

ZONING BOARD OF APPEALS

The hearing on Tuesday, February 4, 2025, is called to order by Chairman Kalinowski at 7:00 pm.

<p>Members Present: Greg Kalinowski Shawn Pralow Ron Carey Robert Schafer, Alternate</p>	<p>Also: Phyllis Todoro, Town Atty Absent: Harry Kwiek John Jimenez Jim Lembke, Alternate Ray Balcerzak, Building Inspector</p>
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Appeals Case # 1472 for Kristen Ahrens of 191 Winspear Road, Elma, NY who is requesting an area variance to build two covered porches with less than the required 50 feet front yard setback from the road §144-99 C4, Residential C.

Michael Anderson from Abstract Architecture 313 Broadway, Buffalo, NY is doing the work for Kristen Ahrens. He described the work as a request for a variance to remove/ replace the side porch facing road and rear porch put on a new covered porch. One area of the house is on the setback of the narrow property.

Mr. Kalinowski asked if there was a change to the footprint.

Mr. Anderson replied: No, Interior renos to make it livable, only exterior are the 2 porches.

Kristen Ahrens: When she first got the property, it was inhabitable. Not occupying now but plans to live there.

Mr. Carey: Code 50' setback. Northside looking at Winspear Road. Ms. Ahrens is here for 50' setback, in front of the house facing south SW. Since it is a corner property may be the front and side.

Mr. Anderson stated it is 31'9" and the porch adds 8' deep equaling 23'9" from edge of porch.

Mr. Carey stated they were looking at ½ of what was needed. Only point of concern.

Mr. Schafer asked if the porches were new and if they were looking to cover them.

Mr. Anderson replied that the 3' porch is new, it is north side existing, has issues and needs to be redone.

Mr. Pralow reconfirmed the measurements

Mr. Anderson showed on the plan that the deck existed, the angle of the cut of the setback, and how it would go through the property since it is a corner property.

Mr. Carey asked if it was only that side

Mr. Anderson said yes.

Mr. Carey asked if the south and north porches exist today.

Mr. Anderson replied the 4' that needs to be replaced are being torn out. The footprint of the house is not changing.

No one spoke in favor or against.

Mr. Pralow made the motion for Appeals Case # 1472 for Kristen Ahrens of 191 Winspear Road, Elma, NY who is requesting an area variance to build two covered porches with less than the required 50 feet front yard setback from the road §144-99 C4, Residential C to approve with:

1. A desirable change would be known, by any other means part of the porches are already in 50" setback variance. There are no undesirable changes, it will only beautify and make the neighborhood better.
2. The benefit cannot be achieved by another means or design. The request is significant.
3. It is not substantial, it is in secluded wooded area. No additional or obstructive structures.
4. The request would not have an adverse physical or environmental impact on the neighborhood. It would look better and be an improvement to the area.
5. The alleged is self-created, an improvement since they want to add the porches.

Seconded by: Mr. Carey. Yes: 4. Nays: 0.

Appeals Case # 1473 for Reid Petroleum Corporation for the property located at 950 Maple Road, Elma, NY is requesting an area variance to install three 12,000-gallon underground tanks with less than the required 50-foot setback §144-151 C, C3.

Matt (inaudible) representing Reid Petroleum

Matt: The old tanks are single-wall fiberglass, and the new tanks are double-wall fiberglass. Old tanks are aging out, installed in 1986. They would like to remove the old tanks before they begin to deteriorate. One tank would be 87-grade fuel, the second is a split tank containing 87 and 93, and the third is 90 and diesel. Every Crosby's offers these grades and would like to be able to offer them at this location. Getting 12,000 gallons per tank is better for fewer deliveries considering the area around the tanks, it is not the best layout.

Mr. Kalinowski mentioned that this was previously denied (last year).

Ms. Todoro asked to explain what happened last year that it was denied.

Matt explained the variance of their location was less of a problem than the gallons requested. The tanks have two compartments at 6000 gallons on each side. Also, wanted to emphasize replacing the older tanks would be proactive for environmental issues not to occur.

