ZONING BOARD OF APPEALS

This hearing on Tuesday, October 6, 2026, called to order by chairman, Harry Kwiek at 7:00 PM with the pledge of allegiance.

Members Present:
Harry Kwiek
John Jimenez
Greg Kalinowski
Shawn Pralow
Ron Carey
Also Present:
Ray Balcerzak, Assistant Building Inspector
Robert Schaefer, Alternate
Phyllis Todoro, Town Attorney
Rosemary Bapst, Deputy Town Attorney

Absent:

James Lembke, Alternate

Appeals Case #1508 for Anthony Occhino of 7220 Clinton Street, Elma, NY who is requesting an area variance to construct a 20' x 25' addition to the existing garage with less than the required front setback Section 144-99 C 6, Residential C.

Mr. Occhino was present and presented what he planned to do. He explained that he was going to remove the roofline and raise the height of the garage. He explained that based upon the existing elevation and trees that he could not easily do that without causing further drainage issues. He indicated that one neighbor filled his entire property which has caused extensive drainage issues for him and his other neighbor. When questioned he indicated that his intent was to put his RV '45 diesel pusher bus' in the garage rather than continue to pay for storage.

Mr. Occhino also indicated that the surrounding homes are closer to the roadway than his garage. He purposely built the garage one foot less than the original garage to keep away from the side yard setbacks. The length of the garage is 47 feet rather than 48 feet.

Mr. Jimenez makes the motion on Appeals Case #1508 for Anthony Occhino of 7220 Clinton Street, Elma, NY who is requesting an area variance to construct a 20' x 25' addition to the existing garage with less than the required front setback Section 144-99 C 6, Residential C to approve the variance based upon the following:

1. **The original home and garage were built in 1954 within the minimum setback.**
2. **The 12 feet addition is a 16% variance which is not significant.**

3. **The addition to the garage causes no adverse environment impact since over 25 houses are closer to the roadway than this garage.**
4. **There is no fire protection issue since the emergency vehicles can still gain access.**
5. **The key issues are the slope of the land which would make it difficult to put this addition in another area.**

Mr. Carey Seconded the motion.

5 Yays

0 nays

The motion carried unanimously.

Appeals Case #1509 for Richard and Rose Campbell of 1581 Jamison Road, Elma, NY who are requesting an area variance to create a buildable lot with less than the required 2 acres of land Section 100-3, Residential C.

Eric Vallone, Esq. and Mr. Campbell were present. Mr. Campbell indicated that he had bought the approximately 10 acres parcel 42 years ago. He indicated that he sold the flag lot off Jamison Road first approximately 5 years ago. He indicated that he increased the size due to the placement of the purchaser's proposed location for their home.

He then sold the corner lot on Hickory Hill and Jamison.

He indicated that he would sell this lot separately from his residence and stated that he was downsizing after raising their 4 children.

Mr. Campbell indicated that he did not fully understand how it occurred that he did not have enough land to sell off another lot but attributed it to the different rights of way for the roadways from County Road and Town Road.

Mr. Campbell indicated that he used the same surveyor for all of the subdividing of his land. He indicated that he thought he was only off 0.1 of an acre however conceded that it was more than that when questioned by the Board.

Mr. Campbell admitted that the entire parcel house and this proposed lot were presently listed for sale together when questioned by the Board. Mr. Campbell admitted that they have had interest in and showings of the property as listed.

Mr. Kalinowski questioned the useability of the offshoot or peninsula, namely the 73.09' by 325' parallel to Hickory Hill since this area could not be used for a proposed home and added no value to the property. Mr. Campbell indicated all pine trees were on that offshoot.

No one spoke in favor of the variance.

Mr. Kwiek asked if anyone wished to speak against the variance:

Mark and Kristine Dickinson, 140 Hickory Hill, Elma, NY, indicated that the proposed property requesting a variance was self-created since Mr. Campbell had previously split off other property which created a smaller than required lot. Mr. Campbell sold off property beginning in 2022 for financial interest. The corner lot sold has significant problems with drainage. There have been significant issues with stones and water crossing Hickory Hill Road turning onto Jamison Road. In addition, on the off-shoot land there is a yard drain on that strip. Mark Dickinson indicated that he believed that approval of this variance would change the character of the neighborhood since this would be the third split in 3 years and would cause everyone to have further drainage issues. The Dickinsons further stated that they approached the Campbells to purchase the land to add to their existing property, but it did not occur. They moved in March, 2020.

