

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

PUBLIC HEARING DATE: October 17, 2024

BOARD MEMBERS PRESENT: Kristin Kent, Chair
Curtis Neureuter
Joe Winiiecki
Herb Stocksclaeder

EXCUSED: Doug Scheu
Patrick Riester

OTHERS: Dave Rice, Code Enforcement Officer

APPLICANT: Gerald Brown

RE: **Appeal No. 2024-005**
Gerald Brown
8300 Sisson Highway

Ms. Kent called the hearing to order at 7:00 p.m. Ms. Kent asked for comments on the minutes for the RIC hearing held on June 20, 2024. **Mr. Winiiecki made a motion to approve the minutes; seconded by Mr. Neureuter. Minutes approved unanimously.**

Ms. Kent read the Legal Notice for this hearing as published in The Hamburg Sun:

Brown: Application for an area variance at 8300 Sisson Highway, to allow the enlargement of the front porch, in violation of the 50' minimum building/structure front setback rule under Code Section 225-14A.

Ms. Kent confirmed with Ms. Griebel that the property notice list was completed. Ms. Kent advised that there are four Board members present tonight. In the event of a tie vote, NYS law requires the request be denied; Mr. Brown has the right to postpone this hearing until a later date. Mr. Brown declined to postpone.

Mr. Brown attached a drawing of what the porch will look like. The house was built in 1945 when Mr. Brown believes it was legal to be that close to the street. Mr. Rice provided a diagram showing that other neighbors on this portion of Sisson Hwy are also less than 50 feet from the street.

Mr. Brown was then asked questions by the board related to the requirements the board must consider in area variance requests. *Answers by the applicant are in italics.*

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. *There are no really close neighbors. There will be no visual or aesthetic changes. There are***

trees that go up to the road on the north side. There is also a fence going across the front yard as well.

- 2. Whether the benefit sought by the applicant can be achieved by a method feasible for the applicant to pursue, other than an area variance.** Why do you want the porch on the front near the street? Could you put it on the side or back of your house? *There is no back entrance to the house. This porch will enhance the front of the house for personal enjoyment and possible resale. The front is the only choice with the layout of the house and where the doors are located. It will enhance the walkway to the front door from the garage; it would be closer to the driveway, providing more shelter from weather.*
- 3. Whether the requested area variance is substantial.** This request is for 30 feet on the east (40% noncompliant) and 24.75 feet on the west side (50% noncompliant). Generally, the Zoning Board disfavors variance requests 50% or more noncompliant. Mr. Neureuter noted there has been ongoing discussion about what is substantial; we do measure by percentage of compliance. Taking into consideration the character of the neighborhood and other circumstances, he opined this request is not substantial. Mr. Stocksclaeder and Mr. Winiecki agreed.
- 4. Whether the requested area variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.** *There will be no adverse conditions.*
- 5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.** Ms. Kent commented that other homes in the area already are noncompliant for this setback. Mr. Brown's application noted that at one time this porch was compliant, but the road has been widened over the years. *This would be an improvement for the neighborhood. It will allow me to make the house very appealing and enhance the neighborhood.*

Mr. Winiecki made a motion to approve the application for an area variance at 8300 Sisson Highway, to allow the enlargement of the front porch, in violation of the 50' minimum building/structure front setback rule under Code Section 225-14A, based on no physical or environmental impact, and that the porch change isn't substantial. Seconded by Mr. Neureuter, motion approved unanimously.

Meeting was adjourned at 7:23 p.m.

Respectfully submitted,

Shelly Griebel, Secretary
Eden Zoning Board of Appeals