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 Stockschlaeder Sara Buchanan Todd Keppler
EXCUSED:	Joseph Winiecki
OTHERS:	Dave Rice, Code Enforcement Officer
APPLICANT:	Patricia Miller
RE:	**Appeal No. 2025-003** **Mark & Patricia Miller** **3240 Webster Road**

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

> **Miller**: Application for an area variance at 3240 Webster Road, to allow placement of an accessory building in violation of the 35-foot building side yard setback rule under Code Section 225-14A.

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

Ms. Kent asked why the applicant is taking down the existing building and what they intend to achieve with the new building. Mrs. Miller indicated the current building is greatly deteriorated. The new building will look better, be more functional and will be taller. to accommodate Mr. Miller's tractor trailer.

Mr. Rice noted that the current building is only 22 feet from the road right of way and 3.5 feet from the side yard. The new building will be 10 feet from the property lines on either side. The Town Code permits a building to be demolished and rebuilt on the same space, as long as it's not more deficient.

Mrs. Miller 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. The current building is in front of the house. The spot for the new building would be behind the house and look better.

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.** Ms. Kent asked if there is any other way to place this building behind the house? *No. There is a septic system and a private gas line behind the existing building as shown on the drawing.*
3. **Whether the requested area variance is substantial.** The Board noted this request is mathematically substantial (71%). In this instance, however, the Board can consider whether this will have a beneficial impact on the neighborhood as it will remove an unsightly building. Additionally, the owners will be able to store items currently outside due to the condition and height of the existing structure.
4. **Whether the requested area variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.** *As noted above, this will not have an adverse impact on the neighborhood; it will improve it.*
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.** *No. The existing structure was there originally, before we purchased it. We didn't create the gas line or the lot's difficult triangle shape.*

Mr. Rice advised the board that Ron Maggs, Highway Superintendent, indicated the Highway Department supports this variance request. The Highway Department would like to see this building further away from the right of way for snow removal and turn around purposes.

Ms. Kent made a motion to approve the application for an area variance at 3240 Webster Road, to allow placement of an accessory building in violation of the 35-foot building side yard setback rule under Code Section 225-14A, based on the hardship of the existing gas line restricting placement and that the new building will be a visual improvement to the neighborhood. Seconded by Mr. Neureuter, motion approved unanimously.

Meeting was adjourned at 8:12 p.m.

Respectfully submitted,

Shelly Grieble, Secretary
Eden Zoning Board of Appeals