

# TOWN OF EAST BLOOMFIELD

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October 28, 2020

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**Zoning Board of Appeals Members Present**, Art Babcock, Mark Thorn, Sonja Torpey, Tim Crocker

(Call In: Rosemary Garlapow)

**Absent:**

**Others Present:** Kim Rayburn (Secretary), James Kier (Building & Zoning) Heinz & Michelle Jungermann (Applicant) Scott Benson (Applicant), Terrance Malloy

**Babcock opened the meeting@ 7:30 pm**

**Babcock stated we will continue on with the adjourned Public Hearing for Jungermann.**

**I. 7:30 pm TV6-20 Area Variance Heinz and Michelle Jungermann** 3049 Bailey Rd. tax map # 80.00-2-4.120 side yard setback variance for a shed. They are asking the Board to allow them to place the shed 4 ft from the property line where 25 feet is required. Also, a front yard setback as the location of the shed cannot meet the 75 ft requirement. Their lot is pre-existing non-conforming of 1.1 acres the setbacks are for the required 2 acre minimum.

Babcock stated they had reviewed the proposal at the last meeting. The Jungermann's provided a survey map from 2001 and their neighbor notification letters. Babcock discussed the difference in the setback requirements from the AR-2 District and the no longer existing Low Density District. The side setback would have been more like ten (10) or fifteen (15) feet from the side vs the twenty-five (25) feet that the AR-2 District is now.

Babcock asked the size of the shed and stated it is painted to match the house. Jungermann stated the shed is a 10 x 16 and he wanted the shed to look like it belonged.

**Torpey made a motion and Thorn seconded to close the public hearing. All Board members in attendance voted aye, vote was carried unanimously.**

Babcock stated the Planning Board did the SEQR and voted to declare SEQR a type II no further action.

The Board then started their review of the five (5) criteria.

1. Undesirable change to the neighborhood: The Board feels it does not alter the character of the neighborhood. The neighbor to the north does not have any concerns, and it matches the house in color and should be maintained as such, as it may not fit if it were painted another color.
2. Alternative method: The Board feels that after reviewing the application the location is reasonable for the applicant. The back yard is not preferable nor convenient. The lot is substandard in size, and the rear yard does rise sharply and would make it harder for the use of motorcycles. They could put the shed next to the garage but the current location has an opening in the trees that the shed fits nicely in, it also creates a nice turn around. The proposed location outweighs the negatives. Crocker stated that with the current topography and the desired use, the location make sense.
3. Substantiality: Thorn feels that that the request would be substantial if the structure were located somewhere else, however it meets the needs to achieve the desired result. Babcock stated that the structure will be 103 feet from the centerline of what would be allowed at 108 on a four (4) rod road that was not subsequently widened. The request is to site 48 +/- feet where 75 feet are required. Thorn does not feel it is substantial. Babcock stated that the front setback is not substantial. The side setback would be if it were an open area with more residential homes and it was not screened like it is. The screening lessens the issue.
4. Impact on the environment: Does not have any impact on the environment.

5. Self-creation: The Board feels this is self-created.

A discussion was held on the size, height and usage of the shed. Jungermann stated it is a single story 10 x 16 shed that will be used for storage of motorcycles and personal things.

**Thorn made a motion and Babcock seconded to grant the area variance TV6-20 to Heinz and Michelle Jungermann of 3049 Bailey Rd. Tax map # 80.00-2-4.120 for front and side yard setback for a shed:**

**Whereas:**

- 1. Based on the review of the five (5) state mandated criteria.**
- 2. For a single story 10 x 16 shed.**
- 3. The shed needs to continue to match the house color.**
- 4. If the measurement from the row is less than fifty-five (55) feet, the shed will need to be moved.**
- 5. The existing screening needs to be maintained as long as the shed is in place, if screening is changed for any reason, like kind trees will be replaced.**

**II. 8:00 pm Review #SPL5-20, Site plan for an accessory storage structure 24 x 40. Owner Benson Enterprises, property located at 1986 Bennett Rd tax map # 52.00-3-11.010. Property has an existing Use Variance for a commercial landscaping/nursery business.**

Babcock stated that he would like to review the process before beginning. In his training he does not feel this review should be in front of the ZBA. He stated that Benson would like to add a structure to a property that has an existing use variance. The setbacks and size of the structure conform to the Town regulations. Once a use variance is given it runs with the land. He then stated unless the original use variance had restrictions put on it, the ZBA would not need to look at this proposal, just the planning Board as they approved the original site plan.

Garlapow stated that the 1999 use variance was granted only contingent on the subdivision and site plan approval. Babcock asked if there was anything in the 1999 review that stated if a new structure was built, it would have to come back to the ZBA? The Board reviewed the 1999 motion and there were no requirements set forth. Thorn stated it is still the same business, if it were another business type it may be a different story. Babcock stated it's in keeping with the current use. Babcock mentioned the mobile home at the rear of the property, Kier stated the ZBA does not need to review the existing home as it has its own permit.

**Thorn made a motion and Crocker seconded to refer the review back to the Planning Board as a use variance is in existence and the Zoning Board of Appeals does not need to make a determination.**

**Whereas:**

- 1. The proposed structure conforms to Town regulations regarding size and setbacks**
- 2. The Planning Board will review the site plan**

**Record of Vote:**

Art Babcock **Aye** Mark Thorn **Aye** Sonja Torpey **Aye** Rosemary Garlapow **Aye** Tim Crocker **Aye**  
**All Board members present voted Aye, Vote was carried unanimously.**

### **III. Discussion**

Benson stated that he feels the Town should look at re-zoning the area around him due to the fact that there are commercial uses on properties around his business. There is a large-scale solar array, and the old fur farm has multiple buildings with multiple business. Babcock feels that there should be something in place to allow old farm buildings to be turned into something useful. He feels this area would be good for business as there is 3 phase electric and its close to state highways. Maybe the Town could create an overlay district for this purpose. Applicants would need to bring a plan to mitigate issues such as an increase in traffic.

#### **IV. Meeting Minutes**

**Minutes of August 26, 2020.**

**Thorn made a motion and Torpey seconded the motion to approve the minutes from August 26, 2020. All Board members present voted Aye. Vote was carried unanimously.**

**Minutes of September 23, 2020.**

**Thorn made a motion and Torpey seconded the motion to approve the minutes from September 23, 2020. All Board members present voted Aye. Vote was carried unanimously.**

#### **V. Meeting Adjourned**

**Torpey made a motion and Babcock seconded to adjourn the meeting at 8:50 pm. All Board members present voted aye, Vote was carried unanimously.**

Respectfully submitted,

Kimberly Rayburn

Planning & Zoning Board Secretary