

## EDINBURG ZONING BOARD OF APPEALS

### UNAPPROVED MINUTES

November 7, 2024

Date of Meeting

Regular Meeting  
Public Hearings

Kind of Meeting

Frederic Lee, Joe Crean, Judy Sterling  
Donna Novotny and Robert Hartman

Members Presents

None

Members Absent

Mary Beth Walsh, Town Attorney  
Michael Stewart, Code Enforcement Officer  
Jason Kemper, Director, County Planning  
William Ebert, Applicant  
Mr. and Mrs. Robert Day  
Bob Campbell, Saratoga Snowmobile Club  
Richard Ege, Adjoining Neighbor

Others

Chairman Lee opened the meeting at 7 p.m.

**Public Hearing:**      **Application No. 2024-001**  
                             **William Ebert**  
                             **Tax Map No. 81.-2-13.111**  
                             **Area Variance**

Chairman Lee reviewed the Ebert Area Variance application for a 19 foot area variance where 25 feet are required.

Chairman Lee opened the public hearing at 7:02 p.m. and asked for any public comment:

- Richard Ege stated he and Applicant Ebert are neighbors and he is supporting Mr. Ebert's application for an area variance. He stated Mr. Ebert's intention was to lease the property to the Saratoga Snowmobile Club and they would construct a building for equipment.
- Bob Campbell, an officer with the Saratoga Snowmobile Club stated the Club has constructed a maintenance/storage building for two primary pieces of grooming equipment with the permission of the Applicant. It is located close to the entrance of the snowmobile trails which the club maintains. The equipment was used for one month for the past two years due to lack of snow. Board Member Hartman inquired which building on the Ebert property is owned by the club. Mr. Campbell stated it was the brown building on the right hand side of the lot. He further stated the driveway utilized is owned by Mr. Ege.

Chairman Lee closed the public hearing at 7:15 p.m. and asked for any comments or questions from the Board Members:

- Town Attorney Walsh stated Mr. Ege, the adjoining property owner does not have any issue with the building.
- Chairman Lee stated while he understands this is a private, non-for-profit corporation, in the future this could become a large corporation. He wishes the club to continue to be a welcome addition to this area and not cause the Town to become involved in any issues pertaining to the club. He further stated it may be appropriate to set some standards of behavior.
- Applicant Ebert stated he is not disturbed by the sound of the groomer and it can only be heard when he is awake. He has spoken to the club members regarding cleaning the site which he believes will occur within a year. The purchaser of his home is happy that the snowmobile club's operations are located there. He further stated only the groomers of the club are present on the site and not the public.
- Town Attorney Walsh stated the Applicant is appearing before this Board for an area variance and not a use variance. She further stated this is a fair inquiry of what is going to happen in the future. It is important that the neighbors and future purchaser of the Ebert property will be supportive of this building and both Mr. Ege and the purchaser continue to be supportive of it.
- Chairman Lee stated there are complaints about vehicles parking in the area. Mr. Ege, owner of the parking area, stated this area is private and no snowmobilers park in the area in question. If parking becomes an issue in the future, it can be referred to Code Enforcement.
- Mr. Campbell stated there are four snowmobile clubs in the area. The Saratoga Snowmobile Club operates from December 15 to the end of March dependent on the weather (i.e. in 2023-24 there were only six weeks of snowmobiling). He further stated this club is always sensitive to noise and the new owners may not want groomers to operate after 11 p.m. He stated there are 74 private landowners who allow the club to use their property. These property owners can withdraw their property use at any time with no questions asked.
- Interim CEO Stewart stated in light of the fact this is a restrictive residential use, a change of use, for example a battery factory, would be required to obtain a use variance and also be subject to fire code regulations for the storage of fuel.
- Chairman Lee stated he wished to protect the town and its property owners against any future problems.

The following criteria was reviewed by Board Members:

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: All Board Members agreed it would not.
- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: All Board Members agreed it could not.

- Whether the requested area variance is substantial: Four of the five Board Members agreed it was but could not be achieved in any other way. Board Member Novotny stated it was not substantial.
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: All Board Members agreed it would not.
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance: Four Board Members and Town Attorney Walsh stated it was. Board Member Novotny stated it was not self-created.

Discussion ensued of the following:

- The Applicant stated the only fuel storage was a 275 gallon diesel fuel tank for the maintenance equipment and there would not be any oil changes done here.
- Town Attorney Walsh stated the Applicant gave the club permission to construct the storage building and followed the procedures outlined by the former CEO.
- Mr. Campbell stated he agreed with Town Attorney Walsh that these were extenuating circumstances and requested that the Board Members take that into consideration.

