

ZONING BOARD OF APPEALS MEETING

June 20, 2019

6:00PM

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

Kathy Taylor, Chairperson
Neal VanLiew
Ernesto Rivera
Jason Schenck
Maureen Riester, Alternate
Phil DelloStritto, Absent

Also in attendance: Chris Buffington
Steve & Pat Jordan
Bill Gabak, Jr., Zoning Officer

Chairperson Taylor made a motion to approve the minutes of April 18, 2019 as presented by ZBA Clerk, Cindy Schiminske. Approved AYES 5-0.

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

1. Chris Buffington, 5566 Buck Point Road, Tax Map #130.04-1-10.22, is requesting the following variances for the construction of a 10' x 16' shed: a north side yard area variance of 5 ft from the required 20 ft; and a rear yard area variance of 20 ft from the required 30 ft. Reference the Town of Fleming Zoning Code, Bulk & Use Table, Lakeshore District.

Mr. Buffington stated that he would like to have a prebuilt shed put on his property. His back yard is really tight and pie shaped. He has letters from his neighbors who do not oppose the variance request. Chairperson Taylor stated that if the variance is granted, he needs to be sure the water runoff from the building has to be directed so that it does not flow into his neighbors' yards.

Chairperson Taylor reviewed the five criteria for granting the area variance with the Board Members.

Chairperson Taylor made a motion to vote on the north side yard area variance of 5 ft from the required 20 ft and the rear yard area variance of 20 ft from the required 30 ft, seconded by Neal VanLiew.

Roll call vote was taken by the Board.

Maureen Riester	YES
Neal VanLiew	YES
Jason Schenck	YES
Ernie Rivera	YES
Chairperson Taylor	YES

MOTION APPROVED

2. Stephen Jordan, 4708 West Lake Road, Tax Map # 144.00-1-43, is requesting the following variances in order to add an accessory structure to the property: a rear yard variance of 9 ft from the required 30 ft (Bulk & Use Table Lakeshore District); a variance to locate the structure less than 50 ft to the mean high water mark of Owasco Lake (Section 6-9D(2)); and a variance to the requirements of Section 7-16 A(2)e which limits the total area of the proposed structure to 20% of the floor area of the principal structure.

Mr. Jordan indicated that he would like to build a 24' x 24' garage on his property, which is a standard size garage. They are going to raise it and would use retaining rocks around the outside so it would be decorative, not just a block wall or poured wall. It will be on a platform and will be a standard one story height that will match the house. He indicated that they have a strange shaped lot with electric lines, so they couldn't connect the garage to the house. They are going to place it as close to the shed as possible so it's almost like one structure. They already have the electric run into the shed for that purpose. He spoke with the owner of the property across the creek who indicated he didn't have any issues with it and he is the closest one that would be affected by it.

Mr. Jordan was advised that he would need to use treated lumber due to the floodplain if the variance was granted. Also, they would need to be sure that the water runoff would not go onto the neighboring properties.

They are 3.2% over the allowable limit. They went to the 24' x 24' size because after pricing it out, if they have to go any less, they would have to order special rafters as it wouldn't be a standard size.

They have no basement and a very tiny attic and no place to put anything.

A question arose whether there is a chance that the bank will erode. The Jordans indicated that they retained the whole thing with concrete blocks.

They were asked if the adjoining neighbors were okay with it. The Jordans indicated that the house across the street and across the creek don't have a problem, but there were not any written approvals from them. They stated that they have documentation from FEMA that their house is not in the floodplain and also stated that they don't have flood insurance. Bill Gabak stated that from any tributary or waterfall in the lake, you must be 50 ft from that waterfall. That is the issue.

Mrs. Jordan indicated that they don't want to go to a one car garage because they aren't as esthetically pleasing and wouldn't cover up as much of their shed and also they wouldn't have the storage they need.

The biggest issue is the proximity of the structure to the creek/waterfall.

Chairperson Taylor reviewed the five criteria for granting the area variance with the Board Members.

Chairperson Taylor made a motion to vote on the rear yard variance of 9 ft from the required 30 ft variance, seconded by Neal VanLiew.

Roll call vote was taken by the Board.

Maureen Riester	YES
Neal VanLiew	YES
Jason Schenck	YES
Ernie Rivera	YES
Chairperson Taylor	YES

MOTION APPROVED

Chairwoman Taylor made a motion to vote on the variance to locate the structure 11.5 ft from the mean high water mark of Owasco Lake, seconded by Maureen Riester.

Roll call vote was taken by the Board.

Maureen Riester	NO
Neal VanLiew	YES
Jason Schenck	YES
Ernie Rivera	NO
Chairperson Taylor	NO

MOTION DENIED

Chairperson Taylor made a motion to vote on the 3.2% that they are over, seconded by Neal VanLiew.

Roll call vote was taken by the Board.

Maureen Riester	YES
Neal VanLiew	YES
Jason Schenck	YES
Ernie Rivera	YES
Chairperson Taylor	YES

MOTION APPROVED

There was further discussion about getting a structural engineer to give information about whether a two car garage would negatively impact that creek bed and also for better drawings on where the garage would be. The Jordans stated that they will stake

out where the garage will go for the Board to see. They were also advised to get letters from the neighbors approving this application.

There was discussion over who has authority over the creek/waterfall. Mr. Jordan stated when they were doing their retaining wall, DEC told them they only have authority on the wall up so far. Bill stated that the Owasco Lake Watershed Inspector verified that it is a Class C tributary.

Chairperson Taylor said if they could get a letter from the proper agency with their approval, they can come back before the Board.

Chairperson Taylor made a motion to adjourn the meeting, seconded by Jason Schenck. All in favor. Time was 6:28 PM.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals