

**Zoning Board of Appeals Public Hearing and
Regular Meeting Minutes, (November 11, 2020)**

Held via Zoom at 7:00 PM

Present: Chair Karen Hindenlang, Alexis Boyce, Laura Holland, and Jeri Vargo

Others Present: Village Clerk Ann Balloni and local resident Ken Kabelac

Public Hearing

Call to Order: Ms. Hindenlang called the Public Hearing for Application #20-17 to order at 7:01 p.m.

Ms. Hindenlang explained that the appeal request is for a 7'x7' shed, 6' from the rear and side lot lines in the north west corner of the property, requiring a 4' variance. Ms. Hindenlang asked the applicant if he had any additional comment and Mr. Kabelac did not.

Zoning Inspector, John Greer, read Code Enforcement Officer, Patrick Doyle's, letter of denial (attached), confirming that the application does not meet the 10' rear and side setback requirements in the Village Zoning Law.

Mr. Greer reviewed all documents, met with Mr. Kabelac and attended a site visit of the property with Ms. Hindenlang on October 26, 2020 at 3:00 pm in preparation for the public hearing.

Ms. Hindenlang remarked that a barn on an adjacent property is 2' from the rear lot line and extends about 21' along the border. Ms. Hindenlang added that the barn was grandfathered in when the zoning law went into effect and confirmed with Mr. Greer that there is 8' between the two structures, meeting fire code requirements per Mr. Greer.

Ms. Hindenlang noted that a Short Environmental Assessment Form is included with Application #20-17, per the State Environmental Quality Review Act (SEQRA), but the project is a Type 2 Action requiring no further environmental review.

Public Comment

Tom Gunderson: Mr. Gunderson submitted an email (attached) stating that he has no objections to Mr. Kabelac's application.

Jeri Vargo: Ms. Vargo submitted an email (attached) stating that she has no objections to Mr. Kabelac's application.

Anne Brodie: submitted an email (attached) stating that she has no objections to Mr. Kabelac's application.

Ms. Hindenlang noted that a tax map, not a survey, was submitted for the project. Though surveys are requested for appeal applications, Mr. Kabelac explained that he has owned the

property since 1984 and the original iron stakes are still clearly visible denoting property lines. Ms. Hindenlang and Mr. Greer confirmed the presence of the stakes and the Board accepted the tax map as adequate documentation of the property for the project.

Ms. Holland questioned a separated 20' x 40' lot located within the tax map. Mr. Kabelac explained that it was the site of the transformer that was moved to Dublin Hill Road. Mr. Kabelac owns the property but it is considered a separate, vacant parcel.

On motion by Ms. Vargo, seconded by Ms. Holland, the ZBA voted to close the public hearing for Application #20-17 at 7:12 pm.

Ms. Hindenlang called the regular meeting to order at 7:13 pm.

Mr. Greer left the meeting at 7:13 pm.

Changes to the Agenda: No changes

Approval of Minutes: On motion by Ms. Boyce, seconded by Ms. Vargo, the ZBA voted to approve the minutes of October 14, 2020.

AYES: Hindenlang, Boyce, Holland, and Vargo

NAYS: None

Motion carried.

Announcements: Ms. Hindenlang discussed the ZBA's request for an appeal fee with Mayor Bennett. The Village Board of Trustees tabled discussion of the request pending review of the fee schedule for all applications/permits.

Old Business: No Old Business was discussed.

New Business

Ms. Vargo recused herself from the discussion as an interested party/adjacent property owner and left the meeting at 7:19 pm.

The ZBA reviewed the five criteria when considering area variances and discussed the following:

Can the objective be achieved by another feasible method? Ms. Boyce remarked that the shed could be placed elsewhere on the property, not requiring a variance. Ms. Holland noted that the location is also a landscaping issue and aspects such as trees, a barn and exposure factored into Mr. Kabelac's decision. Ms. Hindenlang noted that the applicant's objective was not just to have a shed, but to place the shed "as to not stick out in the yard." The preferred location will only be partially visible from the street, not in the open. Ms. Boyce acknowledged Mr. Kabelac's reasoning but questioned if it is a "matter of convenience."

Tax Parcel Number: Section: #182.13-1-10
RESOLUTION--DECISION ON AREA VARIANCE

Application # 20 - 17

At a regular meeting of the Village Zoning Board of Appeals of the Village of Aurora, in Cayuga County, held via Zoom, on the 11th day of November, 2020, at 7:13 P.M., prevailing time, the meeting was called to order by Karen A. Hindenlang, Chair, and upon roll being called, the following were:

PRESENT: Laura Holland, Alexis Boyce, Karen Hindenlang, and Jeri Vargo (later recused)
ABSENT: none

The following resolution was offered by Board Member Alexis Boyce who moved its adoption, and seconded by Board Member Laura Holland, to wit:

WHEREAS, the Zoning Board of Appeals of the Village of Aurora received an application from Ken Kabelac for two variances of Section 405.P1.A.3c of the Zoning Law of the Village of Aurora to permit the placement of a 7' by 7' shed (unattached accessory structure) in the north-west rear corner of the property at 47 Cherry Avenue, to be positioned 6' from the rear/north lot line and 6' from the side/west lot line, which would encroach 4' into the 10' setback area required for both the side and rear lot lines, and

WHEREAS, in connection with such application, the Zoning Board has received and reviewed an application from Mr. Kabelac signed October 6, 2020, which included supporting materials and a completed Short Environmental Assessment Form under the SEQRA; conducted a site visit on October 26, 2020 with the ZBA Chair and Village Zoning Inspector; held a public hearing on November 11, 2020, and received comments thereat from Zoning Inspector John Greer, as well as neighboring property owners Tom Gunderson, Ann Brodie and Jeri Vargo, and

WHEREAS, after review, the Zoning Board has weighed the effects of the requested variance on the health, safety, and welfare of the neighborhood and community, and made the following findings:

- A. The requested variances will not create an undesirable change in the character of the neighborhood or detriment to nearby properties in that the shed is in keeping with the character of the neighborhood, is not prominently positioned on the property, and is in keeping with the existing built and natural environment;
- B. The benefits sought by the applicant cannot be achieved by some other feasible method due to landscaping elements and existing structures, although this may be more a matter of convenience;
- C. The requested variances are not substantial in that the incursion is 40% (4 feet of the required 10 foot setback) along a small portion of the lot lines, i.e. 3.8% of the north lot line and 7.5% of the west lot line.
- D. The proposed variance will not have an adverse effect or impact on the physical and environmental conditions of the neighborhood or district because it will not affect traffic, it will not produce noise or odor, it does not impinge on wetlands or waterbodies, it is not in an archaeologically sensitive area, and it will not produce storm water discharge. and
- E. The alleged difficulty was self-created because the appellant wishes to have more storage space.

NOW, THEREFORE, BE IT RESOLVED that the application of Ken Kabelac for approval of two variances (described above) of Section 405.P1.A.3c of the Zoning Law of the Village of Aurora is hereby granted for the reasons stated in items A through E above, subject to the following conditions: none.

The question of the foregoing resolution was duly put to a vote as follows:

Laura Holland - Aye

Alexis Boyce - Aye

Karen Hindenlang - Aye

Dated: November 11, 2020 , Aurora, New York

By order of the Zoning Board of Appeals of the Village of Aurora (signed copy attached)

Adjournment: On motion by Ms. Boyce, seconded by Ms. Holland, the ZBA voted to adjourn the meeting at 7:50.

AYES: Hindenlang, Boyce, and Holland

NAYS: None

Motion carried unanimously.

Respectfully submitted,

Ann Balloni
Village Clerk