

ZONING BOARD OF APPEALS MEETING
September 21, 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
Phil DelloStritto
Neal VanLiew
Kathy Taylor
Fritz Allen

Also in attendance: Dan Mahaney
Patrick Shea
Tim and Donna Campbell
Peter DiLallo
Don Bowen, Zoning Officer
Ernesto Rivera, Alternate ZBA member

Chairman Gabak made a motion to approve the minutes of August 17, 2017 as presented by ZBA Clerk, Cindy Schiminske. Approved AYES 5-0.

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

1. **Daniel Mahaney** had a continuation of his variance application from the August 17th ZBA meeting. Mr. Mahaney would like to place a 10' x 10' shed on his property. There was further discussion about his neighbor's concerns from the prior meeting. There were no objections from anyone in attendance.

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

Chairman Gabak made a motion to vote on the requested variances: north side yard area variance of 10 feet from the required 25 feet, and a rear yard area variance of 10 feet from the required 30 feet, seconded by Neal VanLiew.

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

Chairman Gabak advised Mr. Mahaney that any water runoff should remain on his property and he should not let it run onto the neighbor's property. Gutters should be placed on the shed with the water draining into his yard.

2. **Patrick Shea**, 6009 South Street Road, Tax Map #123.03-1-7, is requesting a north side yard area variance of 4 ft from the required 10 ft for the placement of an 8' x 12' storage shed. Reference the Town of Fleming Zoning Code Bulk & Use Table R-1 District

Mr. Shea indicated that his property is very hilly and the spot on the north side is relatively flat. There was discussion about the neighboring properties. Chairman Gabak also stated that he

discussed with Mr. Shea keeping the shed 5 feet from the property line instead of the requested 4 feet, which Mr. Shea was in agreement with.

Chairman Gabak reviewed the five criteria for an area variance with the Board. Chairman Gabak also advised Mr. Shea that all water runoff must stay on his property and not run onto neighboring properties.

Kathy Taylor made a motion to vote on the variance of 5 feet from the required 10 feet, seconded by Chairman Gabak.

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

3. **Tim Campbell**, 4913 Silver Street Road, Tax Map #144.00-1-2.1, is requesting a front yard variance for the placement of a 34 ft x 34 ft storage garage to replace a building that was damaged by fire. Reference the Town of Fleming Zoning Code 7-16 A(2)a.

Mr. Campbell wants permission to rebuild. The building will be smaller than the original building. The size was changed from what was set forth on the ZBA application (34 ft x 34 ft). The storage garage will now be 32 ft x 32 ft.

There was discussion about the current zoning law and what the process would be to change it.

Several neighbors were there on Mr. Campbell's behalf and stated that they had no objections to the application.

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

Neal VanLiew made a motion to vote on the front yard variance for the placement of a 32 ft x 32 ft storage building, seconded by Chairman Gabak.

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

4. **Peter DiLallo**, 2969 Holland Drive, Tax Map #130.06-2-11.1, is requesting the following variances for a 10.6 ft x 22 ft addition to an existing garage: Side yard area variance of less than the required 20 ft; Rear yard area variance of less than the required 30 ft; and Variance to exceed the maximum allowable coverage of 25% of surface occupied by impervious surfaces. Reference the Town of Fleming Zoning Code, Bulk and Use Table, Lakeshore District.

Mr. DiLallo would like to build a 10.6 ft x 22 ft addition to his existing garage. He reviewed the survey map of his property with the Board. The property line is along the garage and there is a 10 foot right of way that runs along the north side of his property where they used to have the outhouses in the 50's and 60's. Chairman Gabak questioned who owned the right of way and Mr. DiLallo responded that is owned by different people.

When the applicant purchased the property, there was a lean to structure on the rear of the garage and it had deteriorated. He just recently removed the structure when he started the addition prior to getting a building permit and a variance application. He is going to enclose it and side it so it matches the house. The present garage is .7 feet from the property line.

A question was brought up by the Board as to how much yard does that leave in greenspace. Don Bowen indicated he tried to calculate that on the county website but it is difficult to do. He came up with some numbers but the applicant is encroaching on that 25% - 75%. You are supposed to have 75% of your area green so that it is not impervious. Chairman Gabak stated that the one saving grace Mr. DiLallo had was the fact that he had something there before. Neal VanLiew stated that the greenspace was not going to change, it would stay the same. As there was a roof over the prior structure, he is not creating any more impervious surface.

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

Neal VanLiew made a motion to vote on the following variances for a 10.6 ft x 22 ft addition to the rear of the existing garage:

1. South side yard area variance of 27 ft;
2. North side yard area variance of .7 ft;
3. Rear (west) yard area variance of 10 ft.

Gutters should be placed on the garage and the water pushed onto the applicant's property, not on the right of way or the neighboring properties.

Roll call vote was taken by the Board.

Phil Dello Stritto	Yes
Neal VanLiew	Yes
Kathy Taylor	No
Fritz Allen	Yes
Chairman Gabak	No

MOTION APPROVED 3 AYES 2 NAYS.

Chairman Gabak made a motion to adjourn the meeting, seconded by Neal VanLiew. All in favor. Time was 6:40 PM.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals