

MINUTES OF THE REGULAR MEETING
DECEMBER 18, 2006

The Regular Meeting was called to order by Chairman Randy Bogar at 7:00 P.M. Board Members present were Fred Kiehm, Kristen Shaheen, Tim Tallman, John Montrose, Bob Schulman, and Steve Welty. Also in attendance was Codes Enforcement Officer Jerry Back, Councilman David Reynolds 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.

The application of V & J Enterprises, LLC (Pizza Hut), Seneca Turnpike & Middle Settlement Road, New Hartford, New York. The applicant is requesting two (2) Area Variances for the purpose of tearing down the existing Pizza Hut (due to a fire) and replacing it with a new structure on the same footprint. The existing lot coverage is 90%, and the current lot coverage law is 66%, therefore, the applicant is requesting a 24% lot coverage Area Variance; the rear of the existing building is 2 ½' off the rear property line and the current law requires 25', therefore, the applicant is requesting a 22 ½' rear yard setback Area Variance. Tax Map #328.011-1-5; Lot Size: .47 Acres; Zoning: Retail Business 1. Legal Notice appeared in the Observer Dispatch on December 8, 2006 and residents within 500' were notified.

Mr. Peter Sorber of Lake Architectural, LLC appeared before the Board with Mr. John Casano, manager of Pizza Hut in Syracuse. He explained that Pizza Hut had a fire a year ago and after a review of the premises, it was decided that it would be most cost effective to tear down the existing building and place a new prototype in its place – they will be using the same footprint, however, the building is non-conforming. He stated that there is one minor modification with the existing walk in cooler, the new prototype shows an extension of the pad – they aren't going any further out, just extending the pad. They will be repairing sidewalks and curbs.

Board Member Tallman referred to the dumpster – it will be in the same location.

Board Member Montrose referred to the curb line with pipe – that will be replaced.
Board Member Montrose referred to the adjacent business and the existing gate – he asked Mr. Sorber to address this as it needs to keep from interfering with the adjacent

Building, and to address buffering at the site (Mr. Sorber also needs to contact the Planning Dept. regarding this buffering). Mr. Sorber said he would do so.

Board Member Shaheen referred to the 2 ½' from the rear property line and asked if that was correct, and if he had a survey. Mr. Sorber said the 2 ½' is correct, and the adjacent property owner is not opposed to this application.

Chairman Bogar addressed signage – Mr. Sorber said it would remain the same.

Chairman Bogar asked if there was anyone present to address this application – there was no response. Oneida County Planning was received with no comment and there was no response from NYSDOT. Therefore, the Public Hearing closed at 7:15 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 – as there are other businesses 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: no, especially due to the layout of the lot.
- 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 – no.
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no.

Motion was made by Board Member Bob Schulman to grant the Area Variance as requested in that it meets the criteria; that a fence be placed along the rear property line to conform with Town Code; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Tim Tallman. Vote taken:

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

Motion **approved** by a vote of 7 – 0. Mr. Sorber was asked to have his architect or engineer contact the adjacent business owner regarding the fencing – Mr. Sorber said he would be happy to do so and it would be in conformance with the Code.

The application of **Clinton Road Baptist Church, 140 Clinton Road, New Hartford, New York.** 1) Clinton Road Baptist Church is proposing to add a 26,000 square foot addition onto their existing building. Since this property fronts on three (3) streets, Clinton Road, Sycamore Drive and Tamarack Drive, they are required to have a minimum front setback of 50' from the front property line. Therefore, they need the following Area Variances:

The closest point on Clinton Road side for the new addition is 30' 3" \pm from the front property line. Therefore, the applicant will need a front setback Area Variance of 19' 9" \pm .

The closest point on Sycamore Drive side for the new addition is 29'. Therefore, the applicant will need a front setback Area Variance of 21'.

The closest point on the Tamarack Drive side for the new addition is 30' 2" \pm . Therefore, the applicant will need a front setback Area Variance of 19' 10" \pm .

- 2) For this site, the church is required to cover no more than the maximum lot coverage allowed of 25% with building and paving. The proposed addition will cover 35%. Therefore, the applicant needs a 10% lot coverage Area Variance. Tax Map #328.019-1-4; Lot Size: 3.6 Acres; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on December 8, 2006 and residents within 500' were notified.

Mr. Chuck Tomaselli, AIA, appeared before the Board appeared before the Board with Pastor Samuel Macri of Clinton Road Baptist Church. Mr. Tomaselli presented sketches of the proposed addition which indicated the location of the structure in relation to the property and also an aerial map of the surrounding properties. He stated that he met with Mr. Ken Andela, PE, of NYSDOT, who submitted a letter stating they did not have any issues regarding sight distance, however, any plantings or upgrades would have to be addressed (this letter has been placed in the file). He also referred to Oneida County Planning who did not have any recommendation.

Mr. Tomaselli explained the setback requirements needed and how this addition could be seen from the adjacent property owners. He stated the views from both Tamarack and Sycamore look at lawn area. All of the grass areas will stay intact.

The additions will be in the gravel area. They are replacing the green grass with permeable parking area, which is a mix of grass the gravel.

Board Member Montrose asked if the existing sign would be impacted at all – no, the sign is about 25’ from the addition. He also asked if the area that is crushed stone will be used for parking – yes. Board Member Montrose said if they increase membership, they will need more parking. Pastor Macri said they have gone to two (2) services at about 125 people at one service and 150 at the other and the parking situation would be divided. Mr. Tomaselli said the parking meets Codes. Mr. Tomaselli further explained the worship of this community and how they have grown.

Board Member Shaheen asked where the new sanctuary is located – it was stated towards Clinton Road; the new plaza is the entrance, the existing building’s purpose is for classrooms, and they are operating on the second floor for worship. The existing building will continue to be the kitchen. They don’t have a dedicated worship space and a multi-purpose space for fellowship; also, they are proposing a gymnasium. Board Member Shaheen asked why such a large addition – Mr. Tomaselli said to house the size of the congregation – they are expanding to about 500 people. Parking is for 110-112 cars. Handicap parking will remain the same.

Board Member Kiehm addressed seating capacity – they are saying now it is about 215 and this will grow to 500. Pastor Macri said they are going to ground floor seats because people are having problems climbing stairs. It makes it easier for the people to attend service. They want to offer more ministry for children, adults, etc. Board Member Kiehm asked if they tried to reconfigure that building to conform to the Zoning Law. Mr. Tomaselli said no. They spent a lot of time planning this out. He also referred to the existing buffer, and he feels the structural impact to the neighborhood would be minimal. Board Member Kiehm feels they can do something to expand without a variance. Mr. Tomaselli feels any other proposal would not work.

Board Member Schulman asked if there would be other services offered – yes. They would like to utilize the building for youth groups, fellowship, dinners, pre-school for children and other activities.

Board Member Welty asked if they planned on having day care during the day and how many days a week – Pastor Macri said they have hosted a home school group and they would like to look into it more. When they built the last addition, they thought about a Christian School but it didn’t happen.

Mr. Tomaselli referred to the size of the addition, for use as classroom space and worship, and why they need this addition, i.e., lockers, bleachers and an entry from the

back side for a standard size gym. He explained that it is not quite one floor. On the second floor it overlooks the worship space; there is a viewing area and a small prayer room. The original building will stay the same basically. In the back it is two (2) stories. The roof line will stay at that height with the exception of the new peak. They will tie into the new addition. The hill will be cut into a little bit – all the trees except one will remain.

Further, Mr. Tomaselli said the driveway out to Tamarack Drive will be paved, a porous pavement will be done there and he doesn't see a water runoff problem (he explained what porous pavement consists of (blocks and grass) and how it absorbs water). They will have an ingress and egress off Clinton Road and Tamarack Drive.

Board Member Tallman asked if he anticipates any frost problems – Mr. Tomaselli said no. Board Member Welty asked if anyone has prepared a storm water study – Mr. Tomaselli said not yet. Codes Enforcement Officer Jerry Back said this study can be done at the Planning Board level.

