build a pole barn to store his boat. He would like it to be wider to accommodate the driveway that measures 20’ in the front and 30’ in the back, and to prevent damage to the boat or walls.

Mr. Kalinowski stated the survey shows the side of the building to the property line is 25.34’. Mr. Burg thinks the survey may be wrong. Mr. Kalinowski said a 24’ driveway would not work.

Mr. Burg showed a video of him and his wife measuring the driveway; they measured 24’ on the driveway, and from that point, 9’ to the property line.

Mr. Kalinowski pointed out that those measurements of 33’ were very different from the survey.

Mr. Jimenez asked if it was 8 - 9’ from the driveway to the property line. Mr. Burg agreed. Mr. Jimenez asked what the purpose of the pole barn was. Mr. Burg answered that he would store his boat and other machines in the barn.

Mr. Jimenez asked about the existing side-load garage; to get out and use the driveway. Would there be adequate space between the pole barn and the existing garage? How much is that distance? Mr. Burg said if he had to guess, 10-12’.

Mr. Jimenez said the 20’ buffer is a concern and mentioned that the property is Residential “B”. Mr. Burg spoke with neighbors and has a signed letter that was submitted “I, Susan Hartloff, an owner of the adjoining property (2806 Bullis Road) to Christopher Burg, do not have any issue with the construction of a pole barn that is under the minimum amount allowed from the property line”.

Mr. Jimenez asked if Mr. Burg was looking for a hardship. Mr. Burg replied more room to move the boat and the cost.

Ray Balcerzak, Building Inspector, mentioned the fire code has to be 10’ from the house by NYS code. Mr. Jimenez questioned the hardship. He understands Mr. Burg is looking for space to turn around, to make sure there is enough of a buffer. Should the farmers in the future want to sell off more of the land or would like to use that for a private road, it is something to consider. The board would want to make sure, for the future, that Mr. Burg is not taking up more room than needed. Mr. Jimenez asked if 10’ is the minimum he needed. Mr. Burg replied yes, at minimum, so he would have enough room to back in the trailer.

Mr. Jimenez asked if he considered moving the pole barn back to make space to park everything safely. Mr. Burg said it was not feasible. Mr. Jimenez asked if he would consider putting in a gravel driveway and eventually a concrete driveway. The concern is to make sure it is within the code. Looking to see if there is a hardship other than maneuvering the trailer. Mr. Carey said by definition, it is not a hardship.

Mr. Jimenez asked if the 10’ fire code would be from the attached garage or the house. Ray Balcerzak, Building Inspector, said 10’ from the house, including garage, since no fire rating outside of house and the siding is not fire rated.

Mr. Jimenez said they may have to go back 10’ from the whole house to the corner of the pole barn. Mr. Burg stated 30 feet total - 20’ for pole barn structure, leaving 10’ from the house.

Ray Balcerzak (showing 2015 survey) there is a need to clarify measurements of stone driveway versus the cement drive. Measurements may be longer with concrete pads installed. The concrete driveway may be too long.

Mr. Pralow questioned if a cement pad is on the property line.

Mr. Balcerzak questioned if the variance was off the survey or the existing house.

Mr. Kalinowski said 10' is acceptable regardless of the measurement of the property line. The Building Dept may need to update the survey.

Mr. Kalinowski asked if Mr. Burg could get a revised survey.

Mr. Jimenez suggests conducting a survey with stakes put in before building the pole barn to verify dimensions, and if they would consider moving it back.

Mr. Pralow is concerned since the property measures 130 frontage and 117.75 in the back, that in theory the corner of the building could be on or pass the property line.

Mr. Pralow asked for a continuance.

No one spoke in favor or against.

Mr. Jimenez made the motion for a Continuance, Appeals Case #1474 for Christopher Burg of 2323 Woodard Road, Elma, NY, who is requesting an area variance to build a pole barn less than 20' of property line §144-98 C4, Residential B.

Mr. Jimenez made the motion for a Continuance to clarify with an updated survey to ensure the boundaries of the property.

Seconded by: Mr. Carey

Yes: 5 Nays: 0

Appeals Case #1475 for Josh and Lisa Hill of 110 South Blossom Road, Elma, NY, who is requesting an area variance to build a pole barn that would be 4' from the property line §144-99 C6, Residential C.

Mr. Hill stated he would like to have a pole barn 26' x 32', back of the residence, needs to go off the opposite side with septic, and not able to see his daughter from the house.

Mr. Kalinowski asked what it was used for, and does it have to be so large.

Mr. Hill said he would use it as an extension to the garage to store a car, a lawnmower, a snowmobile, and a snow blower.

Mr. Schafer asked if the property is 75' wide, it is. He is concerned that the pole barn would be jammed into the space, and why it cannot be set back/ not attached. The septic tank only goes out so far.

Mr. Hill mentioned his daughter's play set is there and would not allow it to be set back.

Mr. Schafer has a problem with the setback for the property line. Since the parcel is narrow, barn size is a problem, there is room to move back.

Mr. Hill claims it would be a substantial cost to move further back. He would need a concrete drive, approximately \$20,000.

Mr. Schafer asked about the above-ground pool on the survey. Mr. Hill said that it has been taken down.

Mr. Pralow asked about the 14' shed that exists in that spot. Mr. Hill is not certain he is keeping it or giving it to a neighbor. Mr. Pralow asked if that shed was permitted, and Mr. Hill said yes.

Mr. Pralow asked how they would get into the pole barn. Mr. Hill said there is an 8'x8' garage door from the side garage door.

Mr. Kalinowski asked if he was looking for a 10' variance. Mr. Hill said 6' variance.

Mr. Hill would drive over the leach field

Mr. Hill replied that the cost is too much, does not want to move it.

Mr. Carey mentioned that in 1989, the code changed from 10' to 20'. Mr. Hill stated it was built in the 1950s, he believes this pole barn is an improvement.

Mr. Jimenez said utilities need to be able to get on the property. A permanent structure could be obstructive. The majority of residents are 20'. Residential C can get away with 10'

Mr. Kalinowski asked what the distance is from the closest neighbor to the pole barn. Mr. Hill 15-20'.

Mr. Kalinowski asked if there was room for emergency vehicles to get to the property. Mr. Hill stated there would be room for that.

No one spoke in favor or against.

Mr. Schafer asked to see how he plans to enter the garage and pole barn. Again, asked if he would consider moving it back. Mr. Hill said the cost is too high to do that.

Mr. Schafer made the motion for Appeals Case #1475 for Josh and Lisa Hill of 110 South Blossom Road, Elma, NY, who are requesting an area variance to build a pole barn that would be 4' from the property line §144-99 C6, Residential C. to approve with:

1. The benefit would be difficult to achieve by other means pole barn cannot move to a different location.
2. Will not produce an undesirable change. There are many other pole barns in the area, not as large as his. It would not be detrimental to other properties.
3. The request **is** not substantial.
4. No adverse impact to the neighborhood or environmental condition, no septic or draining problems.
5. Difficulty not self-created because of the size of the lot and no additional property available.

Second: Mr. Pralow

Yes: 3 Nays: 2 **

**Mr. Kalinowski said there would be a condition of approval: Mr. Hill would need to submit a survey and draw the rest of the buildings that exist on the property.

Appeals Case #1476 for Marisa Mauro of 6061 Clinton Street, Elma, NY, who is requesting an area variance that the side yard setback be 13' from the property line to accommodate a side entry garage §144-99 C4, Residential C.

Ms. Mauro stated that 6031 Clinton Street was parceled off. 6061 Clinton Street (Ms. Mauro's property) is unique with trees on it. Ms. Mauro left 30 mature trees when she cleared in Nov. 2024. Placed the house on the West End, least amount of trees on the East by the driveway. She spoke with neighbors if they were in favor. Moved house 7' to west of neighbor's property.

Mr. Kalinowski asked if the measurements to access 13' remain after all, considering the variance of 7'. Ms. Mauro stated the structure of the home will not change based on the variance change.

Mr. Carey – Did she discuss design and property measurement with the realtor or builder. Ms. Mauro answered CMK was the builder, bought 2024 summer, knew the lot size but was not aware of the bylaws regarding rear of house for garage. The rear entry would give privacy to the front of the road, then the front entry would not be 50' from the road.

Mr. Carey mentioned it was not a hardship with zoning laws. It must be Ms. Mauro's difficulty was that the property is not large enough for the existing design.

Ms. Mauro's said she researched and found that in Elma, 60-70% of the properties have 100' from the road.

Mr. Carey, not your property. Mr. Carey pointed out that the lot does not fit the design.

Mr. Carey We grant variances with a hardship. Yours is not. The code was designed as a result of a comprehensive plan. If we accept one plan over another, we are breaking the comprehensive plan when we go against the code. Must re-design house or relocate the garage so she would not need the variance or that size of variance. 35-40% is a substantial variance, 7' out of 20' is a big deal.

Ms. Mauro had no comment.

Mr. Schafer asked when she brought the property and if she knew the width or was aware of the codes? If she realized set back?

Ms. Mauro answered she bought the property in the summer of 2024 and did not understand the codes.

Mr. Schafer mentioned that the problem was not knowing the size of the parcel of land, the plan of the house, not being aware of the zoning codes, and asking the zoning board to adjust, which is not the way the code works. A Pole barn not seen from the road is not the issue with the code.

Mr. Carey questioned if the house is 150' from the road, the garage is not going to be 50' from the road.

Ms. Mauro stated she will not do a front entrance because of safety

Mr. Carey asked if she knew that at time of purchase. Ms. Mauro replied no

Mr. Carey asked if she had a lawyer involved? Ms. Mauro said she had a realtor. Mr. Carey said someone should have known the code. Ms. Mauro said she found out after purchase in fall of 2024.

Mr. Carey said if we said yes to Ms. Mauro and no to neighbor, we would be found arbitrary and capricious without sufficient reason.

Ms. Todoro asked if she had started to build, Ms. Mauro replied no.

Mr. Kalinowski said, considering since no ground broken, what she is seeking can be achieved by other means. Working within the constraints she has. When someone is boxed in and cannot change, the board usually works with them to minimize or eliminate it.

Ms. Mauro asked what they want.

Ms. Todoro Board cannot tell you what to do.

Mr. Carey noted this was not a hardship, it was her choice and convenience. It does not fit the definition of a hardship within the zoning laws.

Ms. Mauro said she was looking for a variance, and this is not black and white.

Mr. Carey asked if she could do with less than a 20' turnaround. He mentioned that choices had to be made based on this decision.

Mr. Mike Accurso at 6081 Clinton Street spoke in favor. He did not get the variance when he asked the board in October 2024. He has no opposition or hard feelings. No hardship, he changed his design and driveway with added expenses. Her house is within the width, it just her driveway.

Mr. Kalinowski asked if anyone there was against the case.

No one spoke against.

Mr. Carey asked if she would consider less than 27' wide. Ms. Mauro replied 25'?

Mr. Carey did not offer 25'. Mr. Carey is looking to reduce variance.

Mr. Carey explained that Elma is trying to protect the comprehensive plan and neighbors. The code is for a code for a reason. This is based on a survey of all of Elma 15-20 years ago and it was stated they do not want houses on top of each other. Must be a significant reason for placement of the pole barn, not seeing sufficient reason except for desire. Would she consider making it substantially less than 27'?

Ms. Mauro asked again 25'. Mr. Carey answered no. He asked how wide is a two-car driveway?

