

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: Randy Schmitz

RE: **Appeal No. 2022-5
Schmitz
7993 Jennings Road**

Ms. Kent called the meeting to order at 7:15 pm and read the Legal Notice for this hearing published in "The Sun":

Schmitz: application for a variance at 7993 Jennings Road, to allow construction of a pole barn addition that would violate the rear yard setback rule in Code section 225-23.

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

Mr. Schmitz was asked to explain the reason he applied for the variance. Mr. Schmitz described the layout of his property which includes a 16' slope at the north end. This is why he wishes to build the pole barn addition at the rear/east side of the property. The existing shop is used for repairs of equipment for his business. Currently he owns and operates 6 Tim Horton's restaurants. The addition is intended for storing additional equipment for the business as well as personal equipment such as the camper.

Mr. Schmitz 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? *There will be no change to the neighborhood, you won't be able to see the structure from the street.*

Is there an alternative method that could provide a solution? *No. There is a concrete pad at the front of the existing shop as well as new fill and a 12' slope to the north of the driveway. Building on the fill would be unstable. There is farmland and scrub brush at the rear of the property. This farm land is protected by the Land Bank and cannot be developed in the future.*

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. 21.7' from the rear property line, as opposed to the 50' requirement, is 57% non-compliant. *There won't be an impact because the property bordering the rear will never be developed. The Land Bank means it will always be farmland.*

Will the variance create an adverse environmental effect on the neighborhood? *No. Runoff from the pole barn addition will go to the ravine and then into the farm fields.*

Is the need for the variance self-created? (Failure to meet this standard isn't necessarily disqualifying.) *Yes, but I am running a business and would prefer to not add junk to my yard. I maintain my property and want a good appearance.*

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 addition, there won't be an adverse environmental impact, and there won't be a substantial impact on neighbors or the community.

Based on these factors, including the lack of impact to the neighborhood, Mr. Riedel made a motion to approve the application for an area variance at 7993 Jennings Road to allow construction of a pole barn addition that would violate the rear yard setback rule in Code section 225-23. Seconded by Mr. Neureuter. Motion approved unanimously.

Meeting was adjourned at 7:30 pm.

Respectfully submitted,

Jen Crowe, Secretary
Eden Zoning Board of Appeals