

TOWN OF MINA
ZONING BOARD OF APPEALS MINUTES

January 26, 2022

ZBA Members Present: John Shifler (Chairman), Chuck Carter, Joe DeBoe, Lori Wagner, Bryan Allison

ZBA Members Absent: None

Others Present: Eugene Blakeslee, Charles Weiss, Paul Hagman, Leanne Becker, Stephen Hyde, Bob Grice; Ellen Shifler (Code Secretary)

Call to Order: The meeting was called to order at 7:09 PM by John Shifler, Chairman.

Public Notices of the meeting were acknowledged.

Announcements: Chairman Shifler thanked former member **Brian Sullivan** for his dedicated service to the ZBA. Mr. Sullivan has left the ZBA in order to serve on the Mina Town Board.

Mr. Shifler also welcomed the newest member of the ZBA, **Bryan Allison**. Mr. Allison served as an observer only at the 1/26/22 meeting and abstained from voting at this meeting.

Approval of Minutes:

The meeting minutes of November 17,* 2021 were approved as **presented**.

Motion was made by Chuck Carter, with a second by Lori Wagner, to approve the minutes as PRESENTED. Motion carried.

Approved: Ayes (unanimous) – Shifler, DeBoe, Wagner, Carter

* The ZBA meeting scheduled for 12/22/21 was cancelled, with the Special Use Permit application for Buffalo Solar referred to the Mina Town Board.

ZONING BOARD OF APPEALS HEARING REQUESTS:

1. Applicant – Richard Hyde

Type of Request: AREA VARIANCES to replace and rebuild the dwelling at **2524 Shadyside Road Extension, Findley Lake** on the lot known on the tax maps of the Town of Mina as 359.14-2-15, owned by Richard Hyde.

Motion: Chuck Carter moved, and Lori Wagner seconded, a motion to **APPROVE** the following Area Variances to replace and rebuild the dwelling at 2524 Shadyside Road Extension, Findley Lake, on the lot known on the tax maps of the Town of Mina as 359.14-2-15, owned by Richard Hyde: lot size 18,585 square feet; lot width 83 feet; lake side 25 feet; rear 22 feet, east side 15 feet; and west side 15 feet.

Decision: Area Variance application **APPROVED**, unanimous.

2. Applicant – Charles Weiss

Type of Request: AREA VARIANCE to construct a south- and west (rear)-facing covered porch and to construct a rear second-story addition at **2518 Eighth Avenue, Findley Lake**, on the lot known on the tax maps of the Town of Mina as 359.14-2-27, owned by Charles J. Weiss and Anne Elizabeth Weiss.

Motion: Joe DeBoe moved, and Chuck Carter seconded, a motion to **APPROVE** a south side Area Variance of 20 feet to place a 5' D x 6' W cantilevered roof over the south entry at **2518 Eighth Avenue, Findley Lake**, on the lot known on the tax maps of the Town of Mina as 359.14-2-27, owned by Charles J. Weiss and Anne Elizabeth Weiss. Condition: The roof may have no ground-supported posts.

Decision: Area Variance application **APPROVED**, unanimous.

3. Applicant – Paul Hagman

Type of Request: AREA VARIANCE to place second floor egress steps on the west property line at **10365 Main Street, Findley Lake**, on the lot known on the tax maps of the Town of Mina as 359.06-3-58, owned by Charles Noble and Judith F. Noble.

Motion 1: Chuck Carter made a motion to **APPROVE** Area Variances of 2,243 square feet (lot size), 77 feet (lot width), and 20 feet (west side) for the placement of second floor egress steps on the west property line at **10365 Main Street, Findley Lake**, on the lot known on the tax maps of the Town of Mina as 359.06-3-58, owned by Charles Noble and Judith F. Noble.

The motion had no second and thus was null.

Motion 2: John Shifler moved, and Joe DeBoe seconded, a motion to **DENY** Area Variances of 2,243 square feet (lot size), 77 feet (lot width), and 20 feet (west side) for the placement of second floor egress steps on the west property line at **10365 Main Street, Findley Lake**, on the lot known on the tax maps of the Town of Mina as 359.06-3-58, owned by Charles Noble and Judith F. Noble.

Decision: Area Variance application **DENIED**, three to one.

Old Business: Chairman Shifler updated the ZBA on the outcome of the Buffalo Solar application for Special Use Permit, tabled at the meeting of 11/17/21. The zoning hearing scheduled for 12/22/21 was cancelled, as the Special Use Permit had been referred to the Mina Town Board on the advice of the Town Solicitor. The Town Board, at a special meeting on 12/30/21, approved the Special Use Permit for the operation of a solar farm with specific conditions. Mr. Shifler shared those conditions (referencing the Mina Town Board draft minutes of 12/30/21) with the ZBA and reviewed referral protocol for any future solar Special Use Permit applications.

New Business: None

Next scheduled meeting is April 20, 2022 at 7:00 PM. Applications for hearings are due to the Code Officer by Friday, 4/1/22 at 11:00 AM.

Adjournment: The meeting was adjourned at 8:45 PM upon motion by Chuck Carter and second by Lori Wagner.

Recorded by: Ellen Shifler
Code Secretary, Town of Mina

Attachments: #1 – Richard Hyde AREA VARIANCE
#2 – Charles Weiss AREA VARIANCE
#3 – Paul Hagman AREA VARIANCE

Attachment to Zoning Board of Appeals Minutes – #1

Town of Mina
Zoning Board of Appeals

AREA VARIANCE

January 26, 2022

Applicant: Richard Hyde

DESCRIPTION OF REQUEST:

AREA VARIANCES to replace and rebuild the dwelling at **2524 Shadyside Road Extension, Findley Lake** on the lot known on the tax maps of the Town of Mina as 359.14-2-15, owned by Richard Hyde.

DISCUSSION AND QUESTIONS FROM THE ZONING BOARD OF APPEALS:

Property is zoned **R2** (Residential, Lakeside).

- Richard Hyde was represented by son Stephen Hyde and contractor Gene Blakeslee.
- The existing cottage (21' x 46') has served five generations of the extended Hyde family. It is now too small for the family's needs. It is built on piers over a large stump, is not insulated, and has structural issues. The structure is not repairable. The family seeks to rebuild a slightly larger, 4-season home on the present lot.
- The proposed home will be 27' x 50', with a walk-out basement and 2 full stories. The new home will be situated 10 feet farther back from the lake at 25 feet (present cottage is 15 feet from the lake). Tree cover will be preserved, and the home will have the look of the old cottage.
- Mr. Hyde owns three lots (343.00-1-51.2, 359.14-2-17, and 359.14-2-20), but they are split by a subdivision right-of-way. No building may encroach on the right-of-way.
- As new construction with demolition of the old structure, a "grandfather clause" for setbacks does not apply. Area Variances are needed for all applicable area standards.
- The Zoning Board referred to pages **43** of the *Town of Mina Zoning Law, Rev. 7/11/20* (R2, Use By Right) and **44-E** (Area Standards). Minimum lot size is 20,000 square feet. At 1,415 square feet, an Area Variance of 18,585 square feet would be needed. Mr. Hyde's lots may not be combined for computations, as they are not contiguous.

(continued)

[Attachment # 1 – HYDE Area Variance]

- Minimum lot width is 120 feet. At 37 feet, an Area Variance of 83 feet would be needed.
- Minimum lakeside setback is 50 feet. At the proposed 25 feet, an Area Variance of 25 feet would be needed.
- It was decided after discussion that the right-of-way* is not equivalent to a road. “Road side” setbacks therefore do not apply to the area bordering the right-of-way. Minimum rear setback is 40 feet. At 18 feet from the rear property line, an Area Variance of 22 feet would be needed. (*“Right-of-way” is not defined in the *Town of Mina Zoning Law, Rev. 7/11/20.*)
- Minimum side setbacks are 20 feet. At 5 feet from the east and west side property lines, Area Variances of 15 feet would be needed.
- The Zoning Board questioned the distances to neighboring houses, and possible obstruction of neighbors’ views. Neighbors’ houses are positioned farther up the hillside, and the new construction will not exceed the maximum height of 30 feet. Parking will be on the other lot(s). A current drainage issue will be addressed in the construction.
- The ZBA also consulted page 62 (Substandard Lots) of the *Town of Mina Zoning Law*. Area Variances would be substantial but are offset by the proximity of two undeveloped lots under the same ownership.

PUBLIC COMMENT: Neighbor **Bob Grice** (2522 Shadyside Road) supports the project.

The Zoning Board of Appeals considered the following for the Area Variance:

1. Would an undesirable change be produced in the character of the neighborhood, or would a detriment to nearby properties be created by the granting of the area variance? ***All ZBA members agreed – No. The new house will be situated farther back from the lake. (*Allison abstained from all voting.)**
2. Can the benefit sought by the applicant be achieved by some method feasible for the applicant to pursue other than an area variance? **All ZBA members agreed – No.**
3. Is the requested area variance substantial? **All ZBA members agreed – Yes. The substandard lot is less than 75% of the area standards. Substantial variances are offset by the proximity of other lots owned by Mr. Hyde.**
4. Would the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **All ZBA members agreed – No.**
5. Would the alleged difficulty be 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? **Shifler – Yes; Carter, Wagner, DeBoe – No.**

[Attachment # 1 – HYDE Area Variance]

MOTION: Chuck Carter moved, and Lori Wagner seconded, a motion to APPROVE the following Area Variances to replace and rebuild the dwelling at 2524 Shadyside Road Extension, Findley Lake, on the lot known on the tax maps of the Town of Mina as 359.14-2-15, owned by Richard Hyde: lot size 18,585 square feet; lot width 83 feet; lake side 25 feet; rear 22 feet, east side 15 feet; and west side 15 feet.

Decision: Area Variance application APPROVED, unanimous.

Ayes: Shifler, DeBoe, Carter, Wagner

Nays: None

Abstained: Allison

Attachment to Zoning Board of Appeals Minutes – #2

Town of Mina
Zoning Board of Appeals

AREA VARIANCE

January 26, 2022

Applicant: Charles Weiss

DESCRIPTION OF REQUEST:

AREA VARIANCE to construct a south- and west (rear)-facing covered porch, and to construct a rear second-story addition at **2518 Eighth Avenue, Findley Lake**, on the lot known on the tax maps of the Town of Mina as 359.14-2-27, owned by Charles J. Weiss and Anne Elizabeth Weiss.

DISCUSSION AND QUESTIONS FROM THE ZONING BOARD OF APPEALS:

Property is zoned **R2** (Residential, Lakeside).

- Mr. and Mrs. Weiss have recently purchased the property from the Estate of Audrey Young.
- Mr. Weiss cited the desire to increase the visual appeal of the home to be in concert with neighboring homes. The south side door will become the main entry point from the rear approach. There is no overhang on this door, and entry is difficult in inclement weather.
- The proposed rear second floor addition needs no variance, as the footprint of the home will not be increased with that addition.
- At issue is the proposed covered porch. As planned, it will be situated on the south property line of the flag-shaped lot.
- The Zoning Board referred to pages **43** of the *Town of Mina Zoning Law, Rev. 7/11/20* (R2) and **44-E** (Area Standards).
- The ZBA has historically not allowed structures to encroach on a property line. Chairman Shifler suggested that Mr. Weiss install landscaping, rather than the covered porch, on the south side. Landscaping, such as concrete or flagstone, requires no variances.

(continued)

[Attachment # 2 – WEISS Area Variance]

- Mr. Weiss stressed the need for a covered entry and proposed a smaller (5' D x 6' W) cantilevered roof over the door only. The Application for Area Variance was amended to request an entry roof only. The changes were initialed by the applicant and the Chair.

PUBLIC COMMENT: Neighbor **Tony Laska** (2516 Shadyside Drive Extension) emailed a letter in support of the project. The letter was read aloud into the record.

The Zoning Board of Appeals considered the following for the Area Variance:

1. Would an undesirable change be produced in the character of the neighborhood, or would a detriment to nearby properties be created by the granting of the area variance? ***All ZBA members agreed – Yes. A roofed structure does not preserve open spaces. (*Allison abstained from all voting.)**
2. Can the benefit sought by the applicant be achieved by some method feasible for the applicant to pursue other than an area variance? **Shifler, DeBoe, Wagner – Yes; Carter – No.**
3. Is the requested area variance substantial? **All ZBA members agreed – Yes. The area variance is equivalent to the required side setback.**
4. Would the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **All ZBA members agreed – Yes. A roof extending to the property line crowds the neighboring lot.**
5. Would the alleged difficulty be 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? **All ZBA members agreed – Yes.**

MOTION: Joe DeBoe moved, and Chuck Carter seconded, a motion to APPROVE a south side Area Variance of 20 feet to place a 5' D x 6' W cantilevered roof over the south entry at 2518 Eighth Avenue, Findley Lake, on the lot known on the tax maps of the Town of Mina as 359.14-2-27, owned by Charles J. Weiss and Anne Elizabeth Weiss. Condition: The roof may have no ground-supported posts.

Decision: Area Variance application APPROVED, unanimous.

Ayes: Shifler, DeBoe, Carter, Wagner

Nays: None

Abstained: Allison

Attachment to Zoning Board of Appeals Minutes – #3

Town of Mina
Zoning Board of Appeals

AREA VARIANCE

January 26, 2022

Applicant: Paul Hagman

DESCRIPTION OF REQUEST:

AREA VARIANCE to place second floor egress steps on the west property line at **10365 Main Street, Findley Lake**, on the lot known on the tax maps of the Town of Mina as 359.06-3-58, owned by Charles Noble and Judith F. Noble.

DISCUSSION AND QUESTIONS FROM THE ZONING BOARD OF APPEALS:

Property is zoned **B1** (Historic Business)

- Mr. Hagman is in the process of purchasing the property, the former “Wonderments” building. He provided a *Contract for Sale of Real Property*, signed and dated 9/14/21.
- Any area variance granted would be to the applicant, not to the property, and would be conditioned on completion of the property transfer. Mr. Hagman stated that obtaining an area variance is not a condition of sale.
- The applicant wishes to place emergency egress steps at the west edge of the existing deck.
- The ZBA raised many questions and suggested alternatives to placing the steps at the property line. Mr. Hagman wishes to avoid blocking a storage area door on the lower level. There are also three septic tanks in the yard, and placement of supporting posts / footers is problematic.
- The Zoning Board referred to pages **50** of the *Town of Mina Zoning Law, Rev. 7/11/20* (B1, Historic Business) and **52-E** (Area Standards). Minimum lot size is 20,000 square feet. At 17,757 square feet, a 2,243 square foot area variance would be needed.
- Minimum lot width is 120 feet. At 43 feet, a lot width area variance of 77 feet would be needed.

(continued)

[Attachment # 3 – HAGMAN Area Variance]

- Minimum side yard setback is 20 feet. At the proposed location, the steps are on the property line; a 20-foot side yard area variance would be needed.

PUBLIC COMMENT: Neighbor **Leanne Becker** (10371 Main Street) supports the project and raised concerns about fire safety for second floor apartment residents.

The Zoning Board of Appeals considered the following for the Area Variance:

1. Would an undesirable change be produced in the character of the neighborhood, or would a detriment to nearby properties be created by the granting of the area variance? ***All ZBA members agreed – Yes. The ZBA has concerns about allowing any structure to encroach on the property line. (*Allison abstained from all voting.)**
2. Can the benefit sought by the applicant be achieved by some method feasible for the applicant to pursue other than an area variance? **Shifler – Yes; Carter ,Wagner, DeBoe – No.**
3. Is the requested area variance substantial? **All ZBA members agreed – Yes. The area variance is equivalent to the required side setback.**
4. Would the proposed variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? **All ZBA members agreed – No.**
5. Would the alleged difficulty be 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? **All ZBA members agreed – Yes.**

MOTION 1: Chuck Carter made a motion to APPROVE Area Variances of 2,243 Square feet (lot size), 77 feet (lot width), and 20 feet (west side) for the placement of second floor egress steps on the west property line at 10365 Main Street, Findley Lake, on the lot known on the tax maps of the Town of Mina as 359.06-3-58, owned by Charles Noble and Judith F. Noble.

The motion had no second and thus was null.

MOTION 2: John Shifler moved, and Joe DeBoe seconded, a motion to DENY Area Variances of 2,243 Square feet (lot size), 77 feet (lot width), and 20 feet (west side) for the placement of second floor egress steps on the west property line at 10365 Main Street, Findley Lake, on the lot known on the tax maps of the Town of Mina as 359.06-3-58, owned by Charles Noble and Judith F. Noble.

Decision: Area Variance application DENIED, three to one.

Ayes: Shifler, DeBoe, Wagner
Nays: Carter
Abstained: Allison