

ZONING BOARD OF APPEALS

This hearing on Tuesday August 4, 2026, called to order by chairman, Harry Kwiek at 7:00 PM with the pledge of allegiance.

Members Present:

Harry Kwiek
John Jimenez
Greg Kalinowski
Shawn Pralow
Ron Carey

Also Present:

Robert Schaefer, Alternate
James Lembke, Alternate
Phyllis Todoro, Town Attorney
Rosemary Bapst, Deputy Town Attorney

Others Absent:

Ray Balcerzak, Assistant Building Inspector

Appeals case #1506 for Sal Buscaglia of 18 Caroline Lane, Elma, NY who is requesting an area variance to build a shed with less than the required side yard setback Section 144-98 C (4), Residential B.

Mr. Buscaglia explained that he wants to build a shed but that there is nowhere other than back near the easement lines to put it due to the uneven ground. Mr. Buscaglia submitted a note from the neighbor, D. Morse, of 16 Caroline Lane indicating that they had no objection to the shed being placed where Mr. Buscaglia proposes. Another neighbor, Matthew McAnulty of 20 Caroline Lane, also submitted a letter indicating that he had no objection to the shed being placed with the reduced side yard setback.

Mr. Kwiek discussed that there had to be at least 50 feet from Caroline Lane roadway and that the code was very specific regarding that. Mr. Buscaglia agreed to move the shed to ensure that the shed was at least 50 feet from the roadway. When Mr. Buscaglia measured the distance from the roadway, he measured approximately 53 feet and agreed to ensure that the shed would be at least 50 feet from the roadway of Caroline Lane. Mr. Buscaglia still requires an area variance due to the side set back on the other side of his property.

Linda Buscaglia also spoke indicating that the placement would probably be between the trees and that you would not see it from the road.

The Board discussed the proposed variance with Mr. and Mrs. Buscaglia. Mr. and Mrs. Buscaglia presently do not have a shed on their property and the shed seen from the roadway is on their neighbor's property. Mr. and Mrs. Buscaglia are aware that they cannot place the shed on the 15-foot drainage easement on their property.

Mr. Kwiek asked if anyone wanted to speak in favor of the variance. Robert Gross of 11 Northrup Road, Elma, NY, spoke in favor. Mr. Gross was instructed by Mr. Kwiek that he had to speak only on this variance and not wander to other variances that had been approved previously. Mr. Gross indicated that denying this variance was discrimination because of

another variance granted. When Mr. Gross would not stay on the present topic of this variance, he was asked to sit down, which he did.

Mr. Kwiek asked if anyone else wanted to speak in favor of this variance.

James Malczewski of 17 Caroline Lane, across the street from the Buscaglia property, spoke in favor of the variance. He indicated that the Buscaglia property has 15 feet drop on their property. Mr. Malczewski indicated that Mr. Buscaglia had contacted neighbors to ensure no one had an issue with this variance.

No one spoke against the project.

Mr. Kalinowski made the motion to approve the area variance on Appeals case #1506 for Sal Buscaglia of 18 Caroline Lane, Elma, NY who is requesting an area variance to build a shed with less than the required side yard setback Section 144-98 C (4), Residential with the understanding that the shed will be at least 50 feet from the roadway and that the other side set back will not be on the drainage easement or at least 15 feet from the side yard of 16 Caroline Lane. This motion is based upon the fact that there will be no change in the neighborhood and no adverse impact on the neighbors; That based upon the topography of the property, there would be difficult to find another alternative; That Mr. Buscaglia bought the property in 2018 so this was not self-created. For all these reasons, the area variance should be approved.

Mr. Carey seconded the motion

5 Yays

0 Nays

The Board approved the area variance for Mr. Buscaglia to build a shed with less than the required side yard setback Section 144-98 C (4), Residential B with the agreement that Mr. Buscaglia keeps the shed at least 50 feet from Caroline Lane.

Mr. Carey made the motion to approve the minutes from July 7, 2026, as amended.

Mr. Jimenez seconded the motion

5 Yays

0 Nays

Mr. Jimenez made the motion to adjourn the meeting. Mr. Carey seconded the motion.

5 Yays

0 Nays

Meeting was adjourned at 7:20 p.m.

Respectfully submitted,

Rosemary Bapst, Deputy Town Attorney

Drafted but not approved by board.