

ZONING BOARD OF APPEALS MEETING

June 18, 2020

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
Ernie Rivera
Phil DelloStritto
Jason Schenck
Maureen Riester, Alternate

Also in attendance: Bill Gabak, Jr., Zoning Officer
Catharine Haight
Zachary Garrigan
Joseph Chekansky
Don Arquette
Mike Janas
Connie Halpin
Richard Clark

For the continuation of the Lisa Heaton/Catharine Haight variance request (which vote was postponed from the February 20, 2020 meeting) the following Board members, who were present at that meeting, will continue the hearing on this request: Kathy Taylor, Neal VanLiew, Ernie Rivera and Maureen Riester.

Chairperson Taylor made a motion to approve the minutes of February 20, 2020 as presented by ZBA Clerk, Cindy Schiminske. Approved AYES 4-0.

(1) The first case will be the continuation of the application of Lisa Heaton and Catharine Haight, 5560 Buck Point Road, Tax Map #130.04-1-10.116, who are requesting a variance to the requirements of the Town of Fleming Zoning Code 7-16A(2)a for the shed which is currently located in the front yard of the property to remain in the front yard.

Catharine Haight was present and reiterated that she was told when they asked about the shed – 40 ft from the front, 20 ft from the side and 30 ft from the rear. Chairperson Taylor stated that after further review of this, the shed cannot be located in the front

yard. Catharine asked if someone could go to the property before they move it so they will know exactly where to place the shed. Bill Gabak indicated that he can show them. Chairperson Taylor stated that they should move it about 15 feet back. Catharine agreed that they will move it. It was agreed that they will have until the end of September to do so. Also, when they are ready to move the shed, they should contact Bill and he will give them the exact location of where the shed should be.

Chairperson Taylor made a motion to vote on the variance request, seconded by Neal VanLiew.

Roll call vote was taken by the Board.

Neal VanLiew	NO
Ernie Rivera	NO
Maureen Riester	NO
Chairperson Taylor	NO

MOTION DENIED

At this point, Maureen stepped down from the Board and Phil and Jason joined the Board.

(2) Zachary Garrigan/Allison Weaver, 5178 Silver Street Road, Tax Map #137.00-1-5.8, are requesting the following variances for the construction of a 10' x 16' storage shed: a south side yard area variance of 15 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.

Zachary Garrigan was present and he explained that he would like a shed for storage and didn't want it placed in the middle of his yard. He has about an acre of land.

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

Chairperson Taylor made a motion to vote on the variance request, seconded by Jason Schenck.

Roll call vote was taken by the Board.

Phil DelloStritto	YES
Jason Schenck	YES
Ernie Rivera	YES
Neal VanLiew	YES
Chairperson Taylor	YES

MOTION APPROVED

(3) Joseph Chekansky, 5486 Silver Street Road, Tax Map #130.00-1-21.6, is requesting the following variances for a 12' x 20' storage shed: a south side yard area variance of 15' from the required 25 ft and a rear yard area variance of 15 ft from the required 30 ft. Reference the Town of Fleming Zoning Code, Bulk & Use Table, R-2 District.

Joseph Chekansky was present and explained that he would like to move the shed away from the leech lines. In the middle of the lawn, it pitches from the leech field. It runs down and everything is pretty wet in spring and fall. Where the 15' would be is a little drier over there. It would also line up with the neighbor's shed, who has no issues with it. Also, the field behind them is pretty much vacant.

Don Arquette questioned what the shed would be used for and Mr. Chekansky replied that it would be used for the lawnmower, snowblower, and kids seasonal toys. Mr. Arquette was concerned about access to the shed without using the right of way. He was informed that the shed is on the south side of the property. Mr. Arquette was okay with that.

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

Chairperson Taylor made a motion to vote on the variance request, seconded by Jason Schenck.

Roll call vote was taken by the Board.

