



TOWN OF SOUTHPORT

1139 Pennsylvania Avenue
Elmira, NY 14904

*Minutes Approved
by Board of Appeals
4/18/2018*

ZONING BOARD OF APPEALS
WEDNESDAY, MARCH 21, 2018
7:00 PM

PUBLIC HEARING
NICHOLAS TOBEY
250 ROBERT STREET, ELMIRA, NY 14904

PUBLIC HEARING (cancelled – February 27, 2018 & March 21, 2018)
MATTHEW KERWIN, BARCLAY DAMON, O/B/O,
UP STATE TOWER CO, LLC & BUFFALO-LAKE ERIE WIRELESS SYSTEMS

Minutes of the Zoning Board of Appeals, Town of Southport held at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York on March 21, 2018 at 7:00 p.m.

Item No. 1 - Call to Order

Attendance

Board Members Present: James Gensel
Daniel Williams
John Arikian
Deborah Eames
Justin Faulkner

Board Member Absent: Susan Silvers, Alternate Member

Others Present: Peter Rocchi, Town Code Enforcement Officer
Bonnie Balok, Secretary-Zoning Board of Appeals

Others Absent: Leslie Mauro, Town Attorney

Item No. 2 – Approval of Minutes of February 27, 2018

Chairman Gensel advised voting on the Minutes of February 27, 2018, concerning Mr. DiPetta, will be tabled so that he has an opportunity to review the minutes with Attorney Mauro.

Item No. 3 – New Business

Public Hearing – Nicholas Tobey

Attendance: Applicants Nicholas Tobey and Casey Harvey

Chairman Gensel called the meeting to order and advised the public hearing is being held for Nicholas Tobey, 250 Robert Street, Elmira, NY 14904, concerning an area variance at 250 Robert Street, Elmira, NY 14904 to expand the existing driveway to the left to allow for two (2) parking spaces, side by side, at 250 Robert Street, Elmira, NY 14904, as per Section 525-11-A)1) (3)-Outside Storage of Certain Vehicles, Equipment or Materials, Town Code, Town of Southport, County of Chemung. The property is located in a R3 zone and is commonly known as 250 Robert Street, Elmira, NY 14904, Tax Map 109.07-3-48, and

Mr. Tobey provided a paid receipt and Affidavit of Publication from the “Star-Gazette” providing proof of publication of the legal notice; Mr. Rocchi reviewed the documents, advised they were in order and turned them over to Secretary Balok to be included in the Tobey permanent file.

Mr. Tobey advised he wanted to expand the driveway nine feet (9’) for a total of eighteen feet (18’). The law requires that a vehicle on Robert Street has to be parked in the existing driveway. The Town of Southport Highway Superintendent approved the roadway cut and there is no space on other side. Further, there are safety concerns because the neighbor almost hit Mr. Tobey’s truck. There is only three feet (3’) on the other side of the house, and the hydrant is right near the expansion. The Elmira Water Board moved the hydrant, but Mr. Tobey parks way past the hydrant. Discussion took place concerning the width of a car--- eight and one-half feet (8 ½’) and dimensions of a parking space --- twelve feet (12’) wide and nine feet (9’) long. The parking would be utilized by the residents of the house. Parking is not allowed on the road as per the signs and Mr. Tobey has received a notice from the Town for a code violation. It was also noted that the Southport Fire Department pays out of their budget to maintain the area.

Chairman Gensel suggested that Mr. Tobey provide answers to the five (5) area variance questions and then the hearing could be opened to the public. Five questions reviewed and responded to by Mr. Tobey as follows:

Q1. Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance?

A: *Mr. Tobey – Don’t believe so; this will look more appealing and every other house has same thing.*

Q2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

A: *Mr. Tobey – No, there isn’t any other possible option.*

Q3. Whether the requested area variance is substantial?

A: *Mr. Tobey – Not sure how to answer.*

Q4. Whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

A: *Mr. Tobey – Don’t believe so; asking what neighbors have already.*

Q5. Whether an alleged difficulty of compliance with the zoning requirement was self-created, which is relevant to the decision but shall not necessarily preclude the granting of the area variance?

A: *Mr. Tobey – No,*

Chairman Gensel opened the hearing to the public portion of the meeting advising anyone speaking should provide their name and address. Seeing no one in attendance, the public hearing portion was closed.

The Board reviewed the five (5) area variance questions as follows:

Q1. Whether an undesirable change will be produced in the character of the neighborhood or community or a detriment to nearby properties will be created by the granting of the area variance?

A: *Yes 0 No 5*

Item No. 3 – New Business (continued)

Public Hearing – Nicholas Tobey

Q2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance?

A: Yes 0 No 5

Q3. Whether the requested area variance is substantial?

A: Yes 0 No 5 Over fifty percent (50%) considered substantial

Q4. Whether the proposed area variance will have an adverse affect or impact on the physical or environmental conditions in the neighborhood or district?

