

TOWN OF EDEN
ZONING BOARD OF APPEALS
2795 EAST CHURCH ST, EDEN, NY 14057

PUBLIC HEARING DATE: June 16, 2022

BOARD MEMBERS PRESENT: Kristin Kent, Chair
Joseph Winiecki
Larry Dibble
Drew Riedel
Doug Scheu
Curtis Neureuter

BOARD MEMBERS EXCUSED: Candice Pineau

APPLICANT: Tony & Kim Schunk

RE: **Appeal No. 2022-4
Schunk
8777 East Eden Road**

Ms. Kent called the hearing to order at 7:00 p.m. and asked for comments on the April minutes. **Ms. Kent moved to approve the minutes from the April 21, 2022 meeting; seconded by Mr. Scheu; all members present voted "Aye". Minutes approved.**

Ms. Kent then read the Legal Notice for this hearing published in the "The Sun":

Schunk: application for a variance at 8777 East Eden Road, to allow construction of a pole barn that would violate the side yard setback rule in Code section 225-23.

Ms. Kent confirmed with Ms. Crowe that the property notice list was completed.

Mr. Schunk was asked to explain why he applied for the variance. Mr. Schunk described his limited options because of the 50' right-of-way gas main at the rear of the property, the septic and leach bed are located to the left of the house and the driveway is located to the right of the house. Mr. Neureuter asked about moving the structure to the back of the property. Mr. Schunk responded that the back of his property is farmland that he leases to Wittmeyer, and he can't build within 25' of the gas company's right-of-way. He plans to use the pole barn for vehicle storage and he would like to keep it close to the house. The pole barn will have electricity, but no heat. The existing shed will eventually be eliminated.

Mr. Schunk was then asked questions by the board related to the requirements the board must consider in variance requests *(his answers are in italics):*

Will this variance create an undesirable change in the neighborhood? *No, there will be no change to the neighborhood. This is a farming neighborhood with many outbuildings. It will be less visible than most structures in the neighborhood because of the lower grade of our property.*

Is there an alternative method that could provide a solution? *Building at the rear of the property is feasible, but would be awkward and not the preferred location. I would like to keep our vehicles closer to the house.*

Will this be a substantial variance? Ms. Kent noted that NYS law guidance on substantiality indicates that some courts favor a ZBA's use of a simple math formula. But New York's highest court, the Court of Appeals, instead requires a "balancing test": the benefit of the variance to the applicant, versus the detriment of the variance to the neighborhood or community. This side setback would be 10 ½' and the standard is 35', which is a mathematically substantial 70 % non-compliance. *However, there will be no change to the neighborhood and we will not be obstructing anyone's view but our own.*

Will the variance create an adverse environmental effect on the neighborhood? *No. There will be a catch basin that runs to the back of the property for runoff. We cannot add to the existing storm line because of the recent addition to the house. It would overwhelm the system and back up the gutters at the house. We have plans to add a French drain in the near future.*

Is the need for the variance self-created? (Failure to meet this standard isn't necessarily disqualifying.) *Yes, the need for the variance is self-created. We have several vehicles and it's difficult to plow the driveway in the winter with all the cars in the way.*

The board discussed that the variance won't change the character of the neighborhood, the topography and other structures limit placement of the pole barn, there won't be an adverse environmental impact, and there won't be a substantial impact on neighbors or the community.

Based on the variance standards including lack of impact on the neighborhood, Mr. Riedel made a motion to approve the application for an area variance at 8777 East Eden Road to allow construction of a pole barn that would be 10.5' from the lot line, in violation of the side yard setback rule in Code section 225-23. Seconded by Ms. Kent. Motion approved unanimously.

Meeting was adjourned at 7:15 pm.

Respectfully submitted,

Jen Crowe, Secretary
Eden Zoning Board of Appeals