

TOWN OF EAST BLOOMFIELD

April 6, 2022

Zoning Board of Appeals Members Present, Sonja Torpey, Art Babcock, Mark Thorn, **Absent**: Tim Crocker, Rosemary Garlapow

Others Present: Kimberly Rayburn (Secretary), Paul Zelter (Applicant), Nick Russo, Jason & Laura Ashe, Joel Steele.

Torpey opened the meeting at 7:00 pm. The Board opened the public hearing and the Secretary read the public notice.

I. TV2-22 Area Variance for property located at 6945 St Rts 5&20 Saxby's Collision

Tax # 81.00-1-76.000. New owner wishes to add onto the existing shop in the rear and will require a rear setback variance.

Zelter explained he wishes to add a 30 ft x 60 ft addition onto the back wall of the existing shop. The addition would give them 4 bays, one of them would be used to clean cars as currently its being done in the back of the body shop. This will make the shop more efficient. Torpey asked if there would be any new drains installed, Zelter stated it would drain into the existing water/oil separator. He has cleaned up the entire back area and the new structure will help keep it that way. Torpey asked if they plan on extending the driveway, they do not have the room to do so. The placement of the addition is limited due to the location of the entrance to the building, the impound lot and the septic and leach fields. There are two (2) doors on the back of the building one (1) to the East of the concrete pad is an overhead door for the paint booth and the other is for the back entrance to the building. Babcock asked if the Planning Board has reviewed Zelter's Special Use Permit (SUP) as a new owner? Rayburn provided the Board with the minutes from that meeting. Babcock asked if there are any concerns of the storm water runoff going onto the neighbor's property. Zelter gave a detailed explanation of the water on the property. There is water in the back corner, Zelter will be installing a French drain to divert the water where it's supposed to go. Every thing else goes to an existing swale that leads out to 5&20. Babcock stated that in the past there has been some issues to the east of the property. Zelter stated that the back is gravel and he only sees the run off getting better not worse. The buffering was discussed, there is an existing line of trees shown on the map that will not be disturbed with the addition.

A discussion was held on the setback requirements. The design standards in the Special Use Permit do not have specific setbacks as stated in the schedule. The Code Officer had to look at other uses in the Commercial District and make a determination on the setbacks. The code states for most uses the side setbacks are one side twenty (20), both thirty (30), which means one side could be 10 feet from the property line. The current building is twenty (20) feet and they will be holding that setback. The rear setback for most Commercial uses is forty (40) feet and Zelter is asking for seventeen (17) feet. The Board needs to consider substantiality. Babcock stated that they need to weigh what they want vs what is allowed, what is suitable and what isn't. Torpey stated that because it is commercial and not residential, she feels they would not be infringing on the neighbor. They have a letter from Northern Supply stating they have no concerns with the proposed addition location. The addition should be an improvement to what was there which was a pile of tires and debris.

The Board then started their review of the State mandated five (5) criteria tests.

1. **Undesirable change to the neighborhood**: They felt that the proposed addition does not constitute an undesirable change and will not alter the character of the neighborhood. The new owner has cleaned up the rear debris from the prior property owner and this will give the property a cleaner look.
2. **Alternative method**: The layout of the property restricts the location, due to property lines, leach field, drainage concerns, and configuration of the existing building this location is the acceptable.
3. **Substantiality**: The Board discussed rear setback in the minutes above, the request for a setback of seventeen (17) feet where forty (40) is required is substantial however, the addition will not be seen and they have approval from the neighbor. The Code is not clear on the setback requirement of forty (40) feet for his SUP.

4. **Impact on the environment:** The drainage was discussed above and the Zelter will be installing a French drain.
5. **Self-creation:** The Board feels this is self-created, but the proposed is included in the petition of a SUP.

SEQR is a Type II with no further action required. Babcock motioned Torpey seconded to close the public hearing, all Board members in attendance voted aye.

Thorn motioned and Torpey seconded to grant the area variance #TV2-22 for property located at 6945 St Rts 5&20 Saxby's Collision Tax # 81.00-1-76.000. To add onto the existing shop in the rear that will sit 17 feet from the rear property line.

