



TOWN OF SOUTHPORT

1139 Pennsylvania Avenue
Elmira, NY 14904

*Minutes Approved
by Board of Appeals
7/21/2021*

BOARD OF APPEALS

AGENDA

WEDNESDAY, APRIL 21, 2021

REQUEST FOR AREA VARIANCE

ERICA KELSEY AND CHRISTOPHER DECAIRES
7:00 PM

SOUTHPORT TOWN HALL
1139 PENNSYLVANIA AVENUE

ELMIRA, NY 14904

Webex Meeting

Meeting number (access code): 129 014 9362
Meeting password: JbB4MyYUuPa

Minutes of the Zoning Board of Appeals, Town of Southport held at the Southport Town Hall, 1139 Pennsylvania Avenue, Elmira, New York on April 21, 2021 at 7:00 p.m.

Board Members Present: Justin Faulkner
Belinda Combs
Susan Silvers
Edward Steinhauer
Kenneth Wrigley, Alternate

Board Member Absent: Shawn Crater

Others Present: Leslie Connolly, Town Attorney (via Webex)
Peter Rocchi, Town Code Enforcement Officer
Bonnie Balok, Secretary-Zoning Board of Appeals

Item No. 1 – Call to Order

Mr. Faulkner called the meeting to order on or about 7:04 p.m. Secretary Balok called the roll. All present, with the exception of Mr. Crater.

Item No. 2 – Approval of Minutes of March 17, 2021

Mr. Faulkner advised the next item on the agenda was the approval of the minutes of March 17, 2021. Motion made by Ms. Silvers to accept the minutes as prepared; seconded by Ms. Combs. The minutes of March 17, 2021 were unanimously approved.

Item No. 3 – New Business

Request for Area Variance

Mr. Faulkner advised the public hearing is held for Erica Kelsey and Christopher DeCaires, 23 Alvord Drive, Elmira, NY 14905. The request is for an area variance to sell vehicles on an undersized lot, per Section 525-110 (A)(a) and (e) Vehicle Filing Stations, Vehicle Repairs, Vehicle Sales and Heavy Equipment, Vehicle Sales and/or Repair, and/or Contractor's Equipment Yard.

Erica Kelsey and Christopher DeCaires,
23 Alvord Drive, Elmira, NY 14905.
Re: Area variance to sell vehicles on
undersized lot, per Section 525-110
Lots on South Main Street and
Charles Street, Elmira, NY 14904

Item No. 3 – New Business (continued)

Request for Area Variance - Erica Kelsey and Christopher DeCaires, 23 Alvord Drive, Elmira, NY 14905

A. Dimensional requirements

(1) Minimum lot size, lot width and setback requirements:

- (a) Minimum lot size for a vehicle filing station, vehicle repair, vehicle sales and heavy equipment vehicle sales uses shall be the greater of either one (1) acre or the minimum of lot area requirement prescribed in Article V. §525-24 [1]
- (e) The minimum lot width shall be the greater of two hundred feet (200') or the minimum lot width prescribed in Article V. §525-24.

1150, 1152, 1154 South Main Street, and 1151 Charles Street, Elmira, NY 14904

Tax Map: 109.08-4-15, 16, 17 and 109.08-4-36 Current Use: Commercial Zoned: CN

Present: Erica Kelsey, 23 Alvord Drive, Elmira, NY 14905
Christopher DeCaires, 715 West Church Street, Elmira NY 14905

Recused: Edward Steinhauer
Mr. Steinhauer recused himself from the public hearing.

Board Member: Kenneth Wrigley
Mr. Wrigley was seated at hearing to replace Mr. Steinhauer

Ms. Kelsey advised they would like to open a car sales lot and a restaurant at 1150, 1152, 1154 South Main Street, and 1151 Charles Street, Elmira, NY 14904. For the record, Ms. Kelsey submitted the legal notice paid receipt to Secretary Balok. (*Receipt to be filed in permanent case file*). Discussion took place concerning Chemung County Planning Board concerns and the need to have a setback of twenty five feet (25') for the vehicle parking enforced by Code. Ms. Kelsey explained traffic would enter on Curtis Street side, come around the building; two (2) entrances on Curtis Street and one (1) entrance on Charles Street.

Further discussion dealt with the car sales area and specifically how many cars would be in the grassy area. Ms. Kelsey explained there would be about twenty (20) cars and the back lot is the same size which should hold thirty five (35) to forty (40) cars.

