

MINUTES OF THE REGULAR MEETING
APRIL 24, 2006

The Regular Meeting was called to order by Chairman Randy Bogar at 7:00 P.M. Board Members present were Tim Tallman, Fred Kiehm, Kristen Shaheen, John Montrose and Steve Welty. Absent: Board Member Bob Schulman. Also in attendance was Codes Enforcement Officer Jerry Back, and Dolores Shaw, Secretary. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting.

Chairman Bogar also explained that one (1) Board Member is not in attendance this evening. The Board proceeded with the applications.

The application of Chad D. DeFina, Esq. for **O.W. Hubbell & Sons., Inc.** The applicant (O.W. Hubbell) owns approximately 43 ± acres which is zoned Low Density Residential. He would like to retain Lot #2 with road frontage of 60' and sell Lot #1 with road frontage of 80' to the adjoining neighbor. This is a proposed two-lot subdivision where each lot in this zone is required to have 120' of frontage on a Town Approved Road. Therefore, the applicant will need a **60' frontage Area Variance for Lot #2 at the end of Danberry Circle and a 40' frontage Area Variance on Lot #1 which is at the end of Camden Way.** Tax Map #340.005-1-76; Lot Size: approximately 43± Acres; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on April 12, 2006 and residents within 500' were notified.

Attorney DeFina appeared before the Board stating that he represents his client, O.W. Hubbell, who wants to subdivide his property. Before it can be subdivided, it needs the Area Variances because it lacks the required frontages. He presented a survey map for the Board Members and public to review. Attorney DeFina stated that Lot #1 will be sold to the adjacent property owner. There are no plans to do anything other than to sell the lot.

Board Member Tallman asked if multiple single-family homes would be going in – Attorney DeFina said no. Codes Enforcement Officer Back said, if this application is approved, only one (1) house on each lot could be built – anything different would have

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to go before the Planning Board for a Major Subdivision. However, the way the entire lot is now, he could only put in one (1) home on the entire 43 acres.

Mr. Steet appeared before the Board as he is purchasing the property – his intention is to purchase this lot for his own privacy – he is not intending to do build multiple houses.

Chairman Bogar asked if there was anyone present to address this application:

-Ms. Patricia Perrotta, 3 Butternut Road. She referred to a house behind them that was recently built and she doesn't know if this caused a water problem, but now she has a drainage issue with her lot. She feels the drainage in this area should be reviewed before anything is approved.

-Mrs. Jacqueline Restivo, 104 Chestnut Place. She read from a letter she prepared with concerns about water management, ingress and egress easement, privacy, and the impact on wildlife in the area. (This letter has been made a part of the file).

-Mr. John Restivo – he is the son of Mrs. Jacqueline Restive. He stated that his parents are concerned about the easement especially.

Board Member Montrose stated that he would rather see one or two houses on this property rather than a Major Subdivision and does not feel this application affects the water situation.

Attorney DeFina reiterated that this is for a Minor Subdivision only – a lot being sold and a lot being retained. He also referred to the easement on this property and that nothing is planned for this property.

There being no further comments, the Public Hearing ended at 7:20 P.M.

The Board discussed the size of this property and the intended use, i.e., the possibility of one (1) house vs. multiple housing. Board Member Kiehm questions the approval of this application in that he feels the entire lot could be sold rather than subdividing it.

Codes Enforcement Officer Back said the Town is looking into the drainage situation in this area right now.

The Board Members went through the criteria necessary for the granting of Area Variances:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no, however, there is a difference of opinion.
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no , as the lot is limited to what can be done here.
- The requested variance is substantial – response: no, however, there is a difference of opinion referring on how the property is laid out with any road.
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – the response was no.
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: there was a difference of opinion.

Board Member Shaheen appreciates the concerns of the residents, however, given the fact there is 43 acres for the possibility of two (2) homes, she doesn't feel it would adversely impact the neighborhood. She feels the road issue was addressed and appreciates the Town reviewing the water issues at this site. Board Member Kiehm feels a problem. could be compounded by granting this variance.

Motion was made by Board Member Kristen Shaheen to **grant** the Area Variance as requested as she feels the criteria has been met; she doesn't feel an undesirable affect would be made to the neighborhood; this is a substantial parcel for the intended use; she doesn't feel it is a substantial request given the topography of the land; and she concurs with comments about a possible road on Danberry Circle and Camden Way; she feels by granting these variances would protect the character of the neighborhood because it would limit development, motion seconded by Board Member Tim Tallman. Vote taken:

Chairman Randy Bogar – yes	Board Member Kristen Shaheen – yes
Board Member John Montrose – yes	Board Member Fred Kiehm – no
Board Member Steve Welty – yes	Board Member Tim Tallman – yes

Motion was **approved** by a vote of 5 – 1.

The application of **Mr. Michael Rose, 30 Beechwood Road, New Hartford, New York**, who is requesting to construct a 10.5' x 34' garage onto his existing garage. Zoning in this area is Low Density Residential which requires a 15' side-yard setback and this addition will be 1.6' ± from the property line. Therefore, the applicant is requesting a 13.5' ± left side-yard setback Area Variance. Legal Notice was published in the Observer Dispatch on April 12, 2006 and residents within 500' were notified.

Mr. Rose appeared before the Board and presented photos of his home and the surrounding homes in his area. He stated that he needs the additional storage space for his own tools, to work on his own car and to park his wife's vehicle.

Board Member Kiehm referred to the houses in the area that are similar in construction and questioned the size of this proposed garage. Mr. Rose referred to other homes in that area with the same type of proposed garage. He said the concrete slab on the side of the house now will be used. There will be no business activity at his home, the garage is for his use only.

Chairman Bogar asked if there was anyone present to address this application.

-Mr. Phil Eastman, 32 Beechwood Road. He has lived in this area since 1960 and would like to let this Board know that Mr. Rose is one of the finest people he has known. The garage will be on the lower portion of the lot and he has no problem with this application. He referred to other homes in the area with double garages. He is happy to support this application.

Board Member Shaheen asked if the addition will be the same height as the existing garage – Mr. Rose said yes. She also referred to drainage. Mr. Rose said there will be gutters on the addition and water flows to the back. Mr. Rose said his contractor is here this evening to answer any questions.

-Mr. Earl Deckman, 29 Beechwood Road. He also has a two-stall garage and his observation of the neighborhood it would not change the character or have an impact. He feels this garage would compliment the area.

There being no further input, the Public Hearing closed at 7:50 P.M.

The Board Members went through the criteria necessary for the granting of an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no, it was stated it would enhance the area.
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no , as the lot is limited to what can be done here.
- The requested variance is substantial – response: no.

- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – the response was no as it would enhance the area.
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no because of the layout of the lot.

Motion was made by Board Member Steve Welty to **grant** the Area Variance as requested as the applicant has demonstrated a need for the storage; it would not change the character of the neighborhood; it cannot be achieved by any other means; and it is not self-created; also, that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar – yes	Board Member Steve Welty – yes
Board Member Fred Kiehm – yes	Board Member Tim Tallman – yes
Board Member John Montrose – yes	Board Member Kristen Shaheen – yes

The Board reviewed a survey map presented by the applicant for his lot.

At this time, motion was **approved** by a vote of 6 – 0.

The application of **Mr. Richard Widdicombe, 1711 Sherman Drive, Utica, New York (Town of New Hartford)**, who is requesting to construct a 6' high fence in the front of his property. Zoning in this area is Low Density Residential, which allows for a 4' high fence in the front, thus, necessitating a 2' height Area Variance. Tax Map #341.005-2-1; Lot Size: 160' x 200'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on April 15, 2006 and residents within 500' were notified.

Mr. Michael Heumann appeared before the Board representing Mr. Widdicombe as he resides in New Jersey at this time. Mr. Heumann stated that the entire house is being remodeled. Mr. Widdicombe had a 6' chain link fence, but now he is proposing a wooden stockade fence and would like the additional 2' in height to help reduce the noise level. The new fence will be 14' longer than what is there now. The fence would be stained white.

Board Member Welty asked if this could be accomplished by any other means – Mr. Heumann said no.

The Board Members discussed planting cedars rather than erecting a fence.

Chairman Bogar asked if there was anyone present to address this application:

-Mr. Vincent Rossi, 1 Bradford Lane. He feels strongly about keeping the openness of the neighborhood. He feels the reason for a 4' fence is to keep the area open – a 6' high stockade fence makes it look like a stockade and feels it is a bad precedent and a negative impact. He feels there are other alternatives to reduce the noise level, i.e., cedars. He doesn't think there are any other 6' fences in this neighborhood.

Mr. Heumann said he would like to go back to the applicant to address the cedar discussion and asked the Board to table the application. It was decided to proceed.

There being no further input, the Public Hearing closed at 8:10 P.M.

The Board Members went through the criteria for the granting of an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: yes as it was mentioned that there are no other 6' fences in the area.
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: yes, cedars.
- The requested variance is substantial – response: yes.
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – the response was yes.
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: yes because it can be accomplished by other means.

Motion was made by Chairman Randy Bogar to **deny** the application of Mr. Widdicombe as presented in that it did not meet the criteria and that there are other alternatives, i.e., the planting of cedars; seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar – yes	Board Member Fred Kiehm – yes
Board Member Kristen Shaheen – yes	Board Member Tim Tallman – yes
Board Member John Montrose – yes	Board Member Steve Welty – yes

Motion **approved** by a vote of 6 – 0.

The Board discussed the May meeting. It was the consensus of the Board Members to have the next Zoning Board meeting on Monday, May 22, 2006.

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There being no further business, the meeting adjourned at 8:30 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
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