

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

PUBLIC HEARING DATE: April 17, 2025

BOARD MEMBERS PRESENT: Kristin Kent, Chair
Doug Scheu
Curtis Neureuter
Herb Stocksclaeder
Sara Buchanan
Todd Keppler

EXCUSED: Joseph Winiecki

OTHERS: Dave Rice, Code Enforcement Officer

APPLICANT: Megan Gonser

RE: **Appeal No. 2025-001**
Megan Gonser
2724 Green Street

Ms. Kent called the hearing to order at 7:00 p.m.

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

Gonser: Application for area variances at 2724 Green Street, to allow construction of a residence that would violate a) the front yard and side yard setback requirements in Code section 225-12B; b) the two usable story minimum requirement in Code section 225-12F; and c) the landscape plantings requirement in Code section 225-12E.

Ms. Kent confirmed with Ms. Griebel that the property notice list was completed. Ms. Kent asked Ms. Gonser to provide the background on the variance request.

Ms. Gonser is a lifelong resident of Eden and purchased property on Green Street where she grew up, across the street from her family home. She wants to avoid the Mixed-Use district front setback requirement because there is a very large tree in the front yard that she wants to keep. Ms. Gonser also does not want her home's windows right at the sidewalk. Ms. Kent noted that this request is in violation of the 20-foot combined side setback requirement, but this requirement seems more appropriate for commercial properties in this Mixed-Use zone rather than residential. Similarly, the landscape planting requirement is also geared toward commercial properties; landscape plans aren't required or reviewed for residences in other zoning districts.

Ms. Gonser 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.** *No. This will match other houses on the street and block.*
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.** *I don't believe so unless we place the home sideways, which I do not believe would be attractive to the neighborhood.*
3. **Whether the requested area variance is substantial.** Ms. Kent stated that this question is usually discussed in terms of percentage or mathematically substantial. In this case it appears more appropriate that we consider substantial in light of the way the neighborhood feels and appears. Mr. Neureuter agreed. *My home as shown on the drawing will fit right in with the look of this part of Green Street.*
4. **Whether the requested area variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.** *No.*
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.** The board discussed that the Mixed-Use Code rules are geared more toward commercial properties than residential, and would be impractical and would add unnecessary costs for a new home in this mostly residential, traditional home area of Green Street.

Ms. Kent made a motion to approve the application for area variances at 2724 Green Street, to allow construction of a residence that would violate a) the front yard and side yard setback requirements in Code section 225-12B; b) the two usable story minimum requirement in Code section 225-12F; and c) the landscape plantings requirement in Code section 225-12E, based on the enhancement of the neighborhood factor, and the impracticality of rigid application of the rules for commercial properties. Seconded by Mr. Neureuter, motion approved unanimously.

Respectfully submitted,

Shelly Griebble, Secretary
Eden Zoning Board of Appeals