

# TOWN OF EAST GREENBUSH ZONING BOARD OF APPEALS

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## MEMORANDUM

EAST GREENBUSH ZONING BOARD OF APPEALS  
MEETING MINUTES  
October 25, 2016

### Members

Jeff Pangburn, Chairman  
Lou Polsinello III  
Joyce Lapham  
John Conway, Jr  
Matt Ostiguy  
Bob Seward III  
Domenico Pirrotta

### Also Present:

George Hoffman, Attorney  
Donna Moran, Stenographer  
Alison Lovely, ZBA Secretary

### CALL TO ORDER / DETERMINATION OF QUORUM

Chairman Pangburn called the meeting to order and determined a quorum of seven (7) members were present. Introductions were made.

### NEW BUSINESS:

### PUBLIC HEARINGS:

ZBA Appeal #2016-16– LeFebvre -215 Hampton Avenue-5 Area Variances for the construction of a shed & deck.

The following was read and/or referenced as being in the file.

- Legal Notice
- Rensselaer County Recommendation
- ZBA Application, Short EAF, Denial, Area Variance Criteria & Authorization Form
- Bldg. Permit Application
- Resident Letters from Dawn Love, William Lashoff & Ina Vrooman

Alan & Charlotte LeFebvre and their attorney Paul Montgomery were all present. Paul Montgomery addressed the area variance criteria. Alan & Charlotte presented a pack of pictures which were all labeled Exhibit 2016-16A-2016-16H. Chairman Pangburn asked the Board if anyone had any questions.

•Bob Seward asked for clarification that the applicant stated that back in April of 2016 that the Building Inspector, Ron Stark stated that no permit was necessary for the playhouse. Alan LeFebvre stated that was correct.

•John Conway asked for the applicant to explain what a floating deck is, if the deck was right up to the property line, if there are any alternatives, how come the playhouse is up so high, why can't it be moved back and how old the children were. Paul Montgomery stated that a floating deck sits on cylinder block's, the deck is up against the retaining wall, no room to move it, the kids wanted a tree house so they built the playhouse instead, there is not a better place to put it and the children are 7, 9 & 12.

Chairman Pangburn asked what the view of neighboring houses is and how close is it to the neighbors. Mr. LeFebvre stated that the deck is 38 feet from the center of the road.

Chairman Pangburn asked if there was anyone present who wanted to speak.

- Carol/Gary Cuttler of 210 Hampton Avenue and are adjacent to the property in question. They submitted an exhibit of pictures and read a written statement, both which are in the file and were marked exhibit 2016-16-1.

Chairman Pangburn asked if they lived uphill from the property and the Cuttlers stated that no, they live downhill, they have a white vinyl stockade fence.

- Kim Decker of 216 Tampa Avenue lives uphill from the applicant and stated that he owns the retaining wall and that the wall is on the property line and that the fence is 2 feet off the property line. The fence below the wall is the applicant's fence, the fence on the wall is his. Alan LeFebvre built the deck right up against the retaining wall and stated that the shed was all set right up against the retaining wall, which he didn't really have a problem with, but then came the playhouse and deck which sits approximately 13'-15' high. If it had been built on the ground, there wouldn't be an issue. The playhouse is only about 1 foot off of his property line. Kim's girlfriend Marsha read a statement and showed the Board pictures on her iPad which she stated she would email in for the record.

- Another resident spoke and stated that a house on the corner of Pinehurst and Tampa Avenue got a variance for a shed at some point, as they have no back yard either.

- Jim Rosencrans of 213 Tampa Avenue stated that he moved to the neighborhood in 2005, there is a condemned house in which kids are going in doing drugs, what's being done about this house.

Chairman Pangburn asked if there was anyone else who wished to speak.

- Carol Cuttler stated that there is a privacy issue and if it's not resolved then they are taking the issue further.

Chairman Pangburn asked if there were any further questions from the Board.

There were none.

Motion by Domenico Pirrotta to close the public hearing. Second by Joyce Lapham.  
Motion carried by a 7-0 vote.

### **SEQR DETERMINATIONS & RECOMMENDATIONS:**

**ZBA Appeal #2016-16– LeFebvre -215 Hampton Avenue-5 Area Variances for the construction of a shed & deck.**

This is a type II Action-there is no further action necessary.

**WORKSHOPS:**

**ZBA Appeal #2016-16– LeFebvre -215 Hampton Avenue-3 Area Variances for the construction of a 12’ x 12’ deck and a 6’ x 6’ playhouse in the front yard.**

**Resolved,** That the Board of Appeals makes the following findings of fact:

1. There will be an undesirable change in the character of the neighborhood as the playhouse extends above the privacy fences and is out of character with properties located along Tampa Avenue.
2. There are other methods available to the applicant as the playhouse structure can be built at grade and the deck structure is built on floating foundations and can be relocated.
3. The requested variance is substantial with regards to the front yard setback, as only 14 feet of the required 25 feet will be provided, while the side yard setback of 4 feet is not substantial as it’s only a 1 foot variance request, although the accessory structure in the front yard is substantial.
4. The proposed variance will have an adverse effect on the neighborhood as it’s out of character with neighboring properties on Tampa Avenue.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variances.

**Resolved, that the application for the construction of a 12’ x 12’ deck supporting a 6’ x 6’ playhouse dwelling located in the front yard be DENIED.**

This resolution was moved by Jeff Pangburn and seconded by John Conway at a meeting duly held on October 25, 2016.

*(Discussion)*

A vote was taken as follows:

John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

**ZBA Appeal #2016-16– LeFebvre -215 Hampton Avenue- Area Variance for the construction of a 7' x 12' deck.**

**Resolved,** That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as the deck is free floating and is behind a privacy fence abutting an existing retaining wall.
2. There is no other method available to the applicant as the deck provides access into the side door of the house, and the house only remains 7 feet from the retaining wall.
3. The requested variance is not substantial as it is requesting 2 feet of setback distance.
4. The proposed variance will not have an adverse effect on the neighborhood as it is consistent with other neighboring properties.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

**Resolved, that the application for the construction of a 7' x 12' deck be GRANTED with no conditions.**

This resolution was moved by Jeff Pangburn and seconded by Domenico Pirrotta at a meeting duly held on October 25, 2016.

*(Discussion)*

A vote was taken as follows:

John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

**ZBA Appeal #2016-16- LeFebvre -215 Hampton Avenue-Area Variance for the construction of a 7' x 7' shed.**

**Resolved**, That the Board of Appeals makes the following findings of fact:

1. There will not be an undesirable change in the character of the neighborhood as numerous properties in the neighborhood have similar setbacks to accessory structures.
2. There is another method available to the applicant although the shed is already built and is behind a privacy fence mitigating the impacts of the 1 foot variance.
3. The requested variance is not substantial because it is only 1 foot.
4. The proposed variance will not have an adverse effect on the neighborhood as it is behind a privacy fence and consistent with other properties in the neighborhood.
5. The alleged difficulty is self-created; however, that shall not necessarily preclude the granting of the area variance.

**Resolved, that the application for the construction of a 7' x 7' shed be GRANTED with one condition.**

1. That the rear yard surrounding the shed, remain fenced with a privacy fence.

This resolution was moved by Jeff Pangburn and seconded by Matt Ostiguy at a meeting duly held on October 25, 2016.

*(Discussion)*

A vote was taken as follows:

John Conway	<u>Yes</u>
Joyce Lapham	<u>Yes</u>
Matt Ostiguy	<u>Yes</u>
Jeff Pangburn	<u>Yes</u>
Domenico Pirrotta	<u>Yes</u>
Lou Polsinello III	<u>Yes</u>
Bob Seward III	<u>Yes</u>

Motion carried 7-0

**NEXT MEETING:** The next meeting will be held on November 22, 2016

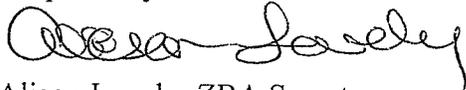
**APPROVAL OF MINUTES:**

Motion by John Conway to approve the meeting minutes from the September 13, 2016 meeting. Second by Matt Ostiguy. Motion carried by a 7-0 vote.

**MOTION TO ADJOURN**

There being no further business before the Board, the meeting was adjourned upon a motion by Bob Seward III. Second by Matt Ostiguy. Motion Carried by a 7-0 vote.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Alison Lovely". The signature is written in a cursive style with a large initial "A".

Alison Lovely, ZBA Secretary