Board Member Shaheen stated that the growth of the Church is a wonderful thing, but the primary concern is the neighbors who signed a petition in opposition. She asked if the Church had any discussions with the adjacent neighbors about what they want to do and whether the size of the building could be reduced (the Church had not contacted the neighbors). The expansion to accommodate the needs of the Church is requested, but you have to take into consideration the concerns of the neighborhood.

Chairman Bogar addressed the front and rear of the proposed addition – he wanted to know if the gymnasium is a necessity. Pastor Macri stated that the gym provides a recreational space for programs; the expansion provides for space for dinners and fellowship programs, and provides more space for children's' programs/youth ministries.

Board Member Montrose feels a campus type atmosphere is being constructed on this site. There was the original building, then another addition which took a long time to construct, now this request. He feels the lot is not big enough for what this Church is proposing – he feels they are creating a complex. Perhaps they should take the building down, level the land and put up a new building. Pastor Macri doesn't see the purpose of taking a functioning building down and building a new one. He stated that their congregation has grown and they need the additional facilities.

Pastor Macri said if they feel this is going to impact the neighborhood in a negative way, then they want to hear this. He would like everyone to cooperate and he wants to offer a better ministry.

Mr. Tomaselli said this plan is nothing new to the Church, it is something they have wanted for a long time. Chairman Bogar asked how much higher are they going to be than what is there now – Mr. Tomaselli said no higher – the height meets the Zoning Law. The exterior of the addition has not been discussed yet, maybe metal or masonry.

Board Member Tallman asked if a contractor was going to build this. Mr. Tomaselli said Mr. Rick Buck has been their contractor for many years, and the work will be done also by some parishioners. Pastor Macri said they have a team of 120 – 150 people from other areas who donate time and help construct – this is what they have done in the past. They will also utilize professionals in the area.

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

-Mr. Robert Kelsey, 8 Tamarack Drive. He addressed the impact this structure will have on his property. He does not want to look at a 20' wall – this is a nice neighborhood with single-family homes, nice yards, etc. He feels there will be more of a water runoff situation. He is also concerned about the impact of the driveway, i.e., more traffic, safety of the children. He further addressed the water situation as it comes down the hill. He questioned where snow would be collected. He feels people will be coming in on a daily basis to utilize this facility.

Mr. Joseph Pecorello, 4 Tamarack Drive. Visually he will be seeing the building from the back. He addressed the height of the addition and the existing hill. He feels the picture doesn't define what Mr. Tomaselli is stating. He feels there is a height issue even though Mr. Tomaselli said there isn't.

Mr. Tomaselli referred back to the height issue and Mr. Pecorello said there is a discrepancy with his calculations. Mr. Pecorello stated that given his property, he will be looking directly at a wall. Discussion ensued regarding the calculations given by Mr. Tomaselli and it was determined by the Pastor and architect that there is a mistake. Mr. Tomaselli apologized for this.

Mr. Pecorello also is concerned about water runoff, property values, and the service road by Sycamore Drive. He referred also to the center part of the plan and wanted to know if they were using it. It is misleading. Mr. Pecorello also feels that it is the responsibility of the Church to buffer the property with trees and maintain them. Mr. Pecorello feels the center of the property is not being used and it is infringing on neighbors whether it's building or parking.

At this time, Mr. John Powles appeared before the Board regarding the new addition and stating that the kitchen cannot be moved which affects the project – moving it somewhere else loses the function ability. He doesn't like the way the project is displayed on the sketches. Pastor Macri doesn't feel the picture is accurate as he feels the hill is much higher. He said the hill will remain as is but they will dig into it.

Board Member Montrose again referred to the new addition compared to the old one. He feels about 60% of the hill will be removed and that would take most of the height of the hill away. Pastor Macri said if they have to build the berm up, they will.