Jason Schenck	YES
Ernie Rivera	YES
Phil DelloStritto	YES
Neal VanLiew	YES
Chairperson Taylor	YES

MOTION APPROVED

(4) Michael Janas, Silver Street Road, Lot #10, Tax Map #137.00-1-5.14 and Lot #11, Tax Map #137.00-1-5.15, is requesting the following variances to make these compliant buildable lots: a minimum lot size variance of 44,250 square feet from the required 76,000 square feet and a minimum lot width variance of 150 feet from the required 175 feet. Reference the Town of Fleming Zoning Code, Bulk and Use Table, R-2 District.

Mr. Janas was present and explained that about 20 years he decided to put in a development and he got approval. So he started selling the lots. He had 2 lots left and the Health Dept stated that he didn't have enough water pressure on those lots. Now he has the water pressure and would like to sell the lots. Chairperson Taylor stated that he was approved for a subdivision on July 13, 1999. At that time, the zoning laws were that you could have 150' frontage and 44,250 sq ft and at that time, he was told that there was not enough water pressure on those two lots. Chairperson Taylor informed the applicant that the Board did receive a letter opposing the variance application from Charles DeGroff.

Chairperson Taylor reviewed the five criteria for granting the area variance with the Board Members on Lot 10.

Chairperson Taylor made a motion to vote on the variance request for Lot 10, seconded by Jason Schenck.

Roll call vote was taken by the Board.

Ernie Rivera	YES
Phil DelloStritto	YES
Neal VanLiew	YES
Jason Schenck	YES
Chairperson Taylor	YES

MOTION APPROVED

Chairperson Taylor reviewed the five criteria for granting the area variance with the Board Members on Lot 11.

Chairperson Taylor made a motion to vote on the variance request for Lot 11, seconded by Jason Schenck.

Roll call vote was taken by the Board.

Neal VanLiew	YES
Ernie Rivera	YES
Phil DelloStritto	YES
Jason Schenck	YES
Chairperson Taylor	YES

MOTION APPROVED

(5) Connie J. Halpin, 2736 Almond Drive, Tax Map #130.05-1-26 is requesting the following variances for a 14' x 8' storage shed: a west side yard area variance of 1.5' from the required 10' and a rear yard area variance of 1' from the required 25'. Reference the Town of Fleming Zoning Code, Bulk & Use Table, R-1 District.

Connie Halpin was present and presented an additional letter from a neighbor in support of her application. She stated that she had approached one of her neighbors about some tools that she was trying to get out of the yard and clean up the area and add on to her existing shed. She indicated that she did not know the laws pertaining to that. So they added on to her existing shed.

Chairperson Taylor indicated that the problem she had was that the Building Codes Officer noticed this and stopped to advise her that she was not in compliance with the setbacks and that she shouldn't continue until she came to the ZBA. Mrs. Halpin indicated that at that point it was 99% done and she then filed an application. Zoning Officer Bill Gabak sent her a letter informing her that she was denied because of the setbacks and also noted that because the setbacks were so close to the property lines, she may be forced to remove the shed. She then proceeded to file an application. She apologized if she misunderstood.

Chairperson Taylor stated that the variance is quite substantial and that it is far too close to the lines. She does realize that the original shed was there before and part of it was that close, but the other part is beyond what the Board would find reasonable. Richard Clark, a neighbor who built the shed, was present and spoke in support of her request. There was discussion of the number of sheds that are not in compliance. Bill Gabak stated that a lot of the sheds were built before the regulations were in place.

Bill Gabak explained that he has to follow the Zoning Code. That is why Mrs. Halpin felt aggrieved and came before the ZBA. Normally they would be arguing this case before the structure was built when there is no time or money involved. In this case, the structure was built before the proper procedures were followed.

There was discussion of how/where the shed could be moved.

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

Chairperson Taylor made a motion to vote on the variance request, seconded by Phil DelloStritto.

Roll call vote was taken by the Board.

Jason Schenck	NO
Phil DelloStritto	NO
Neal VanLiew	NO
Ernie Rivera	NO
Chairperson Taylor	NO

MOTION DENIED

Chairperson Taylor made a motion to adjourn the meeting, seconded by Ernie Rivera. All in favor. Time was 7:07 PM.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals