

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

PUBLIC HEARING DATE: June 15th, 2023

BOARD MEMBERS PRESENT: Kristin Kent, Chair
Curtis Neureuter
Doug Scheu
Candice Pineau

EXCUSED: Joseph Winiecki
Drew Riedel
Patrick Riester
Gary Sam

CODE ENFORCEMENT: Dave Rice

APPLICANT: James Vice
RE: **Appeal No. 2023-2**
2951 Shadagee Road

Ms. Kent called the hearing to order at 7:00 p.m. and asked for comments on the March minutes. **Mr. Neureuter made a motion to approve the minutes from the March 16, 2023 meeting; seconded by Ms. Kent. Minutes approved unanimously.**

Ms. Kent then read the Legal Notice for the hearing published in the “The Sun”:

Vice: Application for a variance at 2951 Shadagee Road to allow subdivision of the property into two lots in violation of the minimum lot size rule, under Code section 225-8 A (3).

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

Mr. Vice was then asked to explain the reasons he applied for a variance. Mr. Vice explained that he wishes to split off a portion of his property that extends to the other side of Shadagee Road. The portion across the road is approximately 1.5 acres. He pays taxes on this land, but does not use it. Mr. Vice added that there are other small lots in the area, some of which are less than an acre. This portion of land is not currently being farmed and adding a house to the location would fit the neighborhood. All of us that live in the area tolerate the dust and smell from area farms and their equipment. Ms. Kent asked if the lot were to be split, would he keep it or sell it? Mr. Vice replied with his plans to sell the lot as there are not many buildable lots available in Eden.

Ryan O’Gorman, neighbor at 8014 Gowanda State Road, expressed his concerns with building a house in this location. The house will be surrounded by farm fields that are currently farmed by Kreher Farms. All of the surrounding property is part of the Western New York Land Conservancy. This property is federally protected land and will always be farmed. It is currently a vegetable farm but could someday be a dairy farm. This potential house will always be subjected to farming activities.

Mark Zittel of 2988 Bley Road also expressed concern with building a house in this location. The house will forever be surrounded by farm land and farming activities to include plowing and spraying the fields

Mr. Vice 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, building a house would enhance the area by adding to the neighborhood appearance.*

Is there an alternative method that could provide a solution? *Yes, I could add more land to the split parcel, but it would then cross the road. I could achieve the 4-acre minimum by adding some useless swamp land from across the road.*

Will this be a substantial variance? *The proposed lot is 1.5 acres and the minimum lot size required is 4 acres. The proposed lot is 63% deficient. This is substantial to code, but not substantial to the neighborhood. There is no common sense in adding property from across the road to meet the 4-acre minimum.*

Will the variance create an adverse environmental effect on the neighborhood? *No, it would be a positive effect by creating more of a neighborhood.* Mr. Rice was asked if the lot would be big enough to build on. He explained that there is enough space to allow for a house to be built with adequate setbacks.

Is the need for the variance self-created? *No, I purchased the property as it is.*

Mr. Neureuter and Ms. Kent expressed concerns with approving a variance that is 63% deficient. This number is quite substantial and we would be setting a precedent if it were approved. Ms. Pineau felt there was no common sense in adding useless land from across the street to meet the 4-acre minimum. Mr. Scheu noted that another house on an undersized lot may fit the neighborhood, but is it wise to create another undersized lot. We should support and follow the code.

The board continued to discuss the requirements it must review for variances. The board concluded that this request is substantial and subdividing this property could be achieved by another method.

Based on these factors, Ms. Kent made a motion to deny the variance at 2951 Shadagee Road. Seconded by Mr. Scheu. Ms. Kent, Mr. Scheu and Mr. Neureuter voted in favor; Ms. Pineau opposed. Motion approved.

Meeting was adjourned at 7:40pm.

Respectfully submitted,

Jen Crowe, Secretary
Eden Zoning Board of Appeals