A: Yes 0 No 5

Q5. Whether an alleged difficulty of compliance with the zoning requirement was self-created, which is relevant to the decision but shall not necessarily preclude the granting of the area variance?

A: Yes 5 No 0

SEQR form, Part 2 (Short Form) completed and on file in Tobey permanent file.

(Q 1-11 No; Negative Environment Impact).

Mr. Williams made a motion to approve the completed SEQR’ seconded by Mr. Faulkner, Unanimously approved,

Mr. Williams made a motion to approve the area variance with the condition that this is approved by the Town for the driveway entrance (notch of pavement one and one-half feet (1 ½’); Seconded by Ms. Eames. Variance granted unanimously with condition

March 21, 2018 – Tobey Public Hearing Adjourned: 7:30 pm.

Original on File:

- C: Town Clerk
- Board of Appeals
- Town Board
- Planning Board
- Town Supervisor
- Town Clerk
- Town Attorney
- Town Assessor
- Town Code Enforcement Officer
- Applicant: Nicholas Tobey, 250 Robert Street, Elmira, NY 14904
- Casey Harvey, 653 Draht Hill Road, Elmira, NY 14901

Item No. 3 – Old Business

Chairman Gensel advised the Town hasn't received anything from Up State Tower Co, Llc & Buffalo-Lake Erie Wireless Systems. The company has not paid a bill and the Board may not see them for a while. The company has been unresponsive and the information they have provided is not sufficient. This is an incomplete application. The Board has been waiting on them and it has been two (2) months since the Board has heard from them.

Item No. 5 - Discussion

No further discussion.

Item No. 6 – Adjournment

Mr. Williams made a motion to adjourn; seconded by Mr. Faulkner. Adjournment unanimously approved.

Meeting Adjourned: 7:35 pm

Original on File:

C:

Town Clerk
Board of Appeals
Town Board
Planning Board
Town Supervisor
Town Clerk
Town Attorney
Town Assessor
Town Code Enforcement Officer
Nicholas Tobey, 250 Robert Street, Elmira, NY 14904
Casey Harvey, 653 Draht Hill Road, Elmira, NY 14901

Bonnie Balok, Secretary-
Zoning Board of Appeals,
March 22, 2018

*Minutes Approved
by Board of Appeals
4/18/2018*

**ZONING BOARD OF APPEALS
TOWN OF SOUTHPORT, COUNTY OF CHEMUNG, STATE OF NEW YORK**

**RESOLUTIONS
2018**

RESOLUTION NO. 7

AREA VARIANCE APPROVED

| | | |
|-------------|--|----------------------------------|
| PROPERTY: | TAX MAP 109.07-3-48, COMMONLY KNOWN AS 250 ROBERT STREET | ZONED R3 ELMIRA, NY 14904 |
| APPLICANT: | NICHOLAS TOBEY 250 ROBERT STREET | ELMIRA, NY 14904 |
| OWNER: | JEFFREY & CASEY HARVEY 653 DRAHT HILL ROAD | ELMIRA, NY 14901 |
| RESOLUTION: | WILLIAMS | SECONDED: EAMES |

WHEREAS, Nicholas Tobey, 250 Robert Street, Elmira, NY 14904 applied for an area variance at 250 Robert Street, Elmira, NY 14904 to expand the existing driveway to the left to allow for two (2) parking spaces, side by side, at 250 Robert Street, Elmira, NY 14904, as per Section 525-11-A (1) (3)-Outside Storage of Certain Vehicles, Equipment or Materials, Town Code, Town of Southport, County of Chemung. The property is located in a R3 zone and is commonly known as 250 Robert Street, Elmira, NY 14904, Tax Map 109.07-3-48, and

WHEREAS, the Town of Southport Zoning Board of Appeals held a public hearing on March 21, 2018 at 7:00 p.m, or as soon thereafter as it could be heard, at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York, with no one voicing concerns for or against the proposal, and

WHEREAS, this matter was submitted to the Chemung County Planning Board and thirty (30) days has expired with the Board taking no action on the matter, and

WHEREAS, upon deliberation, consideration and discussion, and following inspection of the property, the members of the Zoning Board of Appeals were of the opinion that an area variance should be granted allowing an area variance to expand the existing driveway to the left to allow for two (2) parking spaces, side by side, at 250 Robert Street, Elmira, NY 14904, with the condition that this is approved by the Town for the driveway entrance (notch of pavement one and one-half feet (1 ½'), and

NOW THEREFORE BE IT RESOLVED, that an area variance be granted to Nicholas Tobey, 250 Robert Street, Elmira, NY 14904 with respect to 250 Robert Street, Elmira, NY 14904, Tax Map 109.07-3-48 and the Building Inspector of the Town of Southport be and hereby is authorized to issue a permit for said use.

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| Ayes: | Arikian, Eames, Faulkner, Williams, Gensel |
| Noes: | None |
| Carried. | Area variance granted. |

February 27, 2018

*Resolution for Minutes of March 21, 2018 - Tobey
Approved by Board of Appeals April 18, 2018*