

**TOWN OF SWEDEN
Zoning Board of Appeals
Minutes – June 16, 2016**

A meeting of the Zoning Board of Appeals of the Town of Sweden was held at the Town Offices, 18 State Street, Brockport, New York on June 16, 2016, commencing at 7 p.m.

Members present: Frank Fisher, Kevin Johnson, Pauline Johnson, Peter Sharpe, Mary Ann Thorpe.

Also present: Nat O. Lester, III, ZBA Counsel, Jack Milner.

Chairperson Thorpe called the meeting to order at 7 p.m.

Application of Jack and Beverly Milner, 15 Ogee Trail, Brockport, New York, for an area variance. Applicants are proposing to install a storage shed on their property. The storage shed will be located on the northeast corner of the property and have a side setback of two (2) feet from the adjacent neighbor's property. Town of Sweden Ordinance Chapter 175-36, R1-2 One-Family Residential Districts, D, Lot and area requirements shall be as follows: (1) Specific requirements, (c) Required setbacks, **[3] Side: 10 feet**. The property is owned by John and Beverly Milner, tax account number 084.05-6-12.

15 Ogee Trail

Mr. Milner explained how the variance request started and how the best location was determined. He initially met with Steve Lauth and Mike Vergari from the Building Department for guidance and advice as to how to determine what the setback was. It was determined that if the proposed location was between the trees, a variance request would be required.

Mr. Milner spoke with all of his neighbors and no one had any objections to the variance. He understands that neighbors change and opinions may change too, and that the variance runs with the land.

Mr. Milner indicated that for the ZBA members who were able to visit the property, they would see that it is well taken care of with a lot of gardens in place. Mr. Milner added that while the variance seems large, the property will always be well maintained as long as he owns it.

Mrs. Pauline Johnson confirmed that Mr. Milner has been mowing over his property line. Mr. Milner stated yes, the shape of his property is odd and the boundary lines are hard to determine. The lot is wide at the front of the house and narrows toward the back. He added the evergreen trees on the lot were planted several years ago, and the proposed shed will be placed between those trees. How far is the proposed shed from the rear lot line? Mr. Milner stated besides the odd shaped lot, there is an easement that runs along the back of the property. He understands he can build in an utility easement at his own risk. Mr. Milner believes the rear setback will be okay, it is just the side setback that is short.

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Mr. Sharpe clarified that the two foot setback will not stay that measurement because of the odd shape of the property; it will increase heading towards the house.

Mr. Milner addressed the five criteria of an area variance.

- There will not be an undesirable change to the neighborhood. Mr. Milner's property is well maintained. The shed will have vinyl siding and blend in nicely with the house.
- The benefit cannot be achieved by some other method unless it is moved to another area where there are flower gardens. The best place is where it is proposed between the trees, least obtrusive. The Board explained that it could be achieved by another method based on the above. Usually, the reasons it cannot are if there is a septic system, well or elevation issue preventing it from being placed at a location.
- The variance is substantial. Mr. Milner stated two feet is probably substantial; he wasn't aware of the required setbacks. He added he will still be able to mow between the shed and the lot line.
- There won't be an adverse effect on the environment because the proposed location is the least obtrusive.
- The variance is self-created. Mr. Milner stated that is a difficult one because if the shed isn't installed or installed at a different location, the variance wouldn't be required.

Mrs. Pauline Johnson explained that the shed is a rectangle and the property line is slanted; could the shed be put at a different angle. She understands why the location was chosen, but a variance runs with the land. What if one of the trees dies and exposes the shed more clearly, it could become an eyesore to a new neighbor. Or, what if Mr. Milner should sell his property and relocate the shed to his new home. The new owner could install a different size and/or less attractive shed because of the variance granted.

Mr. Fisher calculated that the distance would increase by 21 inches with the existing slope of the boundary line. The change in distance was discussed. Pictures taken by Mr. Milner were distributed and reviewed.

Attorney Lester explained that the ZBA is trying to determine, based on the answers to the above criteria, whether the variance should be denied or approved.

The Clerk stated 62 notices were mailed to the neighbors and no one appeared for or against the variance or stopped into the office.

Mrs. Pauline Johnson explained that a variance was requested by Lifetime Assistance in the same neighborhood for the location of a shed. The shed could have been put at another location, which made it self-created, and it was denied.

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Mr. Milner wasn't sure if the shed could be installed at an angle, which would make a difference. Chairperson Thorpe asked if the garden on the other corner could be relocated. Mr. Milner stated no, there are a lot of blocks located there. To reduce the size of the shed even smaller would almost make it not worthwhile. Mr. Milner would consider an 8 ft. x 14 ft. shed if that would help the Board with its decision.

Mr. Fisher believes that the dimensions may be inaccurate. The tree trunk alone is two feet wide. The side lot line was estimated; a survey map was not used. Are there stakes located in the corners of the property? Mr. Milner wasn't sure where or if there are stakes.

Do any of the neighbors have a survey map? The ZBA needs a specific measurement in order to grant or deny the variance. Mr. Milner doesn't think it would be worth it to pay to have his property surveyed after paying \$300 for the variance request.

Mr. Sharpe reiterated the same thoughts as Mr. Fisher that the distance from the lot line is greater than two feet, the size of the trunk is at least two feet and if a smaller shed is placed closer to the second tree, the variance would be for a lot less than eight feet.

Attorney Lester explained that a more specific measurement is needed; otherwise, when and if Mr. Milner's house is ever sold, there could be issues when a survey is completed. Mr. Milner added that the shed will be a movable structure so if any issues arise at the time of sale, the shed can be relocated.

The Board requested Mr. Milner to get a specific measurement either by survey, from a neighbor's survey map, or from finding one of the property stakes so that a more informed decision can be made by this Board.

Mr. Milner would like to get a more accurate measurement. Mr. Fisher was able to mathematically figure that the distance from the side lot line is greater than two feet.

Moved by Mrs. Pauline Johnson, seconded by Mr. Sharpe, that the public hearing be adjourned to June 30, 2016, at 7 p.m.

Frank Fisher – Aye
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Chairperson Mary Ann Thorpe - Aye

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Moved by Mrs. Pauline Johnson, seconded by Mr. Fisher, that the minutes of June 2, 2016, be approved.

Frank Fisher – Aye
Kevin Johnson – Aye
Pauline Johnson – Aye
Peter Sharpe – Aye
Chairperson Mary Ann Thorpe - Aye

NOTE: The applicant withdrew his application on June 28, 2016. Therefore, the adjourned public hearing, which was scheduled to reconvene on June 30, 2016, was cancelled. No further action to approve or deny the variance request is required.

Respectfully submitted,
Phyllis Brudz
Clerk to Zoning Board of Appeals