Ms. Mauro did not know, but mentioned her current residence driveway is 30' long.

Mr. Carey made the motion for Appeals Case #1476 for Marisa Mauro of 6061 Clinton Street, Elma, NY, who is requesting an area variance that the side yard setback be 13' from the property line to accommodate a side entry garage §144-99 C4, Residential C to deny:

1. New Build in a new 5-lot development. The lot size was known at purchase. Not a hardship, a true hardship has to do with the lay of the land.
2. An undesirable change would be known. The design of the house does not fit the size of the lot.
3. The request is substantial, with the 7' being a 35% variance.
4. Adverse impact on the neighborhood. If we gave variances on a pick and choose basis then we are causing a physical detriment, and it is disruptive to the code and overall comprehensive plan of Elma.
5. Self-created due to it being a new build and the design. Ms. Mauro could fit the design in an alternative way.

Second: Mr. Jimenez

Yes: 4. Nays: 1.

Appeals Case #1477 for Bo Tucker and Jeanine Colley of 6030 Seneca Street, Elma, NY, who are requesting an area variance to build a new commercial building that is larger than the allowed 7000 SF §144-84 §144-85 A, B, and C2.

Mr. Tucker noted a correction from the application to state 6030 Seneca St as the address. Verified that other buildings are 72 x 182'. 50 x 182' this building, around 9100 sf.

Mr. Jimenez asked if it was for storage. Mr. Tucker replied yes.

Mr. Carey asked if there would be no manufacturing. He also asked if he would not come back to ask for a size increase. Mr. Tucker replied no to both questions.

Mr. Carey asked if he did not get a variance, why not 7000'? Not a hardship, can be used, just a smaller building.

Mr. Tucker said the design was the same, just changing color, and did not want consistency with the other buildings' color.

Mr. Jimenez addressed the parking, adding 9 parking spaces. Mr. Tucker- Spots would be available to the left of the building if you are looking at it from the street.

Jimenez asked about the water issues. Mr. Tucker answered that it was completed and will be adequate for the new space.

Mr. Pralow asked how many more lots would be acquired. Mr. Tucker answered no more commercial on Seneca St. 6050 Seneca Street has an easement.

Mr. Pralow asked about the plants, grass, and landscaping. Mr. Tucker that 6020 Seneca will be done in May. Moog does the work as part of their lease.

Mr. Carey asked if the buildings are fully occupied. Mr. Tucker answered yes.

Mr. Jimenez asked when he would be breaking ground on the new building. Mr. Tucker answered late summer or next spring.

No one spoke in favor or against.

Mr. Pralow made the motion to approve with Appeals Case #1477 for Bo Tucker and Jeanine Colley of 6030 Seneca Street, Elma, NY, who are requesting an area variance to build a new commercial building that is larger than the allowed 7000 SF (square feet) §144-84 §144-85 A, B, and C2 to approve with:

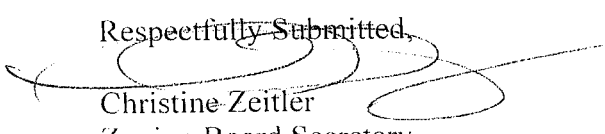
1. The benefit cannot be achieved with a smaller lot; 9100 SF is a decent number.
2. Not an undesirable change to the neighborhood or nearby properties. They are caught up with landscaping and the buildings have teneants.
3. The request **is not** substantial since the building is full and has been approved.
4. No adverse impact on physical or environmental effects on the neighborhood. Testament that no one is putting up a fight, that this would be a problem.
5. Self-created difficulty, over the 7000 SF, not going to change the determination of the board.

Second: Mr. Schafer

Yes: 5. Nays: 0.

Mr. Carey made the motion at 9:00 PM to end the meeting. Second by Mr. Jimenez
Yes: 4 Nays: 0.

Respectfully Submitted,



Christine Zeitler
Zoning Board Secretary