Mr. Pecorello said it goes beyond that – and he is also speaking for his neighbor, Diane (who was not in attendance). He feels the neighbors came here in good faith and are looking for a presentation from them and now the Pastor said it is not what they planned. Mr. Tomaselli said it is not depicted correctly and apologizes again. Mr. Pecorello wanted to know the dimensions from the existing building toward Tamarack Drive – 81' 6" from start to finish off the back of the existing building. Mr. Pecorello said the addition will be 80' wide - to the top of the hill is probably only about 50' of level space.

Board Member Welty asked, how much of the hill will be taken off, how many feet. Mr. Tomaselli said approximately 10' – the hill height is approximately 20'.

-Mr. Robert Kelsey, 8 Tamarack Drive. With the additional parking, how are lights regulated – what are the Codes. Codes Enforcement Officer Back said it will be addressed at the Planning Board level. Mr. Kelsey feels that with additional lighting, the area would look like a drive-in theater. He feels there is nothing comparable to this request – he feels it is intrusive and too large. He wonders how this addition compares to the addition at Myles School and Myles has a lot more property.

-Karen and Dennis Wrate, 9 Tamarack Drive. Their house would be adjacent to the new driveway coming out to Tamarack. They are concerned about lighting, traffic, parking location, buffering, etc. Their bedrooms are located on this side of the driveway and are very concerned about noise and lighting. Mr. Tomaselli said there will be no parking along the property line. They are concerned about utilizing this driveway for extra parking if their lot is full.

-Mr. John Emery, 1 Arbor Drive & Sycamore. He wanted to know the scope of this project with the project that took four years to complete on this property. That project was 10,000 square feet and this new project is much larger. Pastor Macri

said they would like to have this new addition done in 1 ½ years. Mr. Emery does not want to look at a big complex.

-Ms. Caroline Emery, 1 Arbor Drive. She will see a wall facing her property. There is no hill on her side. She will also be looking at a service road, a big wall and no green space. Aesthetically, she feels, they are taking away the character of the neighborhood. She is against this addition. When the first addition was being constructed, she looked at traffic, construction debris, garbage, etc. for four (4) years. She also has a concern about water runoff.

-Mr. Al Bonaparte, 8 Arbor Drive. He has lived in this neighborhood for 51 years. He asked if they are going to have a school there – Pastor Macri said yes, potentially. They will do the school on Sundays when the children are brought to Church by their parents. Mr. Bonaparte asked if they were planning on running a school every day – Pastor Macri said potentially, yes as long as there is a need. Mr. Bonaparte is concerned about safety for the children in the area, traffic coming into the manor, possibly more buses, and he feels they are losing their residential status. The potential is there for a hazard. He does not feel the property is big enough.

-Mary Steele, 6 Arbor Drive. She has a problem getting out onto Clinton Road as it is now. She is concerned about traffic, possible school hours, visibility, water runoff, property values, etc. She said there is a big light that shines right into her bedroom now. There are many potential accidents at this location and she is aware of the road conditions, but worries about the expansion and what kind of traffic would be drawn to this site. There is also a grassy section of weeds on Clinton Road that is not maintained which creates a big visibility problem. Preswick Glen is being constructed nearby and that project will have an impact also – it is just too much for their neighborhood. She feels the Church's needs are inconveniencing the neighborhood.

Mr. Tomaselli said when he met with NYSDOT at the site, they didn't feel there was a serious problem. Mr. Tomaselli further stated that now that he is aware of the hill, the entrance, the second floor level on the back side and the driveway on Tamarack – they will redesign the parking so as not to exit onto Tamarack so that service will be on Sycamore and Clinton Road only.

-Mr. Dick Ambrose appeared with his daughter, Caroline Boris, who lives at 144 Clinton Road. She lives directly next to the Church and is affected by the parking lot. 112 parking spaces will be facing her windows. She has no privacy. Cars and traffic are a big concern of hers. The big blinking sign they have also disturbs her as it looks like a business sign. Water drains off the parking lot and causes a problem for her driveway and her driveway is sinking. They do not feel this addition is appropriate in this area.

-Mr. Ron Mineo, 18 Arbor Drive. The previous addition didn't have siding for years, now there is no plan for siding on this addition. He is concerned about property values, the building is too big, and the previous construction was an unsightly mess during construction. If the Board approves this, is there a rule that applies to buffering or fencing.