Whereas:

1. The Board considered all the criteria, and includes the discussion in the minutes above.
2. They have approval from the neighbor who is the most affected by the decision and structure
3. The Planning Board approved the Special Use Permit
4. The Zoning Board does not put any additional stipulations in place

1. **Undesirable change to the neighborhood:** They felt that the proposed addition does not constitute an undesirable change and will not alter the character of the neighborhood. The new owner has cleaned up the rear debris from the prior property owner and this will give the property a cleaner look.
2. **Alternative method:** The layout of the property restricts the location, due to property lines, leach field, drainage concerns, and configuration of the existing building this location is the acceptable.
3. **Substantiality:** The Board discussed rear setback in the minutes above, the request for a setback of seventeen (17) feet where forty (40) is required is substantial however, the addition will not be seen and they have approval from the neighbor. The Code is not clear on the setback requirement of forty (40) feet for his SUP.
4. **Impact on the environment:** The drainage was discussed above and the Zelter will be installing a French 5.
5. **Self-creation:** yes

Record of Vote:

Babcock **Aye** Thorn **Aye** Torpey **Aye**

All Board members present voted Aye, Vote was carried unanimously.

II. TV1-22 Area Variance, 24 Church Street, Owners Laura & Jason Ashe tax # 67.20-1-1.000
 Property purchased as 1 lot, Town and Village boundary line runs thru the property. Owners wish to erect a pole barn in their side yard. Ontario Co, the Village of Bloomfield and the Town of East Bloomfield are all in agreement that a 0-setback variance from both the Town and Village will allow the pole barn to be erected across the Boundary line.

Torpey asked the Ashes to explain their proposal. Jason Ashe started with saying they would like to erect a 30 x 30 pole barn for storage. This has been a long back and forth discussion with the Town, Village and the County regarding this boundary line and if they can build their barn. This line is approximate and has never been surveyed. There are a few maps that show the placement of the line in different locations and it had moved as far as 200 ft, and no one knows why. Babcock stated that in 1890 there were national monuments at either end of the Town that served as markers, but with time things change. A discussion was held on the property. When Corky Smith owned it, he had a desire to be in the village and to have Village water. Subdivisions took place, and then the property surrounding the Ashe's was annexed into the Village.

The Town held a meeting with Board member Jay Mitchell, Kim Rayburn, the Assessor Don Collins, Jason Ashe and one of the Town Attorneys to discuss the situation. The Ashe's house number was a topic of conversation as this issue came to light a few years after they purchased the property (as 1 piece of land and with 1 tax ID# as the deed shows). Then they started receiving two tax bills and the house number was moved from the village piece to the Town piece with the house on it. Taxation and water were also discussed.

It was decided to go forward with the County's suggestion of a 0-setback variance as it would put a financial hardship on all parties involved to move the line or go through an expensive and timely annexation into either the Town or Village with unknown consequences to the property owner.

The Board reviewed the State mandated criteria

1. **Undesirable change to the neighborhood:** They felt that other homes in the area have detached garages/barns and this garage in this location would not be out of the ordinary.
2. **Alternative method:** The Board sees no other alternative other than not to build as any other option would be at an incredible expense to the applicant.
3. **Substantiality:** The Board stated the proposal is substantial, although its by no fault of their own.
4. **Impact on the environment:** Not applicable.
5. **Self-creation:** The Board feels this is self-created, but it does not preclude them from granting the area variance.

The Board has concerns over unforeseen consequences of approving a structure to be built over a Town/Village boundary line. For example, there could be tax issues on one of the pieces. The Board would like all three entities to write up a statement that covers both the Town and the resident from unforeseen issues that may not have been considered yet.

SEQR was determined to be a type II with no further action required. Thorn motioned Babcock seconded to close the public hearing. All Board members in attendance voted aye.

Babcock motioned Torpey seconded to grant the area variance #TV1-22 to erect a pole barn in their side yard. Property located at 24 Church Street, Owners Laura & Jason Ashe tax # 67.20-1-1.000. The property was purchased as 1 lot; however, the Town and Village boundary line runs thru the property.

Whereas:

1. A letter is received from Ontario Co, the Village of Bloomfield and the Town of East Bloomfield describing this condition of a structure straddling the corporation line and giving license to it while relieving the property owner of each piece of the parcel of unforeseen issues of any future dispute arising from the location of the structure.

Record of Vote:

Babcock **Aye** Thorn **Aye** Torpey **Aye**

All Board members present voted Aye, Vote was carried unanimously.

III. Discussions:

The Board set the time and day for the meetings for 2022. The meeting day will remain the same. The 4th Wednesday of every month and the time will be at 7 pm.

The next meeting date of 04/27/2022 will be at 7 pm and the Board will review a front setback area variance for Groundwater located on State Rts 5&20.

IV. Meeting Adjourned

Babcock motioned and Crocker seconded to adjourn at 9 pm. All Board Members present vote Aye. Vote was carried.

Respectfully submitted,

Planning & Zoning Board Secretary