

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

### EAST GREENBUSH ZONING BOARD OF APPEALS MEETING MINUTES

May 8, 2018

#### Members

Jeff Pangburn, Chairman  
John Conway, Jr.  
Scot Strevell  
Dan Smith  
Matt Ostiguy  
William Hessney

#### Also Present:

Joseph Slater, Attorney  
Kateri Rhatigan, Stenographer  
Alison Lovely, ZBA Secretary  
Adam Yagelski, Director of Planning & Zoning

#### CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Pangburn called the meeting to order and determined a quorum of six (6) members were present. Introductions were made. Chairman Pangburn introduced the new member, William Hessney. Bob Seward was absent.

#### OLD BUSINESS:

#### PUBLIC HEARINGS:

NONE

#### NEW BUSINESS:

#### PUBLIC HEARINGS:

**ZBA Appeal #2018-04-Hay- 9 Start Avenue-Area Variance for proposed construction of an 18' x 24' addition to the rear of the home.**

John Conway recused himself due to the fact that he has been working with the same builder that is listed as the builder for the Hay's project, but he has not yet received a quote or bid from that builder.

#### **The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Area Variance Criteria
- Bldg. Permit Application
- Planning Board Recommendation
- Supplement report by Kurt Bergmann

Nancy/Walter Hay were both present. Walter spoke and stated that they'd like to build an 18' 24' addition off the rear of the home. This will be a family room and will be 19' from the rear property line. Walter Hay stated that the addition replaces a deck that was there. Walter Hay stated he spoke to the neighbor behind him and he didn't have a problem with it.

•Chairman Pangburn asked if they will have another deck off the addition. Walter Hay stated that they will not.

●Scot Strevell asked which neighbor the applicant spoke to. Walter Hay stated he spoke to the neighbor directly behind his house, which is separated by a large ravine and also there is a large tree on the property line that needs to be removed and the neighbor Ed Andres stated it was ok to remove it. Nancy Hay stated that she spoke to the neighbor on the one side and they didn't have an issue with it and they own the property on the other side of the house.

●Chairman Pangburn asked if the addition was visible from the road. Walter Hay stated that it is not.

●Scot Strevell asked if it was one story. Walter Hay stated that was correct.

●Matt Ostiguy asked if it could be achieved any other way. Walter Hay stated that it cannot.

Chairman Pangburn asked if there were any other questions. There were none.

Chairman Pangburn asked if anyone was present to speak in favor or opposition. There was no one present to speak in favor of or in opposition to.

Motion by Chairman Pangburn to close the public hearing. Seconded by Scot Strevell.

Motion carried by a 5-0-1 vote with John Conway abstaining.

John Conway returned.

**ZBA Appeal #2018-05–Cleary- California Avenue-Interpretation of the Zoning Code regarding undersized lots.**

**The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Authorization Form
- Planning Board Recommendation
- Supplement report by Ralph Viola
- Resident Letter from JoAnn Buell & Amy Steverson both of California Avenue dated 4/26/18 both against

The applicant Bill Cleary was present as well as his representative Tim Nugent. Tim Nugent starting referring to a tax map and Chairman Pangburn marked it as Exhibit 2018-05a

●John Conway asked what lot they were talking about. Tim Nugent stated the tax map lot ending in 5.2 and at one time was owned by the same person who owned the larger lot.

●Chairman Pangburn asked Mr. Nugent if he had the history of ownership for Lot's 898 & 899 before 1961. Tim Nugent stated that Teator bought them in 1955 to 1977, and then it went to Pytel.

●Dan Smith asked how long his client has owned them. Tim Nugent stated that Bill Cleary inherited them in 2007. Dan Smith also asked if there was a different owner after 1961 and does it matter. Joseph Slater answered that the lot is singular owned.

●John Conway asked when it ceased to be owned by Pytell. Tim Nugent stated 2007.

●Joseph Slater asked if Tim Nugent had any info on lots 1100 to 1103. Tim Nugent stated no but he can get it.

●Chairman Pangburn asked if lots 898 & 899 were purchased by Teator in 1955 or was it from Corliss Reality Inc. Tim Nugent stated yes. Chairman Pangburn asked if in 1948 Teator purchased 1100-1101 by Corliss Reality Inc. Tim Nugent stated that is correct and that Pytell bought 1,100 – 1101 by Teator in 1966.

●Chairman Pangburn asked if Tim Nugent knew if the 1955 & 1966 purchase were sold as separate lots. Exhibit 2018-05b was marked as a revised map of Sherwood Park dated October 9, 1925 & Exhibit 2018-05c was previously referenced deeds. Chairman Pangburn asked if there was anything else from Tim Nugent. Not at this time.

●Matt Ostiguy asked what lots the deeds were for. Chairman Pangburn stated Lot's 898 & 899 & lots 1,100 & 1,101 & 1102. Tim Nugent has 1,100 & 1,103 (Tax Map # 166.14-13.6)

Chairman Pangburn asked if anyone was present to speak in favor or opposition. There was no one present to speak in favor of or in opposition to.