Discussion continued with respect to the drive through or pickup window concerns and questions that will be asked by the Town Planning Board. Ms. Kelsey explained the concept would be a pickup window, where the customer would pre-order and pickup their order at a pickup counter. Drive through would not be a big issues. The building may not be setup for a drive through and they may not even have a drive through.

Chairman Faulkner opened the meeting up to the public at 7:15 pm. No one was in attendance, except the applicants; no comments and therefore the public portion of the hearing was closed.

The Board reviewed the need for one (1) acre of land and two hundred foot (200') frontage for the project. The Board noted the site consisted of .57 acres, the Curtis Street side has two hundred feet (200') of frontage and because this is on a corner lot this would be considered frontage. Combining the measurements: South Main Street-one hundred fifty feet (150'), Charles Street-fifty feet (50') and Curtis Street-two hundred thirty feet (230') the site meets the requirements and is located in a CN zone.

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Item No. 3 – New Business (continued)

Attorney Connolly advised the Town Planning Board reviews the site plan. The applicant presents a plan to the Planning Board and one requirement is a site plan for the zoning district.

The applicants provided the following answers to the area variance questions:

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: Applicants provided written responses to the question.

Summary: No - There are multiple auto dealerships nearby; one is next door.

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. Applicants provided written responses to the question.

Summary: No - Obtaining an area variance is the only way to accomplish the project,

Q3. Whether the requested area variance is substantial?

A. Applicants provided written responses to the question.

Summary: No - The space available is much greater than that of the numerous car dealerships along South Main Street.

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. Applicants provided written responses to the question.

Summary: No – Work would be within the existing space. Car lot would have more space than many of the dealerships existing in the Town of Southport.

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. Applicants provided written responses to the question.

Summary: No – Due to a revision in area requirements.

The Board reviewed the five (5) area variance questions and provided their answers 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?

Unanimous: No Combs, Silvers, Wrigley, Faulkner – all no responses

Q2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue,

Unanimous: No Combs, Silvers, Wrigley, Faulkner – all no responses

Q3. Whether the requested area variance is substantial?

Unanimous: Yes Combs, Silvers, Wrigley, Faulkner – all yes responses

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

Unanimous: No Combs, Silvers, Wrigley, Faulkner – all no responses

Erica Kelsey and Christopher DeCaires,
23 Alvord Drive, Elmira, NY 14905.
Re: Area variance to sell vehicles on
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Charles Street, Elmira, NY 14904

Item No. 3 – New Business (continued)

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?

Unanimous: Yes Combs, Silvers, Wrigley, Faulkner – all yes responses

Attorney Connelly advised the ZBA needs to determine who will be the lead agency; defer to the Planning Board and complete the SEQR form. (ZBA completed the Short Environmental Assessment Form, Part 2 and Part 3; on file in applicants' permanent ZBA record—Kelsey and DeCaires). SEQR all eleven (11) questions – No responses.

Lead Agency

Motion by: Ms. Silvers: Pass on project; make Town Planning Board the lead agency.

Seconded by: Mr. Wrigley

Unanimously approved.

Variations

Two (2) variations are requested: Two hundred foot (200') frontage could be interpreted as meeting the requirement based on combining corner lot measurements.

And

Pickup Window

Variance for Two Hundred Foot (200') Frontage

Motion by: Ms. Combs: Existing frontage meets required two hundred foot (200') frontage

Seconded by: Ms. Silvers

Unanimously approved.

Drive Through versus Pickup Window

Interpreted as pickup window; not going to be a drive through but will be pickup window. Placement determined by Town Planning Board.

Variance for Pickup Window

Motion by: Ms. Silvers

Seconded by: Ms. Combs

Unanimously approved.

Area Variance

The roughly .57 acres does not meet the required one (1) acre.

Motion by: Ms. Silvers Approve area variance based on existing four (4) lots

Seconded by: Mr. Wrigley

Vote: Ms. Combs-Yes, approve; Ms. Silvers-Yes, approve;
Mr. Wrigley-Yes, approve; Mr. Faulkner-Yes, approve.

Variance Granted

Public Hearing Adjourned: 7:45 pm

Item No. 4 – Old Business

Attorney Connolly reviewed the Minutes of March 17, 2021 and advised the ZBA actually did not vote to extend the variance for Autumnview. The Board needs to make a motion more accurately describing what took place on March 17, 2021; intent to extend the variance from March 17, 2021.

Erica Kelsey and Christopher DeCaires,
23 Alvord Drive, Elmira, NY 14905.
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Lots on South Main Street and
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Item No. 4 – Old Business (continued)

Cleary Project – Separate Motion for March 17, 2021

Motion by: Mr. Steinhauer Extend the area variance for the Cleary Project on Autumnview for one (1) year
from February 19, 2021 for one (1) year until February 19, 2022.

Seconded by: Ms. Silvers

Vote: Ms. Combs-No; Ms. Silvers-Yes; Mr. Steinhauer-Yes; Mr. Wrigley-Yes; Mr. Faulkner-Yes

Motion Granted.

Chamberlain Acres – Application Withdrawn

Attorney Connolly has requested Mr. Todd's attorney provide confirmation Mr. Todd has withdrawn his application.

Item No. 5 – Discussion

No further discussion.

Item No. 6 - Adjournment

Motion by: Ms. Combs

Seconded: Ms. Silvers

Unanimously approved

Meeting adjourned: 7:57 pm

Original on File: Town Clerk

C: Town Supervisor, Town Attorney, Town Code Enforcement Officer

Board of Appeals Town Board Planning Board

Motion of 4/21/21 Fagan Engineers, 113 East Chemung Place, Elmira, NY 14904

Minutes of 4/21/21 Erica Kelsey & Christopher DeCaires, 23 Alvord Dr., Elmira, NY 14905

Bonnie Balok, Secretary-Zoning Board of Appeals
April 22, 2021

**RESOLUTIONS
2021**

Resolution No. 7

AREA VARIANCE GRANTED

PROPERTY: TAX MAP NO. 109.08-4-15, 16, 17, AND
TAX MAP NO. 109.08-4-36 ZONED: CN
COMMONLY KNOWN AS
1150, 1152, 1154 SOUTH MAIN STREET,
AND 1151 CHARLES STREET ELMIRA, NY 14904

APPLICANTS: ERICA KELSEY & CHRISTOPHER DECAIRES
23 ALVORD DRIVE ELMIRA, NY 14904

OWNERS: ERICA KELSEY & CHRISTOPHER DECAIRES
23 ALVORD DRIVE ELMIRA, NY 14904

RESOLUTION: SILVERS SECONDED: WRIGLEY

WHEREAS, Erica Kelsey and Christopher DeCaires, 23 Alvord Drive, Elmira, NY 14905, applied for an area variance to sell vehicles on an undersized lot, per Section 525-110 (A)(a) and (e) Vehicle Filing Stations, Vehicle Repairs, Vehicle Sales and Heavy Equipment, Vehicle Sales and/or Repair, and/or Contractor's Equipment Yard.

- A. Dimensional requirements (1) Minimum lot size, lot width and setback requirements:
- (a) Minimum lot size for a vehicle filing station, vehicle repair, vehicle sales and heavy equipment vehicle sales uses shall be the greater of either one (1) acre or the minimum of lot area requirement prescribed in Article V. §525-24 [1]
 - (e) The minimum lot width shall be the greater of two hundred feet (200') or the minimum lot width prescribed in Article V. §525-24.

As per Town Code, Article V. §525-24 [1] Town of Southport, County of Chemung. The property is located in a CN zone, Current Use: Commercial and is commonly known as 1150, 1152, 1154 South Main Street, and 1151 Charles Street, Elmira, NY 14904. Tax Map: 109.08-4-15, 16, 17 and Tax Map: 109.08-4-36.

WHEREAS, the Town of Southport Zoning Board of Appeals held a public hearing on April 21, 2021 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, to consider the granting of an area variance, and

WHEREAS, based upon deliberation, consideration and discussion, the members of the Zoning Board of Appeals were of the opinion an area variance could be granted based upon the following determinations:

Variance for Two Hundred Foot (200') Frontage- Existing frontage meets required two hundred foot (200') frontage.

Variance for Pickup Window

Interpreted as pickup window; not going to be a drive through but will be pickup window. Placement determined by Town Planning Board.

Area Variance

The roughly .57 acres does not meet the required one (1) acre.- Approve area variance based on existing four (4) lots.

NOW THEREFORE BE IT RESOLVED the area variance granted to Erica Kelsey and Christopher DeCaires, 23 Alvord Drive, Elmira, NY 14905, with respect to 1150, 1152, 1154 South Main Street and 1151 Charles Street, Elmira, NY 14904, Tax Map: 109.08-4-15, 16, 17 and Tax Map: 109.08-4-36 is granted and the building inspector of the Town of Southport be and hereby is authorized to issue a permit for said use and that failure to complete the project within one (1) year from the granting of this area variance will render the variance null and void.

Yes Votes: Combs, Silvers, Wrigley, Faulkner No Votes: None
Carried.
April 22, 2021

Minutes approved by Board of Appeals-7/21/2021