

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

PUBLIC HEARING DATE: September 21, 2023

BOARD MEMBERS PRESENT: Kristin Kent, Chair
Curtis Neureuter
Doug Scheu
Patrick Riester
Joe Winiecki

EXCUSED: Drew Riedel
Candice Pineau
Gary Sam

OTHERS: Dave Rice, Code Enforcement Officer

APPLICANT: Herbert & Michelle Stocksclaeder
RE: **Appeal No. 2023-5**
2540 Bauer Road

Ms. Kent called the hearing to order at 7:00 p.m. and asked for comments on the August minutes. **Ms. Kent made a motion to approve the minutes from the August 17, 2023 meeting; seconded by Mr. Riester. Minutes approved unanimously.**

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

Stocksclaeder: Application for a variance at 2540 Bauer Road, to allow a Minor Subdivision of an existing parcel in violation of the minimum frontage rule under Code section 225-8 A (3).

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

Mr. & Mrs. Stocksclaeder were then asked to explain the reasons they applied for a variance. Mr. Stocksclaeder explained that they wish to split off a piece of their land to create a buildable lot. Their oldest daughter would like to return to Eden and the housing market is very challenging right now. They would like to give her the land to build a house on.

The Stocksclaeders were then asked questions by the board related to the considerations the board must review in variance requests (*their answers are in italics*):

Will this variance create an undesirable change in the neighborhood? *No, there will be no visual change. This area is primarily single-family homes and farmland now. More than 50% of the existing lots in town in the Rural Residential district don't have adequate frontage based on the new Code. Here's a spreadsheet showing the lots that make up the percentage. Also, here's a map showing several homes near ours that don't meet the frontage rule.*

The Board reviewed the spreadsheet and map, and asked if the applicants had considered splitting the existing parcel into two equal sized lots. This would result in two non-compliant parcels, but a less substantial variance request.

Mr. Stocksclaeder explained that he had considered this option but felt it was simpler to request one variance for the new lot.

Is there an alternative method that could provide a solution? *We could build a second home on our property for our daughter, but by splitting off a lot and transferring ownership to her she will then have equity to secure financing to build a home. We also own 20 acres across the road, but this is zoned Ag Priority which requires more acreage and longer frontage, for a subdivision for a home. That property is currently being farmed and there is not enough frontage to split it.*

Will this be a substantial variance? *We feel the frontage won't make any substantial change to our neighborhood. Ms. Kent noted that this is a 28% variance request for inadequate frontage. The parcel would contain acreage that exceeds the minimum. Mr. Rice confirmed that the new lot's dimensions would accommodate meeting all setback rules for a home.*

Will the variance create an adverse environmental effect on the neighborhood? *There will be no environmental change. The property is well drained and swales send runoff to the creek on the back northwest corner.*

Is the need for the variance self-created? *The lot was created in 1967. We purchased and built on the existing foundation in 1998. We now wish to provide our daughter with a buildable lot.*

Ms. Kent noted that a 28% deviation from the code is not substantial and the Town is encouraging the addition of new homes and new families.

Board members discussed the option of splitting the parcel into two equal lots. This option may be a less substantial deviation from Code, but would result in two non-compliant lots. The Board agreed that there would be no effect on the environment and no change to the neighborhood.

The Board discussed the considerations it must review for variances and noted: (a) the variance won't change the character or physical condition of the neighborhood, (b) the variance request is not substantial. While the newly created lot would be deficient in frontage, it would comply with the acreage requirement and all setback rules.

Based on these factors, Mr. Winiecki made a motion to approve the variance request at 2540 Bauer Road. Seconded by Mr. Riester. Motion approved unanimously.

Meeting was adjourned at 7:25pm.

Respectfully submitted,

Jen Crowe, Secretary
Eden Zoning Board of Appeals