●A neighbor spoke and asked if 1 California Avenue is an undersized lot. Chairman Pangburn stated that he wasn't sure.

●A neighbor spoke and stated that she tried to buy the lot in question in 2000. She stated that Mrs. Teator stated that the property couldn't be separated so she wouldn't sell it.

●Neighbor stated that 1 California Avenue is a 60' x 100' lot.

●Tim Nugent stated that the hearing is being left open for info from applicant and deed info.

Motion by Chairman Pangburn to adjourn the public hearing until June 12, 2018. Seconded by William Hessney. Motion carried by a 6-0 vote.

A neighbor asked if there was no more public comment. Chairman Pangburn stated that is correct, but additional paperwork that one neighbor said he had (deed to 1 California Avenue) is ok to submit.

**ZBA Appeal #2018-06–McLean- St. Clair Avenue-2 Area Variances for the construction on an undersized lot with the required frontage.**

**The following was read and/or referenced as being in the file.**

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Area Variance Criteria
- Planning Board Recommendation
- Supplement report by Matt Polsinello

Richard & Rita McLean were both present. Richard McLean presented signatures and a tax map of the lots of the people who signed it that they didn't have a problem with his application. Richard McLean stated that his parents have had the land since 1967 and they want to build a house for their son on it.

●Chairman Pangburn asked isn't there a drainage easement through the property. Richard McLean stated that the tax map isn't accurate, that it actually runs on the side of the property.

●Chairman Pangburn asked the applicant if he had a survey of the property with the drainage easement on it. Richard McLean stated that he did not. Chairman Pangburn asked if he owned the house next door. Richard McLean stated that no they own 27 St. Clair Avenue which is one lot away.

●Dan Smith asked if that was is a fence behind the house. Richard McLean stated that the fence is on the subject property a little bit. Dan Smith asked how close with the fence is to the proposed house. Richard McLean stated like 8'.

●Chairman Pangburn asked the applicant if they ever owned any adjoining lots. Richard McLean stated that he has not.

Chairman Pangburn asked if there were any other questions. There were none.

Chairman Pangburn asked if anyone was present to speak in favor or opposition.

●A neighbor from 28 St. Clair Avenue stated that the applicants are great neighbors. She stated that she knows the people who own the property in between the applicant and their other lot.

●Another neighbor spoke and owns 14 Western Avenue and stated that lives behind Krestchmar and that they allowed a 6' and a 15' setback and he has no problem with it.

Chairman Pangburn asked if there was anything else. There was not.

Motion by Chairman Pangburn to adjourn the public hearing until June 12, 2018 for additional information. Seconded by William Hessney. Motion carried by a 6-0 vote.

John Conway left the room again for the rest of the business for the Walter/Nancy Hay application.

#### **SEQR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal #2018-04–Hay- 9 Start Avenue-Area Variance for proposed construction of an 18' x 24' addition to the rear of the home.**

#### **MOTION for: Zoning Board of Appeals to Declare SEQR Lead Agency**

In regards to **ZBA Appeal #2018-04–Hay- 9 Start Avenue-Area Variance for proposed construction of an 18' x 24' addition to the rear of the home.**

In regards to Appeal #2018-04: Hay- Application for an Area Variance, the Zoning Board of Appeals has considered this project under SEQR and determines that this project meets the requirements for a Type II Action and no further SEQR review is required.

#### **WORKSHOP(S):**

The ZBA Members deliberated on the information both submitted and presented.

**ZBA Appeal #2018-04–Hay- 9 Start Avenue-Area Variance for proposed construction of an 18' x 24' addition to the rear of the home.**

**Resolved,** That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as the existing deck will be removed, there is a ravine in the back yard, it's single story and cannot be seen from the street.
2. There is no other method available to the applicant as only the back yard is available to put the addition.
3. The requested variance is not substantial as the required setback is 25' and the addition will only be 19' from the rear property line and there is a wooded area in the rear of the property with a large ravine.

4. The proposed variance will not have an adverse effect on the neighborhood as the addition will be single story and is not visible from the front of the house and is replacing an existing deck.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

**Resolved**, that the application for an Area Variance to construct an 18' x 24' addition to the rear of the home with a 19' rear setback be GRANTED with no conditions.

This resolution was moved by Scot Strevell and seconded by Matt Ostiguy at a meeting duly held on May 8, 2018.

A vote was taken as follows:

John Conway	<u>Abstain</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Bob Seward III	<u>Absent</u>
Dan Smith	<u>Yes</u>
Scot Strevell	<u>Yes</u>
William Hessney	Yes

Motion carried 5-0-1

**NEXT MEETING:** The next meeting is May 22, 2018, which has been cancelled.

**APPROVAL OF MINUTES:**

Motion by Chairman Pangburn to approve the meeting minutes from the March 13, 2018 meeting. Seconded by Scot Strevell. Motion carried by a 4-0-2 vote. William Hessney abstained.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Chairman Pangburn. Seconded by Scot Strevell. Motion Carried by a 6-0 vote.

Respectfully Submitted

  
Alison Lovely, ZBA Secretary