

ZONING BOARD OF APPEALS MEETING
November 30, 2017
6:00PM

The meeting was called to order by Chairman Bill Gabak at 6:00PM. Roll call by Clerk, Cindy Schiminske, found the following Board Members present:

William Gabak, Jr., Chairman
Neal VanLiew
Kathy Taylor
Fritz Allen
Ernesto Rivera, Alternate
Phil DelloStritto, absent

Also in attendance: Don Bowen, Zoning Officer
Jared Dudek
Michael Robinson
Cheryl Baker
Kathy McLaughlin
Bob Delaney
Beth Weaver
Linda Becker/David Liedka

Chairman Gabak made a motion to approve the minutes of October 19, 2017 as presented by ZBA Clerk, Cindy Schiminske. Approved AYES 5-0.

The purpose of this meeting was to hear the following requests:

- (1) Jared Dudek, 5423 Ridge Road, Tax Map # 128.00-1-17.2, is requesting a front yard variance for an addition to an existing garage. Reference the Town of Fleming Zoning Code 7-16 A(2)a.

Mr. Dudek explained that he would like to build an addition to his garage. He is not able to go back any farther because of the way the doors are arranged on the adjacent pole building. If he goes farther back with the addition, it is going to block the doorway. If he goes on the other side by his house, that wouldn't really work either. He needs the room as some of the machinery he has is very long and if he went shorter on the addition, it wouldn't really work. The addition would be 55' off the road. Presently, his house is only about 2 feet closer to the road than the garage currently is. He has spoken with his neighbors in the direct vicinity and they had no objections.

Chairman Gabak reviewed the five criteria for an area variance with the Board.

Neal VanLiew made a motion to vote on the requested variance, seconded by Chairman Gabak.

Roll call vote was taken by the Board. MOTION APPROVED 5 AYES 0 NAYS.

Chairman Gabak advised Mr. Dudek that any water runoff should remain on his property and he should not let it run onto the neighboring properties.

- (2) Michael Robinson, 6010 Dunning Avenue, Tax Map # 122.00-1-7.21, is requesting a south side yard area variance of 12 ft from the required 25 ft for the construction of a 24' x 40' garage. Ref. Town of Fleming Zoning Code, Bulk and Use Table, R-2 District.

Mr. Robinson explained that he would like to add a garage to his property. There is presently no garage there. He would like to put in a three car plus garage on the side yard. He stated that it would be behind the front of his house. He looked at a number of options but that seems to be the most convenient place as it is accessible to the house door where the entrance is and also right next to the driveway. He put it as close to the driveway as he could while still being able to turn into the garage itself.

Robert Delaney, a neighbor, voiced his opposition to the project. He stated that with 3.2 acres, Mr. Robinson could move the garage within the zoning limits. A building that size would be bigger than his house and he felt it would impact his resale value. Mr. Delaney's daughter, Beth Weaver, also spoke in opposition as she indicated it would be too big of a garage, too close to her parents' house. She stated that they have a very limited back and side yard and nice front yard. But she felt a huge garage on that side of the house would block their view. Beth Weaver also brought up the problem of water runoff as the area is clay. Mr. Robinson indicated that he would be more than willing to make sure there is proper drainage. As the property slopes down to the road, he could put in a pipe all the way down to the ditch. Beth was also concerned about the noise from vehicles and equipment that would be in the garage close to her mother's bedroom.

There was discussion about moving the garage back. Mr. Robinson indicated that it could be done but it would be further away from the convenience of his house and it would also block his view of the woods from the backyard. There was also discussion about changing the size of the garage.

Chairman Gabak reviewed the five criteria for an area variance with the Board.

Chairman Gabak made a motion to vote on the requested variance, seconded by Kathy Taylor.

Roll call vote was taken by the Board.

Fritz Allen	YES
Neal VanLiew	NO
Kathy Taylor	NO
Ernie Rivera	NO
Chairman Gabak	NO

MOTION DENIED

- (3) Kathy McLaughlin and Cheryl Baker, 5860 Sand Beach Drive, Tax Map # 123.18-1-79, are requesting a variance for a fence, which exceeds the maximum of 6 ft allowed. Ref. Town of Fleming Zoning Code: 7-16 A(3).

Kathy McLaughlin presented some pictures to the Board together with a letter and explained that they had put up a white vinyl fence. There are a couple of panels that are a little higher than 6 feet. They couldn't get the posts far enough into the ground. The posts are 73" with the caps. She stated that in the Zoning Law it doesn't address the posts, it addresses the fence so they

were under the assumption that it was the fence panels that were the big issue. They just wanted to add the caps to the posts so that it would look nice in the neighborhood.

Linda Becker, a neighbor, stated that she also submitted a letter to the Board. She addressed the following issues with the fence: exceeds height limitations, fence is not vertical solid, brackets not properly affixed, old fence posts left in place with straps to brace new fence, gaps in bottom filled in with rocks, property stake removed raising questions of property lines.

Cheryl Baker indicated that there were high winds this fall and rain for two months. She took down twelve panels because they were not safe. She was planning on putting the fence back up but Kathy hurt her elbow and was unable to help. She indicated she could not secure her fence as she was not allowed to step on her neighbors' property. They do intend to fix the fence, but right now they are at a standstill. She wants to get a survey because when she puts the fence in, it will be put in with concrete. The rocks were placed at the bottom of the fence due to the fact that they have a dog and they did not want him to go under the fence.

There was discussion about the property lines and the fence possibly encroaching onto the Becker property. Chairman Gabak stated that he would like to see the parties come together and decide on a property line after they both get their surveys. Once they determine where the property lines are, and there is an agreement between the parties on that line, the construction on the fence can resume.

There was discussion about some proposed changes to the Zoning Law in regards to fences that are being discussed and addressed by the Town Board. As of right now, the law says the fence shall be no more than 6 feet but it does not address posts, caps, etc. There is proposed change legislation to allow fences to go beyond 6 feet, to 7 feet, for the particular reason that is being discussed tonight. The posts are generally taller than the panels so you end up with more than 72". The Town Board is considering that change to allow for those irregularities.

Chairman Gabak made a motion to approve the fence as it is right now, until the Town Board makes their decision, seconded by Neal VanLiew. Chairman Gabak stated that the applicants need to cut the two posts and vinyl down at the lakefront to 6 ft height; lower two fence panels closer to the ground; secure the posts in the ground and refasten fence panels to make more secure until the spring of 2018.

Roll call vote was taken by the Board. MOTION APPROVED 5 AYES 0 NAYS.

Chairman Gabak made a motion to adjourn the meeting, seconded by Fritz Allen. All in favor. Time was 7:17 PM.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals