

MINUTES OF A HEARING AS HELD BY THE
ZONING BOARD OF APPEALS OF THE
TOWN OF AURORA

July 18, 2024

CASE #1478-Handley, Alex
2271 Lapham Road, East Aurora, NY

The hearing was called to order by the Chairman Paul Ernst with the following Board members present:

Mandy Carl
Nancy Burkhardt
Stephanie Morgan, Alternate
Brad Felton, Alternate

Excused: Rod Simeone
Davis Heussler

Others Present: Rich Miga, Assistant Code Enforcement Officer

The notice of the Public Hearing was read by the Deputy Town Clerk. The notice was duly published in the East Aurora Advertiser as evidenced by the Affidavit of Publication, marked as exhibit 1. The Affidavit of Posting was marked as exhibit 2. The ZBA Application was marked as exhibit 3. The Petitioners Letter of Intent was marked as exhibit 4. The Building Departments Letter of Determination was marked as exhibit 5. The ECDP Form and Response was marked as exhibit 6. The Short Environmental Assessment Form was marked as exhibit 7. The Copy of the Survey was marked as exhibit 8. The Copy of the Deed was marked as exhibits 9. Minutes from 10/20/2022 were marked as exhibit 10. The List of Abutting Property Owners was marked as exhibit 11.

The Chairman opened the hearing with the Pledge of Allegiance to the Flag and stated the purpose and procedure of the hearing. Following the hearing a meeting will be held to render a decision for a lot frontage width variance and an ingress/egress width variance for a proposed residence on an Open Development Area Lot (flag lot) at 2271 Lapham Road, East Aurora, New York.

Handley Alex Handley, 2271 Lapham Road. My frontage is 68' and the required is 75' so that is a 6' variance. The house being so far back the driveway has to be 20' wide with all the required bump outs and cul de sac. As far as I know the variance is for the 6' and the right of way.

Ernst The history is that you were here last October.

Handley Yes the variance expired.

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Ernst The one year ran out and nothing has changed?

Handley Yes that is correct.

Morgan The structure hasn't changed, and nothing else has changed? The proposed structure will be in the same place and the only difference is that you now own the property. Will you be able to do it this year?

Handley I want to start in spring of 2025.

Ernst Where are you as far as getting the building permit?

Handley As far as I understand I have to turn in the ODA application which I submitted yesterday.

Ernst Your drawings were submitted?

Miga We do have an application with new drawings from a local architect and we do have the ODA application and that is pending tonight's decision, and we will submit to the Town Clerk.

Ernst So that is in motion and if all goes well will you get your permit as soon as possible and start in the spring? That permit would be good for one year.

Handley Yes.

Felton It looks like you did your due diligence a year ago and I don't have anything to add to it.

Carl This is just correcting a non-conforming lot issue, and he is ready to go so I have no questions and no concerns.

Burkhardt As long as you are comfortable moving forward which it sounds like given the fact you submitted the application. Understanding how the construction environment is right now I empathize for you because this is quite the undertaking.

Ernst I think the game plan changed because when you were here before it was contingent upon getting the property.

Handley This was the plan to my forever home.

Ernst Is there anyone else that would like to speak on this matter? (No Response) The hearing is closed.

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July 18, 2024

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Discussion:

Ernst We are basically giving him the same thing he was approved for a year ago.

Carl It doesn't affect the character, he does have alternatives, and they are not substantial, to certain degree it is self-created. I think this is overwhelming to point of the board for relief.

Ernst Is there anyone else? (No Response).

Decision:

After due deliberation by the members of the Zoning Board of Appeals of the Town of Aurora, County of Erie and State of New York, the following motion was made by Stephanie Morgan and seconded by Brad Felton to grant a 2.3' lot frontage width variance and a 9' ingress/egress width variance for a proposed residence on an Open Development Area Lot (flag lot) at 2271 Lapham Road, East Aurora, New York.

This motion is made in accordance with testimony and exhibits presented.

Upon a vote being taken:

Ernst	Aye			
Burkhardt	Aye			
Carl	Aye			
Morgan	Aye			
Felton	Aye	Ayes-five	Noes-none	Motion carried.

**ZONING BOARD OF APPEALS
TOWN OF AURORA
DECISION**

RE: APPEAL NO. 1478

A public hearing on the Application of Alex Handley (the "Petitioner"), regarding the property at 2271 Lapham Road, East Aurora, New York (the "Premises"), having been called before the Zoning Board of Appeals in the Aurora Municipal Building, 575 Oakwood Avenue, on the 18th day of July, 2024 at 7:30 p.m., after due notice published in the East Aurora Advertiser as prescribed in Section 267-a, Subdivision 7 of the Town Law and Section 116-9 (F) of the Code of the Town of Aurora.

Present were:

Paul Ernst – Chairman
Stephanie Morgan - Alternate
Brad Felton - Alternate
Mandy Carl
Nancy Burkhardt

Also Present : Rich Miga – Assist. Code Enforcement Officer
Sheryl Miller – Secretary

Absent : Davis Heussler
Rodney Simeone

The Secretary read the Notice of Public Hearing and the Affidavit of Publication which were duly marked as exhibits herein (Exhibits 1 and 2).

The Petitioners seeks a 6.3' lot frontage width variance and a 9' width variance (ingress/egress) located on an existing private ROW on an ODA lot at 2271 Lapham Road, East Aurora, New York (the "Premises"). It was noted that the property was previously granted a variance on 10/20/22 in Case # 1421 but that variance expired as per Town Code 116-91H.

The Petitioner appeared. Mr. Handley wasn't able to get his project started within the allotted time of the variance. He is now the owner of the property and is ready to start building his home. He is requesting the same variances that were previously approved.

The Chairman told the Board the town had received no new letters of support or objection to the variance request.

The Chairman opened the hearing to the public. No one appeared.

At a duly convened public meeting held on the 18th day of July, 2024, after said public meeting, the Zoning Board of Appeals finds as follow :

Findings

1. This is a Type II Action pursuant to Article 8 of New York State Environmental Conservation Law and the regulations promulgated thereunder, Part 617 of the NYS Code of Rules and Regulations (SEQR).

2. After further discussion amongst themselves, the Board feels the variance will not create an undesirable change in character of the neighborhood. The benefit sought by the Petitioner cannot be achieved by some other method other than variance due to the lot configuration. The Board feels the variance is not substantial under the circumstance of a rural lot and it will have no adverse effect or impact on the physical or environmental condition of the rural neighborhood. The landscape and character of the neighborhood will not be changed as there will be little to no impact on the neighbors due to the large size of the lot. The Petitioner may have self-created the difficulty, but the Board felt it is an existing condition and the best solution for the property and has had previous support from a neighbor with no opposition. The Board felt there was no reason not to approve the variances again.

Stephanie Morgan made a motion to approve a 6.3' lot frontage width variance and a 9' width variance (ingress/egress) located on an existing private ROW on an ODA lot at 2271 Lapham Road, East Aurora, New York (the "Premises") contingent upon Alex Handley (the "Petitioner") receiving an approved building permit within one year from this approval.

Brad Felton seconded the motion.

On a roll call, the vote was:

Paul Ernst	Aye
Mandy Carl	Aye
Nancy Burkhardt	Aye
Stephanie Morgan	Aye
Brad Felton	Aye

The motion was carried.

Ayes : 5

Noes : None

RESOLVED, that variances applied for by the Petitioners in Application No.1478 be and hereby is granted subject to any conditions set forth herein.

Dated: East Aurora, New York
July 18, 2024



Chairman