

# EDINBURG ZONING BOARD OF APPEALS

January 4, 2024

Date of Meeting

Regular Meeting  
Public Hearing

Kind of Meeting

Sharon Leighton, Joe Crean,  
and Robert Hartman

Members Presents

Judy Sterling and Donna Novotny

Members Absent

Mary Beth Walsh, Town Attorney  
Steven Cimino, Applicant

Others

## **Regular Meeting:**

Chairwoman Leighton opened the meeting at 7:06 p.m.

## **Approval of Minutes:**

Board Member Hartman made the following motion:

BE IT RESOLVED the minutes for the November 2, 2023 meeting are approved.  
Board Member Cream seconded the motion. All in favor, none opposed. Carried: 3-0.

Chairwoman Leighton made the following motion:

BE IT RESOLVED the minutes for the September 7, 2023 meeting eliminated references to second owners named Thomas and Christine Armstrong, Tax Map No. 68.17-2-59, when the boundary line adjustment was only between Tax Map No. 68.17-2-2, Thomas and Kristen Armstrong. Board Member Hartman seconded the motion. All in favor, none opposed. Carried: 3-0.

## **Public Hearing:**

**Application No. P05-23**  
**Steven Cimino/Frey**  
**Tax Map Nos.: 54.17-2-26, 54.17-2-40**  
**and 54.17-2-66.1**  
**Area Variances**

Chairwoman Leighton re-opened the public hearing at 7:08 p.m.

Chairwoman Leighton stated the missing information regarding septic systems and well locations were added to the survey map by the Van Dusen and Steves Land Surveyors on November 6, 2023 as requested by this Board and Saratoga County Planning.

Town Attorney Walsh stated deeds were filed on the proposed lots with Saratoga County Real Property who in turn notified the Town of Edinburg that no map was filed with the deeds and of the possibility of an illegal subdivision. Applicant Cimino stated his lawyer's office filed the deeds. Town Attorney Walsh confirmed she had spoke to the law office; the deeds were filed prior to the Applicant completing the application process by the law office; and, the law office did not believe there would be an issue with that filing.

Chairwoman Leighton stated this application was deemed complete at the September 7, 2023 meeting and was referred to Saratoga County Planning as required by New York Municipal Law Section 239-m and no final decision was rendered as the survey map was missing information required by the Town of Edinburg Land Ordinance.

The Board reviewed the filed map with the following comments:

- Applicant Cimino located all the adjoining neighbors' wells and septic systems with the exception of one neighbor who did not want to reveal his septic location.
- Applicant Cimino stated a demolition permit is required for the removal of some of the existing structures. Town Attorney Walsh stated those buildings which have been or will be removed must be removed from the survey map.

Board Member Crean stated the Ordinance requires 1.3 acres in order to be compliant and each of these lots are substantially under that requirement. Town Attorney Walsh stated the two proposed lots are pre-existing, non-conforming parcels and are being increased in acreage. These parcels are located in an area where many parcels are substantially undersize. Board Member Hartman inquired if it made a difference if a mobile home was being replaced by a house. Town Attorney Walsh stated that would fall under the purview of the Planning Board and they would allow one primary residence on each parcel. She further stated the relief this Applicant is looking for are area variances for the undersize lots on which he proposes to build new and improved structures.

Applicant Cimino stated it is his intention to upgrade his septic system with a 1000-gallon tank and would retain an engineer for oversight of this project. He further stated he currently has a well on his parcel, Tax Map No. 54.17-2-26. He reached out to CEO Anthony for any permits for wells in his area and there were no records or permits.

Chairwoman Leighton stated there will be two separate criteria reviews of each parcel.

The following criteria was reviewed by Board Members for Tax Map No. 54.17-2-26:

- 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: The

Board agreed it would not as there are many pre-existing, non-conforming developed lots in this area.

- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: The Applicant attempted to purchase other properties to develop but could not. The Board agreed it could not be achieved by another method on this parcel.
- Whether the requested area variance is substantial: It is substantial consisting of only  $\frac{1}{4}$  acre. This parcel is currently .23 acres and will increase to .27 acres. Town Attorney Walsh stated the Town of Edinburg is attempting to achieve more conformity; an orderly way to develop the town; and the Applicant is not requesting any setback variances in spite of the size of the parcel.
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: It would not have an adverse effect or impact. There is now a record of well and septic systems so adjoining neighbors will not be adversely affected. The Applicant stated the well is 45 to 50 feet from the current septic system which he previously stated would be replaced. A waiver from the New York State Department of Health for the distance requirement will be obtained. It was also noted from Saratoga County Planning comments the existing well may be partially located within the County right-of-way. The Applicant stated the existing dug well will be replaced with a drilled well.
- 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 was not self-created and many parcels located in this area have pre-existing, non-conforming developed lots.

Board Member Hartman made the following motion:

BE IT RESOLVED Application No. P05-23, Steven Cimino/Frey, Tax Map No. 54.17-2-26 and 54.17-2-66.1 (Frey) Area Variance is granted to increase the parcel size from .23 acres to .27 acres by way of a boundary line adjustment from Frey parcel, Tax Map No. 54.17-2-66.1. This being contingent upon all corrections being made regarding existing structures appearing on the survey map and demolished structures being removed from the survey map dated November 6, 2023; a waiver be obtained from the New York Department of Health for distances from septic systems and wells; and the new primary residence meet the Ordinance requirement of 1,250 square feet. Board Member Crean seconded the motion All in favor, none opposed. Carried: 3-0.

The following criteria was reviewed by Board Members for Tax Map No. 54.17-2-40:

- 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 would not.

- Whether the requested area variance is substantial: It was agreed it was substantial as reviewed in the criteria for Tax Map No. 54.17-2-26.
- 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 was not. The Applicant stated the existing dug well and septic system are 80 to 90 feet apart. This would require a waiver from the New York State Department of Health if a new well and/or septic system replaces the existing well and/or septic system. The Applicant stated an existing structure was demolished because it was partially on the Frey parcel. This structure currently exists on the latest survey map dated November 6, 2023 and this structure and any other structures which have been demolished will be corrected on the next version of the survey map.
- 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 was not self-created.

Board Member Hartman made the following motion:

BE IT RESOLVED Application No. P05-23, Steven Cimino, Jr. /Frey, Tax Map No. 54.17-2-40 and 54.17-2-66.1 (Frey), Area Variance is granted to increase the parcel size from .25 acres to .29 acres by way of a boundary line adjustment from Frey parcel, Tax Map No. 54.17-2-66.1. This is contingent upon all corrections being made regarding existing structures only appearing on the survey map dated November 6, 2023; a waiver be obtained from the New York Department of Health for distances from septic systems and wells; and any new primary residence meet the Ordinance requirement of 1,250 square feet. Chairwoman Leighton seconded the motion All in favor, none opposed. Carried: 3-0.

Chairwoman Leighton stated the purpose of the Town of Edinburg Land Ordinance requirements is to have consistent findings.

**Old Business:** None

**New Business:** None

Board Member Crean made a motion to adjourn the meeting at 8 p.m. Board Member Hartman seconded the motion. All in favor, none opposed. Carried: 3-0.

Respectfully submitted,

Diane Byrne  
Secretary