Mr. Kalinowski asked about the location of the new tanks.

Matt answered that the tanks would be placed in the same place.

Mr. Carey explained that last year the capacity was 15,000. Setbacks were discussed. The code in 1999 states 50'. Maple Rd looks okay but the store's building 50' is questionable.

Kristen (Store representative) states the store it is less than 20' going up to the sidewalk.

Matt: clarified it is 15'

Mr. Carey: (Looking at the map with Matt) 15'4". They both agreed. The application reads 20', looking at the current plan has 19', and 59' to the road if you measure tip to drive-thru.

Ms. Todoro asked about the location of the tanks

Matt replied it was toward W. Maple

Mr. Carey is concerned of the distance of 20" to the building. He asked if DEC had been informed.

Kristen replied that they said the DEC was not in their jurisdiction.

Mr. Carey asked if the fire dept was notified.

Kristen has not contacted them

Ms. Todoro mentioned that the fire dept would send a letter

Mr. Kalinowski agreed that the fire dept would send a preliminary certificate.

Mr. Carey voiced his concern about the proximity.

Matt reiterated that it is in the same location as old tanks. The new tanks are environmentally better with double walls, and a tenfold protection safety.

Mr. Carey asked if vehicles would drive over the tanks and if that poses any issues.

Matt replied that it would not. It is ordinary practice to have tanks under the ground that traffic drives on.

Mr. Carey asked why 36,000 gallons.

Matt replied it was to keep up with demand, be cost-effective, and make fewer deliveries. They are adding premium and diesel fuels to their establishment.

Kristen added that new grades would support fueling ATVs, Boats, Lawn Mowers, etc. (Ethanol free)

Mr. Kalinowski asked where the tanks would be since the new ones are 40' x 32', if they would be using a smaller pad.

Matt replied Yes. Kristen replied yes but would still be 8' in diameter.

Mr. Pralow asked when construction would begin.

Kristen replied July 2025.

Mr. Pralow asked how long the project would take.

Kristen and Matt replied 6-8 weeks. They will have geo-probing from DEC and prep information. They will look to see if there is any ground contamination potential that would extend the project.

Ms. Todoro asked if they would close the store.

Kristen and Matt replied they would not close the store but would have a fence around the work area.

Mr. Schafer asked if they were fiberglass tanks and how they are supported in the ground.

Matt replied that they sit on a bed of pea stone and are cradled by concrete anchors. The tanks are balanced once filled with fuel.

Mr. Schafer asked if they could shift.

Matt replied no

Mr. Schafer asked if they would not be above the ground level, protecting vehicles driving over them.

Matt replied they would be flush with the paved lot and black topped in a 4' area for run off.

Mr. Carey commented that a year ago, the Board mentioned that 12,000-gallon tanks would be approved. This meeting is to approve a 3rd tank. The only issue is the distance of the tanks to the building. When the code was revised in 1999, the existing tanks were grandfathered. Replacement should be up to code.

No one spoke in favor or against.

Mr. Carey made the motion to approve with:

1. The benefit cannot be achieved by another means or design. Lot size does not give too many options to accomplish goals.
2. An undesirable change would be known as. Everything is being done underground.
3. The request is substantial, but replacing 30-year old tanks with new, modern technology and design outweighs the negative with the variance.
4. No adverse impact on the neighborhood. The new tanks should not leak into the ground.
5. Self-created due to the additional tank.

Second: Mr. Schafer

Yes: 4. Nays: 0.

Mr. Kalinowski would like to make note that Appeals Case # 1471 for Andrew Wolf and Mathew Ertel of 8351 Clinton Street, Elma, NY who is requesting an area variance to build an addition to the front of the commercial building with less than the required front yard setback §144-78 D, §144-76A, §144-76 F, C-1 no longer is a continuance. Andrew Wolf and Mathew Ertel could not find a resolution and were financially unable to pursue it.

Mr. Carey made the motion at 7:50 to end the meeting. Seconded by Mr. Pralow

Yes: 4 Nays: 0.

~~Respectfully Submitted,~~

Christine Zeitler
Zoning Board Secretary