

ZONING BOARD OF APPEALS MEETING

August 18, 2022

6:00 PM

The meeting was called to order by Chairperson Kathy Taylor at 6:00 PM. Roll call by Clerk, Cindy Schiminske, found the following Board Members present:

Kathy Taylor, Chairperson

Ernie Rivera

John Yurco

Craig Coleman

Bob Faynor, Absent

Also in attendance: Jim Sanders, Alternate Member

Bill Gabak, Jr., Zoning Officer

Chris Geherin

Jonathan Mettler

Chairperson Taylor made a motion to approve the minutes of July 21, 2022, seconded by Ernie Rivera. Approved AYES 4-0.

The purpose of this meeting was to hear the following requests:

1. Christopher Geherin, 5919 Petre Drive, Tax Map #123.18-1-50.1, is requesting a variance to the provisions of Section 7-16A2(e) of the Fleming Zoning Code in order to construct a 32' x 40' free standing garage.

Applicant would like to build a 1 story garage on his lot which is \pm 29,000 sq ft. He indicates that you won't see the garage from West Lake Road. He needs that large of a garage to store his personal equipment, cars, etc. His neighbors have no objections and he doesn't believe there will be any negative impact on the neighbors or the community.

Chairperson Taylor stated that the Zoning Laws only permit 20% of the square footage of the principal structure. Applicant's house is 875 sq ft; therefore, he is allowed 175 sq ft. Applicant is asking for 1,280 sq ft, which is over 1,000 sq ft more than what is allowed. Chairperson Taylor stated that the Board cannot go that much over what is allowed. They are more than willing to work with him but that is asking way too much. Applicant understands that but he feels in this instance, in the lakeshore district, that there is not anyone else that can provide the same area, the same negative impact on the neighbors. The lot is a legal building lot.

Zoning Officer Gabak stated that applicant does have a compliant lot but the thing that's holding him back is the size of his principal structure. He is only allowed 20% of that. Mr. Gabak said that the other option is if he could purchase more land to equal an acre. If he maintains an acre, the Zoning Laws would allow him to build a larger structure.

Mr. Geherin told the Board that he had purchased the abandoned, vacant property next to him, took the house down, cleaned the area and made it appealing to the neighborhood. His neighbor to the south asked if he could buy half of the lot and Mr. Geherin agreed. He didn't know at the time that size would be an issue for him.

Mr. Geherin reiterated that the garage won't be seen except by the neighbors, who don't have a problem with it. It won't be a monstrosity and will match the siding on the house. It will not be a pole barn and will be very esthetically pleasing. However, it will be large.

Chairwoman Taylor again stated that they couldn't allow him to put that size of a building on the lot with the size of his house and how much he's asking for.

The Board asked applicant if he could downsize the garage. They stated that the Board is here to protect applicant's property as well as the others that are around the lake. They have no doubt that it would be a very appealing building but the fact is there are so many people out there that have already been turned down and the Board would have all kinds of people coming before them to say why did you let Chris do this? Mr. Geherin feels that one of the reasons is that he has a conforming lot. He believes there are very few conforming lots in the lakeshore district. If he were to have a 5000 sq ft house on that lot, which he can, then he would be able to build this garage. So, he is being penalized for having a small house that he took from nothing, maintained and improved the neighborhood and he's being penalized for that.

The Board asked if he would consider making the garage smaller. He presently has a shed that's 150 sq ft which would come down. So he could add the 150 sq ft to the 175 that he is allowed. Applicant stated that doesn't accommodate the needs that he has to store things.

The Board understands everything he's saying and doesn't necessarily disagree, but the problem is the zoning laws that are put in place. Applicant feels that the Board is not budging from the laws at all. Chairwoman Taylor reminded him that they did ask him if he could reduce the size of the garage, so they could work with him. But not that big, it's almost twice the size of the home.

There was discussion about the zoning laws, past variances granted, and structures that were allowed to be built within the Town. Applicant feels the Board is creating a hardship for him and he is being penalized because he has a lot big enough but he doesn't have a house big enough.

Chairperson Taylor reviewed the five criteria for granting the area variance with the Board Members.

Roll call vote was taken by the Board.

Ernie Rivera	NO	
Craig Coleman	NO	
John Yurco	NO	
Chairperson Taylor	NO	MOTION DENIED

- Jonathan Mettler, 5836 South Street Road, Tax Map #123.03-2-30, is requesting the following variances in order to place a 12' x 24' shed on the property: a south side yard area variance of 3.5 feet from the required 10 feet (Bulk & Use Table R-1 District) and a variance to the provisions of Article IX of the Fleming Zoning Code (which was amended by Local Law 2017-3).

Mr. Mettler stated that he can't go the whole 10 feet because of the sewer lines and where the electric runs down to the pool. Because of the way those lots are all cut at angles, there's no other place to put a shed.

Chairperson Taylor said the size of the lot makes it nonconforming as it is 80' wide, 16,256 sq ft and the requirements for a conforming lot are 100' wide, 22,000 sq ft. There was discussion about non-conforming lots and keeping the footprint. Applicant indicated he tried to buy some property behind him from the adjoining neighbor but was unsuccessful.

Chairperson Taylor reviewed the five criteria for granting the area variance with the Board Members.

Craig Coleman made a motion to vote on the variance request, seconded by John Yurco.

Roll call vote was taken by the Board.

John Yurco	NO	
Craig Coleman	NO	
Ernie Rivera	NO	
Chairperson Taylor	NO	MOTION DENIED

Craig Coleman made a motion to adjourn the meeting, seconded by Ernie Rivera. Time was 6:45pm.

Respectfully submitted,

Cindy Schiminske
Clerk, Zoning Board of Appeals