Aidan Bain of 101 Hickory Hill, Elma, NY, indicated that he has resided in Elma for 27 years. He indicated that there are stones in the street that he encounters going to work in Niagara Falls and that this is posing a hazard. He indicates that this variance request is solely for profit and asks that it be denied.

Richard and Cindy Marczewski, 40 Hickory Hill Road, Elma, NY, indicate that they own the house on the corner of Hickory Hill and Jamison Road. They bought this property last year and moved in March of 2026. They were told by the builder that the property seeking a variance was not a buildable lot and nothing would ever be built on this property. Rose Campbell also assured them that no one could build on the property. Based upon their assurances they were happy to reside there for the rest of their lives.

Melissa McCaffery of 90 Hickory Hill Road, Elma, NY, indicated she was the other party who offered to buy the land behind her property. The off-shoot property behind her house is full of weeds, garbage, old wood where a ground hog lives, mosquitos and water. There are no pine trees on her property. This land is lower than the lots which cause flooding and water to sit there. She indicated that she has already paid $5,000 for drainage tiles. She indicates that this off shoot area is “disgusting back there”.

Terry Kirby of 161 Hillside, Elma, NY, indicates that multiple properties have been sold and/or have previously been approved but not yet built on. They have drainage issues presently but with all of the future anticipated buildings it will be worse. He states that when he goes to East Aurora, he can go 30 mph. Around his home the speed limit has been reduced to 25 mph, he believes because of the drainage issues. He further states that the danger to wildlife is caused by their loss of habitat and does not want any further development in the area.

Charles Mullen, 80 Hickory Hill Road, Elma, NY, showed the Board where the pines are, and the other area only has scrub and sumac trees and brush.

Rachel Balcerzak, of 1571 Jamison Road, Elma, NY, indicated that she had just built her home and that she was told it was not a usable lot.

Robert Gross, of 11 Northrup indicated that he believes that the lot size should remain the lot size of lots. That reducing the size of lots would be taking money from the neighbors' pockets by reducing the value of their property.

Mr. Kalinowski makes the motion on Appeals Case #1509 for Richard and Rose Campbell of 1581 Jamison Road, Elma, NY who are requesting an area variance to create a buildable lot with less than the required 2 acres of land Section 100-3, Residential C that the variance be denied for the following reasons involving the balancing test for area variance:

1. **Benefit can be sought by another means-the answer is no.**
2. **There is a hardship based upon the prior subdivision of land that the Campbells did, which is a self-created hardship which they are trying to deal with at present. This is only by virtue of how he divided and sold the other lands.**
3. **Whether the approval will produce an undesirable effect and change the character of the neighborhood. I find that it will especially on the 3 lots on the off shoot or peninsula. If it is sold and if we approve it we cannot control what is placed on that parcel. We cannot control that, but we can control it tonight.**
4. **It is substantial based on the magnitude of properties it would affect going forward especially parcels 66, 65 and 73 along Hickory Hill Road.**
5. **It is an undesirable change and substantial because of the impact on the surrounding neighbors.**
6. **Would it have an adverse effect on environmental conditions? It may or may not but after hearing the neighbors' express concerns about the existing drainage issues that approval of this variance and what a future owner would do with the off shoot or peninsula would exacerbate the drainage issues and would impact environmental conditions.**
7. **The reason we are here is because of how he originally split the land and left that off shoot or peninsula area which should not be there since it is not reasonably adding any usable amount of land that would tie into a residence.**

For all of the above reasons the Variance should be denied.

Mr. Pralow seconded the motion.

5 Yays

0 nays

The motion carried unanimously. The variance is denied.

Mr. Carey made the motion to approve the minutes from the September 1, 2026 meeting.

Mr. Jimenez seconded the motion.

5 Yays

0 nays

The motion carried unanimously.

Mr. Jimenez made the motion to adjourn.

Mr. Pralow seconded the motion

5 Yays

0 nays

Meeting was adjourned at 8:07 p.m.

Respectfully submitted,

Rosemary Bapst, Deputy Town Attorney

Drafted but not approved by board.