

ZONING BOARD OF APPEALS MEETING

August 17, 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: Jeffrey Pirozzolo
Alex Orlando
Dan Mahaney
Lorna Glendinning
Mark Stack
Don Bowen, Zoning Officer
Ernesto Rivera, Alternate ZBA member
Several Residents of Buck Point

Chairman Gabak made a motion to approve the minutes of July 20, 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**, 5773 West Lake Road, Tax Map #130.04-1-14, is requesting the following variances for the construction of a 10' x 10' shed: a north side yard area variance of 10 ft from the required 25 ft; and a rear yard area variance of 10 ft from the required 30 ft. Reference the Town of Fleming Zoning Code Bulk & Use Table R-2 District.

Mr. Mahaney will be building the shed for storage purposes. He is requesting the variance as the shed would sit in the middle of his yard by the setback requirements of the present zoning code. Larry Campanelli, a neighbor, wished to address some of his concerns about the variance. He feels that his current limited view of his fruit trees and beehives that sit on his property behind the Mahaneys would be affected by the proposed placement of the shed. He also had a concern that water could build up in that area as well as the possibility of a wind tunnel effect between the buildings from the westerly wind in the winter. He is all for some kind of variance but he would like to ask for a delay on this so that he can look things over. Mr. Mahaney indicated he did not have a problem with that. Mr. Mahaney was asked if he could put the shed on the other side of the property but he indicated that the land slopes on that side and there were also trees there.

Chairman Gabak asked if any of the Board members had an objection to postponing the variance request, which they did not and he made a motion to postpone the variance request, seconded by Kathy Taylor. Roll call vote was taken by the Board. APPROVED 5 AYES 0 NAYS.

2. **Lorna Glendinning**, 5278 Silver Street Road, Tax Map #137.00-1-2, is requesting the following variances in order to subdivide her existing parcel into two lots: a south side yard area variance of less than 25 ft from the required 25 ft; and a front yard area variance of 25 ft from the required 40 ft. The proposed subdivision of the property will create two lots: (1) a non-conforming side yard and front yard setback from an existing single family home, and (2) a conforming vacant parcel. Reference the Town of Fleming Zoning Code Bulk & Use Table R-2 District.

Mark Stack spoke on behalf of Mrs. Glendinning. He indicated that they are trying to separate the house from the property. Mrs. Glendinning wants to sell the house and he wants the property. The house has been there for well over 80 years. The property sits behind the house and there is a road to access that property. The property is being leased and farmed. They do not have a survey map yet as they were instructed to request the variance first.

Chairman Gabak questioned the south side yard variance of less than the 25 feet as it doesn't give an exact distance. Mr. Stack indicated that he had been told that the house was put right on the property line but he doesn't know if that's true or not.

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

Chairman Gabak made a motion to vote on the requested variances, seconded by Neal VanLiew:

- (1) South side yard variance of less than 25 feet from the required 25 feet.

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

- (2) Front yard area variance of 25 ft from the required 40 ft. Roll call vote was taken by the Board. MOTION APPROVED 5 AYES 0 NAYS

Chairman Gabak advised them that if anything is built on the property, to make sure they take care of all water runoff and keep it on their own property and not the neighbors' properties.

3. **Jeffrey Pirozzolo** had a continuation of his variance application from the July 20th ZBA meeting. Mr. Pirozzolo spoke about his desire to separate his lot into two lots and sell one of the lots to Alex Orlando so that he could build a house on it. The property was originally two lots and he would like to go back to two lots, comprising 49 feet frontage per lot. Chairman Gabak stated that the Board does not usually approve the creation of nonconforming lots. Also, there were a lot of concerns that were addressed at the prior meeting by his neighbors about the wetlands and the problem with water runoff. Mr. Pirozzolo indicated that he had the Army Corps of Engineers come in and do a study, which included some testing and dirt samples and they determined that his land is not actually a wetland. He submitted this paperwork to the Board. He also indicated that when he bought the house, he knew there were two lots originally, and he bought it not knowing that this would be an issue.

There was further discussion about the development of the area, the frontage of the current lots, the subdivision survey map and the zoning codes that were in effect at that time.

One of the neighbors, Dennis Meegan, expressed concern, as one of the people who is owner in common of the right of way that is next to this lot, of the issue that if a house is built or the grade on this particular lot is changed, where the water from that is going to go and whether it will run onto the right of way.

Another neighbor, John Crowley, indicated that his property has a drain retention pond. He has serious concerns about the water runoff. He indicates that his property is wet almost every month of the year. He also brought up the issue of the covenants at Buck Point.

Several others brought up their concerns about the water runoff and where the water would go.

Chairman Gabak reviewed the five criteria for an area variance with the Board. On all points of the criteria the Board determined that:

1. There would be an undesirable change and/or detriment to nearby properties;
2. The benefit sought could be achieved by a feasible alternative to the variance;
3. The requested variance is substantial;
4. It would have an adverse impact on the physical or environmental conditions in the neighborhood;
5. The alleged difficulty was self-created.

Chairman Gabak made a motion to vote on the requested variances, seconded by Fritz Allen. Roll call vote was taken by the Board.

Phil Dello Stritto	NO
Neal VanLiew	NO
Kathy Taylor	NO
Fritz Allen	NO
Chairman Gabak	NO

MOTION DENIED.

Chairman Gabak made a motion to adjourn the meeting, seconded by Kathy Taylor. All in favor. Time was 6:53 PM.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals