

ZONING BOARD OF APPEALS MEETING  
September 21, 2023  
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  
Bob Faynor  
Ernie Rivera  
John Yurco  
Craig Coleman

Also in attendance: Bill Gabak, Jr. Zoning Officer  
Jim Swagler  
Rick Saxton  
John & Jennifer Batruch

Robert Faynor made a motion to approve the minutes of August 17, 2023, seconded by Ernie Rivera. All in favor.

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

1. James Swagler, 3016 Pinfeather Place, Tax Map #137.02-2-22, has submitted revised plans for his shed. This matter was postponed from the August 17<sup>th</sup> meeting. Applicant has submitted a revised plan for a 10' rear yard setback (from previous request of 5') for his 16' x 24' shed (previous 20' x 24' shed). The Board had no issues with this revision.

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

Bob Faynor made a motion to vote on the variance request, seconded by Ernie Rivera.

Roll call vote was taken:

Ernie Rivera	YES
Bob Faynor	YES
John Yurco	YES
Craig Coleman	YES
Chairperson Taylor	YES
MOTION GRANTED	

2. Fleming Fire Department No. 2, 5024 State Route 34, Tax Map #136.04-1-11, is requesting a variance to the provisions of Article 12-4A of the Fleming Zoning Code in order to place a 5' x 8' LED message board on the premises.

Rick Saxton appeared on behalf of the Fire Department. He stated that the sign is a little bigger than the current one. It would be placed about 10 feet to the south of the current one. It is about 20 feet off the road. The brightness can be turned down at night. They would set it on the timer. It would have messages running across it, similar to Owasco's. They could advertise for a few functions at the same time, i.e. church dinners at the firehouse, fund raisers, etc.

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

Bob Faynor made a motion to vote on the variance request, seconded by Craig Coleman.

Roll call vote was taken:

Craig Coleman	YES
John Yurco	YES
Bob Faynor	YES
Ernie Rivera	YES
Chairperson Taylor	YES
MOTION GRANTED	

3. John Batruch, 4972 State Route 34, Tax Map #136.04-1-27, is requesting the following variances for a proposed 12' x 20' accessory structure: a variance to the provisions of Article IX of the Fleming Zoning Code (which was amended by Local Law 2017-3) regarding a non-compliant lot, and the Bulk & Use Table, Hamlet District, which requires a minimum lot width of 125' and a minimum lot size of 22,000 sq ft.

Jennifer Batruch stated that they reside at the white church on Rte 34. The property that they are asking the variance for is the schoolhouse, which used to be the grange building, which is right next door. They own both properties. If the properties were combined, it would be a compliant lot. They would rather not combine the properties as their accountant would like them to keep the properties separate due to the capital gains issue down the road if, and when, they want to sell. They have also submitted a Special Use Permit Application for the schoolhouse. They would like to open an antique shop/art studio there. They would like to put a shed on the lot for storage without combining the properties. The schoolhouse is currently used as storage. She would like to use the shed for lumber, tools, equipment, kayaks, etc. They don't have a garage at the church or the schoolhouse and would like to keep the items under cover.

The Board stated that the issue is that it is a non-conforming lot. If they were to combine both lots, it wouldn't be an issue and they wouldn't need to apply for the variance. There was discussion about the Town's Comprehensive Plan, the vision for the Town's future and the Zoning Laws that were revised as a result.

Applicant stated that the issue with combining the two lots is that if there is a business in an accessory structure on your residential lot, there can be a 20% tax on the property when it is sold. Keeping the properties separate makes financial sense to them.

The Board again stated that the non-conforming lot is the issue.

There was discussion about 12' x 12' sheds and what would be required to combine the two lots.

The applicants were going to discuss what they could do to move forward and make a decision. If they were to combine the lots, they were advised that they would need to submit the paperwork necessary for a lot line adjustment. They would need to come before this Board again.

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

Bob Faynor made a motion to vote on the variance request, seconded by John Yurco.

Roll call vote was taken:

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

4. John & Jennifer Batruch, 4972 State Route 34, Tax Map #136.04-1-27 submitted a Special Use Permit Application to repurpose the old schoolhouse as an art studio and vintage/antique shop. The Board reviewed their submission and discussed hours, parking, etc. The Board had no issues with their application and will inform the Town Board of the same. They suggested that the business hours be from 9am-9pm daily.

Bob Faynor made a motion to adjourn the meeting, seconded by Ernie Rivera.

Respectfully submitted,  
Cindy Schiminske, ZBA Clerk