

ZONING BOARD OF APPEALS

This hearing on Tuesday June 2, 2026, called to order by chairman, Harry Kwiek at 7:00 PM.

Members Present:

Harry Kwiek
John Jiminez
Greg Kalinowski
Shawn Pralow
James Lembke, Alternate

Members Absent:

Ron Carey

Also Present:

Robert Schaefer, Alternate
Phyllis Todoro, Town Attorney
Joe Colern Building Inspector
Rosemary Bapst, Deputy Town Attorney

Appeals case #1501 for Christopher Musilli of 31 Pleasantview Drive, East Aurora, NY who was given a continuance for an area variance to build a carport with less than the required side yard setback Section 144-99 C (4), Residential C.

Mr. Musilli provided the Board with a packet of information with an email from Mr. Noah Mauer, the adjacent owner, indicating that he had no objection to Mr. Musilli's carport being constructed within the setback of five to ten feet from the shared property line.

Also, in the packet are several drawings of changes made to the plans including:

The length of the carport is thirty-two feet; The carport has been moved back Seven feet from the property line; and Ten feet from his house.

Discussions were had concerning this project.

Mr. Musilli indicated that he would not be enclosing the sides of the carport in the future.

Chairman Kwiek asked if anyone wanted to speak in favor of the project: No one spoke in favor.

No one spoke against the variance.

Mr. Jimenez made the motion that the variance involving Appeals case #1501 for Christopher Musilli of 31 Pleasantview Drive, East Aurora, NY who was seeking an area variance to build a carport with less than the required side yard setback Section 144-99 C (4), Residential C be granted for the following reasons: There is no adverse impact on the neighborhood, no hazard to the health, welfare of the neighborhood; Emergency vehicles still will have access to the property; There is no benefit from other means; and that this defines hardship based upon the contour of the property.

Mr. Lembke Seconded the motion.

5 yays; 0 nays.

The Board approved the area variance for Mr. Musilli to construct a carport with less than the required side yard setback.

Appeals case #1504 for Todd Huber of 6177 Seneca Street, Elma, NY who is requesting an area variance to build a front porch overhang/awning, rear garage unit and an attached two-story deck with nonconforming setbacks Sections 144-142.14 F (1) and Section 144-78 D, C-1, Springbrook Overlay District (multiple dwellings).

Todd Huber spoke for the project and handed a revised drawing of the project with a rendering of the proposed project with a survey made a part of the record.

Todd Huber indicated that the project showed 3 different lots. 2 on Seneca Street, namely, 6175 and 6177 Seneca Street and one at 60 Old Pound Road. Mr. Huber merged 6175 Seneca Street with 6177 Seneca Street so in effect it made the property larger and is now known as 6177 Seneca Street.

Mr. Huber has changed the deck and front overhang as indicated with the plan submitted. He added a little “deck walk”/ railings which is for aesthetics only and is 1 foot in width.

Discussion was had concerning the placement of the garage and the necessary spaces and that 60 Old Pound had a separate driveway which is all paved. Mr. Huber indicated that he had redesigned the one side without windows for the neighbor’s privacy.

Discussion was had concerning that the garage being 3 feet off the property line and the Garage overhang would be 1 foot and the rest would be 2 feet from the property line.

Discussion was had that the appropriate rear set back would be 10 feet after the Springbrook overlay district, so Mr. Huber is asking for a 7 feet variance.

Mr. Kwiek asked for anyone in favor: No one spoke.

Mr. Kwiek asked for anyone against the variance: Mr. Robert Gross of 11 Northrup spoke against the project. Mr. Gross began speaking of what occurred at the Town Planning Board meeting. Mr. Kwiek redirected him to the fact that this was the Zoning Board and read to him what the Zoning Board was required to do pursuant to N. Y. S.

Mr. Gross kept indicating that the code was there for a reason and had to be enforced. He again started to state what occurred at the Town Board and Planning Board. Mr. Gross exchanged words with Joe Colern, Code Enforcement Officer and Phyllis Todoro, Town Attorney. Again Mr. Kwiek tried to redirect Mr. Gross and gave him three minutes to make his arguments.

Mr. Gross indicated that the septic system was inadequate. That the Town had to treat people fairly. That because this was a nonconforming lot was no reason to make it a further nonconforming lot by granting the variance. Mr. Gross finished speaking before his 3 minutes were up.

Mr. Kalinowski made the motion in Appeals case #1504 for Todd Huber of 6177 Seneca Street, Elma, NY approving the area variance to build a front porch overhang/awning, rear garage unit and an attached two-story deck with nonconforming setbacks Sections 144-142.14 F (1) and Section 144-78 D, C-1, Springbrook Overlay District (multiple dwellings). Mr. Kalinowski cited that there was no other feasible means; that this variance would not produce any undesirable change in the neighborhood; that there would be no adverse effect on the environment involving wetlands and similar issues; this situation has not been self-created and that these structures have been there.

Mr. Pralow seconded the motion.

5 yays; 0 nays.

The Board approved the area variance for Mr. Huber to build front porch overhang/awning, rear garage unit and an attached two-story deck in accordance with the plan submitted.

Discussion was had about a municipal program by Hodgson Russ and who was going to attend. Also, discuss briefly what future applications may come in front of the Board.

Mr. Pralow made the motion to adjourn the meeting. Mr. Jiminez seconded the motion.

5 yays; 0 nays.

Meeting was adjourned at 8:05 p.m.

Respectfully submitted,


Rosemary Bapst, Deputy Town Attorney

Drafted but not approved by board.