

Town of Shelby Zoning Board of Appeals
Public Hearing
Shelby Town hall
4062 Salt Works Rd
Medina, NY 14103
April 1, 2014

Board Members Present: Patti Bushover Secretary/Acting Chair
Larry Szatkowski
Linda Fuller

Others Present: Kirk Myhill Chairman Town of Shelby Planning Board, other Planning Board members Present were Karl Snyder, Larry Hill, Gary Berger, and Brad Pask. Applicants Don Kleinsmidt & Joshua Hill, Area residences Peggy Hill, Gail Luckman, Jack Cardone, Arlene Cardon, Landowner Vinnie Cardone. Dominick Cardone & Gerry Velesko

Call to Order: Acting Chairman P Bushover called the Public Hearing to order at 7:15 p.m.

Voice roll call was taken by P Bushover. P Bushover reported that there was a quorum present.

Acting Chairman introduce the board

Old Business: Acting Chairman P Bushover called for Old Business:

No old Business.

New Business: Acting Chairman P Bushover called for New Business:

First Order of New Business: Public Hearing for variance 01-14 250" Frontage, 200" set back from Residence in accordance to Town Zoning Codes 756 A, and 757 L.

Acting Chairman read the Legal Notice (see attachment 1) The ZBA Board Members had viewed the area and had received a site plan. The board members had received the recommendation of the County Planning Board (#14-06 A & B). Upon review the ZBA Board Members notice a discrepancy between the County Planning Board (CPB) recommendation and the Application for Area Variance #01-14 and the Public Notice Published in *The Journal Register* on March 19, 2014. The CPB recommended a 50' variance whereas the Application and the Notice both stated a 100' variance was requested. The ZBA Board voted unanimously to overturn the CPB recommendation on that point only and to go with the Variance request of 100' from Town Code Zoning Laws section 756 A pertaining to the operation of Motor Vehicle Repair Shops. In doing so the applicant will not have to reapply for another Variance. Acting Chair asked if there was any more question from the board or the public hearing none the ZBA Public Hearing was adjourned at 7:30.

LEGAL NOTICE

PLEASE TAKE NOTICE that the Town of Shelby Zoning Board of Appeals will conduct a public hearing on Tuesday, April 1, 2014 at 6:45 p.m. at the Shelby Town Hall, 4062 Salt Works Road, Medina New York, on the application of Don Kleinschmidt for a variance from the requirements of Sections 756 A and 757 L of the Shelby Zoning Local Law relative to property located at 10823 Maple Ridge Road.. The applicant is seeking a 180 foot setback and a 100 frontage variance. The property is located in a General Business District.

At such hearing, all persons, either for or against the same, shall be heard.

Dated: March 14, 2014

SHELBY ZONING BOARD OF APPEALS
CRAIG LACY, CHAIRMAN

Publish once on March 19, 2014

Sent Affidavit of Publication to Town Clerk, Town of Shelby

Town of Shelby Zoning Board of Appeals
Business Meeting
Shelby Town hall
4062 Salt Works Rd
Medina, NY 14103
April 1, 2014

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Larry Szatkowski
Linda Fuller

Others Present: Kirk Myhill Chairman Town of Shelby Planning Board, other Planning Board members Present were Karl Snyder, Larry Hill, Gary Berger, and Brad Pask. Applicants Don Kleinschmidt & Joshua Hill, Area residences Peggy Hill, Gail Luckman, Jack Cardone, Arlene Cardon, Landowner Vinnie Cardone. Dominick Cardone & Gerry Velesko

Call to Order: Acting Chairman P Bushover called the Public Hearing to order at 7:15 p.m.

Voice roll call was taken by P Bushover. P Bushover reported that there was a quorum present.

Acting Chairman introduce the board

First Order of Old Business: No Old business.

New Business: Chairman Lacy Called for New business:

First Order of New Business: was to consider the application for variance 01-14

Submitted by Don Kleinschmidt PO Box 268 Medina, NY 14103. Pertaining to property located at 10823 Maple Ridge Rd Medina The Variance requested is 250' Frontage 200' Set back from residence applicable to Town Zoning Code Section 756 A & 757L.

Acting Chairman P. Bushover asked the ZBA to consider the five factors and state their findings. (See Attachment #1)

Linda Fuller made a motion to grant the requested variances and Larry Szatkowski seconded the motion the motion passed by a unanimous roll call vote.

Reasons being: it will cause no detriment to the health, safety, and welfare of the area. The ZBA farther finds 100' from the Town Zone Code 756 A & 180" 757 L is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health and safety of the community.

No SEQAR was needed because this request is a Type 2 # 12 & 13 set back of a lot line variance request.

Conditions being that the Shelby Code Enforcement Officer would make sure that all Town of Shelby Building Codes are followed

A motion was made and seconded to adjourn the meeting at 7:50p.m.

Next Meeting: May 6, 2014

Respectfully Submitted
Patti Bushover Secretary ZBA
April 1, 2014 Variance 01-14

ZONING BOARD OF APPEALS
AREA VARIANCE FINDINGS & DECISION

Applicant: Don Kleinschmidt
PO Box 268
Medina, NY 14103

Variance No:01-14
Zoning District: GB
Published Notice on: 03-19-2014
Notice to County Sent on: 03-27-2014
Hearing Held On: 04-01-14

Property Location:10823 Maple Ridge Rd Medina
Requirements for which Variance is Requested:
250' Frontage, 200' Setback from Residence
Applicable Section of Town Zoning Code:Section 756A, 757L

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: YES NO **X**
Reasons: **Present Lot is not in use and a business will improve the area**

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:
YES NO **X**
Reasons: **Setback for 180 ft between buildings cannot be changed**

3. Whether the requested variance is substantial: YES **X** NO
Reasons: **over 50% for both**

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: YES NO **X**
Reasons: **Has been used in past has Auto Sales and Commercial Buildings**

5. Whether the alleged difficulty was self-created: YES **X** NO
Reasons: **Developer Knows The Lot Current Constrictions And Need For A Variance and Stills Wishes to Proceed.**

DETERMINATIONS OF ZBA BASED ON THE ABOVER FACTORS:

The ZBA, after taking into consideration the above five factors, find that:

_____ the benefit to the Applicant DOESNOT Outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied.

___**X**___ the benefit to the Applicant DOES outweigh the Detriment to the Neighborhood or Community

Reasons: **There Will Be No Detriment To Area planned Business Will Be An Asset To The Community**

The ZBA further finds that a variance of 100' & 180' from sections 756 A & 757 L of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because.

This will allow the operations of Sales & Service to motor vehicles business

CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impact upon the neighborhood or community, for the reasons following:

Condition No. 1: *All applicable building codes be adhered to*

Adverse impact to be minimized: **Shoddy construction- unsafe Building**

Condition No. 2: **If Not Completed in 12 Months, The Variance Will Sunset.**

Adverse impact to be minimized: **Possibility of Changes in Code**

Patti Bushover 04-01-14
Acting Chairman Zoning Board of Appeals Date

RECORD OF VOTE

| | MEMBER NAME | AYE | NAY |
|--------------|------------------|-----|-----|
| Acting Chair | Patti Bushover | X | |
| Member | Linda Fuller | X | |
| Member | Larry Szatkowski | X | |