-Mr. Al Orsino, 15 Tamarack Drive. His biggest concern is that he lives in a nice residential area. The previous addition was an unsightly mess for many years. A sign is on their property that no one likes. He feels this expansion goes over the top and doesn't fit in their Medium Density Residential area. Along with everyone else, he is concerned about safety, lighting, parking, over expansion, and water runoff. He feels the Church has outgrown the neighborhood. He feels there is another way to accomplish what they want, i.e., tear down the existing building and do it right. He doesn't want to suffer for the Church's mistakes by what was done by them in the first place. Mr. Orsino also asked the Board to review his concerns which were submitted to them (and which have been made a part of the file).

-Councilman David Reynolds addressed the Board stating that the 4th Ward Councilman, Richard Woodland, was ill and could not attend this evening. He submitted a letter to be addressed by this Board opposing this request. Mrs. Shaw read the letter from Councilman Woodland and it has been made a part of the file.

Mr. Pecorello stated that the first he knew about this application was when he received a letter from the Zoning Board. There was no effort from the Church to contact any of the neighbors who may have concerns. He feels they don't have any concern for them – their application for this project is at the expense of the homeowners.

Chairman Bogar referred to a petition that was signed by many neighbors with their concerns who could not attend this evening – this has been made a part of the file.

Chairman Bogar referred to two (2) other residents who called the office in opposition:

- Mr. Charles Haskin, 1 Sycamore Drive
- Ms. Lauren Darby, 25 Tamarack Drive

There being no further input, the Public Hearing was closed at 8:50 P.M.

The Board reviewed this application and took into consideration the concerns/issues of the residents. It was the consensus that this request is excessive, and the Church has outgrown their needs.

Board Member Shaheen felt safety is a big issue as well as aesthetics. Water runoff issues were raised, lighting, and they didn't make any attempt to place this addition on the side of the property where there is more green space, and they are not adequately addressing the hill issue. They haven't attempted to reduce the size of this building so as not to require a variance. There were very serious concerns from the homeowners. She feels their needs can be accomplished by other ways.

Board Member Kiehm is convinced something different could be done on that property, in his opinion.

Board Member Schulman felt the kitchen issue is holding up the relocation of other things.

Chairman Bogar felt this request is excessive. Perhaps this request can be downsized. Listening to the residents and going to the area, he has concerns about traffic and safety. Also, there is a possible environmental impact with water runoff.

At this time, 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: yes – this is a large addition and the placement of a driveway out to Tamarack.
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: yes.
- 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 – yes, with the additional traffic, water runoff concerns, etc.
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: yes.

Motion was made by Board Member Steve Welty to deny the Area Variances as requested in that it does not meet the criteria; that it alters the character of the neighborhood; it is substantial; it has an adverse effect on the area; the Board feels it can be accomplished by other means and that it was self-created; seconded by Board Member Kristen Shaheen. Vote taken:

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

Motion to **deny** was passed by a vote of 7 – 0.

The Board discussed the next meeting, which is a holiday. Therefore, the January meeting will be held on Tuesday, January 16, 2007. NOTE: (Since this writing, the Zoning Board will be meeting February 5, 2007).

The Board Members discussed the upcoming Association of Towns meeting in New York City. It was decided that Vice-chairman Tim Tallman would attend.

The Board Members discussed the draft minutes of the November 20, 2006 Zoning Board of Appeals meeting. A few of the Board Members had questions and wanted to address them with Mrs. Tracy Palmer (who had taken these minutes in the absence of Secretary Dory Shaw). Chairman Bogar is requesting the Town Planner to contact Mrs. Palmer as the Board Members would be contacting her something between Christmas and New Years. Also, the Board Members agreed that if Mrs. Palmer wanted an extension in time to finalize these minutes, that they agree.

Secretary Dory Shaw updated the Board Members on the upcoming training put on by Oneida County Soil & Water. She will be forwarding each Board Member with a schedule.

There being no further business, the meeting adjourned at 9:20 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

DbS