Board Member Novotny made the following motion:

BE IT RESOLVED Application No. 2024-001, William Ebert, Tax Map No. 81.-2-13.111, side yard setback area variance of 19 feet where 25 feet are required is granted. Board Member Sterling seconded the motion. All in favor, none opposed. Carried: 5-0

**Public Hearing:      Application No. 2024-002**  
**Robert and Christi Day**  
**Tax Map No. 54.17-1-42**  
**Area Variance**

Applicant Robert Day reviewed his application:

- He is requesting a front yard area variance of 22 feet where 25 feet are required to construct an 8 x 10 addition for a larger bathroom to his existing structure.
- He has owned the property with the existing structure for 32 years with plans on full time residency in the future since he is now retired. He provided a survey map and sketch of the planned addition which would be in line with the existing porch and not be any closer to the property line. This bathroom addition would allow more space for closets, etc. He will also cover the existing porch.
- He cannot locate an addition in any other area of the house because there is an existing driveway on one side and the existing septic system located in the rear.

Chairman Lee opened the public hearing at 7:25 p.m. and asked for public comment. There was none. The public hearing was closed at 7:26 p.m.

Chairman Lee asked for any comments or questions from the Board Members:

- Board Member Novotny inquired to the exact location of the parcel. The Applicant explained it was on the second Lakeland Road off North Shore Road.
- Board Member Hartman inquired how far the addition would be from the edge of the Lakeland Road. The Applicant stated it would 16-18 feet from the edge of the blacktop road. He further stated the road is approximately 19 feet wide.
- The Applicant stated the existing structure is four feet below grade from Lakeland Road.
- Board Member Sterling stated the map is not accurate. The porch is an enclosed and part of the house.
- Town Attorney Walsh stated this is a pre-existing, non-conforming structure.
- Board Member Hartman inquired of Town Attorney Walsh that if this Board approves this variance would they be setting a precedent. Town Attorney Walsh stated it would not set a precedent as all situations are different and stand on their own merit. Board Member Hartman inquired if an application with a similar set of circumstances would have to also be approved. Town Attorney Walsh stated they would not. Regarding this application, this public hearing was noticed but no one appeared to state an opposition to the variance. Town Attorney Walsh inquired if any letters or comments were received regarding granting variance. The Secretary stated no one contacted the Town Hall or were any letters received regarding this variance.
- Board Member Crean inquired if there are any other parcels in this area with structures closer than 25 feet from the roadway. The Applicant stated his neighbor's structure is on the property line and there are other structures in the area within the 25 foot setback requirement. Board Member Novotny stated the structure is not going any closer than any other part of the existing structure.
- Board Member Sterling inquired about building permits being required if a porch is enclosed on three sides with a roof and if this is considered as extending the living area. Interim CEO Stewart stated if the deck was existing and the property owner wanted to build up, it would require a variance. If a variance was granted for a property owner to build a deck closer to the property line and it was allowed, the Board may want to add a condition that the deck cannot be enclosed or built up.

The following criteria was reviewed by Board Members:

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance: All Board Members agreed it would not.
- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: All Board Members agreed could not.
- Whether the requested area variance is substantial: All Board Members agreed is it but it does not preclude granting it.
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: All Board Members stated it would not and conforms with other existing structures in the area.
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals but shall not necessarily preclude the granting of the area variance: All Board Members agreed it would not since it has existed for 32 years

and the Applicant was only made aware of the setback when he applied for a building permit. Board Member Sterling stated she believed that the area variance would be too substantial in light of the number of parcels that would have the same issue if they wished to add on to their existing parcel and she does not wish to set a precedent. Town Attorney Walsh stated it would not set a precedent but each Board Member has an independent vote.

Board Member Hartman made the following motion:

BE IT RESOLVED Application No. 2024-002, Robert and Christi Day, Tax Map No. 54.17-1-42, front yard area variance of 22 feet where 25 feet are required is granted. Board Member Novotny seconded the motion. Carried: 4-1 (Sterling).

**Approval of Minutes:**

Board Member Hartman made the following motion:

BE IT RESOLVED the minutes of the January 4, 2024 meeting are approved. Board Member Sterling seconded the motion. All in favor, none opposed.

Board Member Sterling made the following motion:

BE IT RESOLVED the minutes of the October 17, 2024 meeting are approved with the following correction: Page 1 “Sacandaga Snowmobile Club” change to “Saratoga Snowmobile Club”. Board Member Hartman seconded the motion. All in favor, none opposed. Carried: 5-0.

**Old Business:** None.

**New Business:** Interim CEO Stewart stated he is anticipating several area variance applications.

**Ebert Area Variance Application:** Chairman Lee stated his reason for pursuing questions in the matter of this application was in regard to “not for profit” status and how it can be misunderstood. Non-for-profit businesses often interact with other businesses and this interaction can bring factors into the operation of the non-for-profit which were unanticipated.

Board Member Novotny made a motion to adjourn the meeting at 7:41 p.m. Board Member Hartman seconded the motion. All in favor, none opposed. Carried: 5-0

Respectfully submitted,

Diane Byrne  
Secretary