

## MINUTES OF THE REGULAR MEETING

JULY 16, 2007

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, Steve Welty, John Montrose and Bob Schulman. Also in attendance were Councilman David Reynolds, Codes Enforcement Officer Jerry Back, and Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting.

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**Mr. Peter Bolos, 4452 Commercial Drive, New Hartford, New York**, who is requesting an Amendment to Final Approval for a newly installed sign for Big Apple Plaza on Seneca Turnpike. The applicant would like to replace an existing panel with a message board. Tax Map #341.005-2-49; Retail Business 1. Legal Notice was placed in the Observer Dispatch on July 6, 2007 and residents within 500' were notified. Mr. Bolos appeared before the Board and presented pictures of the existing sign (which he was granted an Area Variance on October 25, 2005). He would like to replace the two (2) top panels with a message board. He is not adding any additional size, it actually decreases. Mr. Bolos explained he and his brother are moving their businesses to the back of the site and they want the exposure – the message board will give them the advertising tool they need. This sign also allows them to compete with the bigger businesses as they can't afford the advertising dollars these larger businesses do with signage, OD ads, etc. There hasn't been much activity in the back of their property and he put together a plan through the Codes Office to move the stores there. He presented a picture of the proposed two-sided sign, and it will be professionally installed from a firm in Rochester.

Chairman Bogar would like to hear from the other Board Members regarding their thoughts as at this point he is undecided.

Board Member Tallman asked if it would be digital – Mr. Bolos said yes, and it would be a scroll-type sign. He said the existing sign is a photo cell and the message board will be separate – a scroll of text. Mr. Bolos presented photos of the Walgreen's message board

and it won't be as big. Board Member Tallman feels there is a safety issue here and is concerned about visibility problems at this corner with that type of sign.

Board Member Shaheen asked about the necessity of having this scrolling line. Mr. Bolos said it is becoming hard to compete with the larger businesses in the area; and where he is moving the businesses to the rear, this sign would alert people about the move; there is no exposure in the rear - he needs to update his stores and this move best suits their needs. They hope to fill the front part of the building with stores once they move. He said the property holding company has lost money for the last few years and it is increasingly difficult to keep up.

Board Member Montrose referred to the Walgreen's sign on Commercial Drive. Mr. Bolos his sign would be built in onto an existing sign – the cost of building it in with two (2) sides is almost triple, but they want it to look nice. He is updating the property to make this area more attractive.

Chairman Bogar referred to correspondence from the Police Chief regarding this application as he asked for his input. Secretary Dory Shaw read this and it has been made a part of the file. (Chief Philo stated that he finds no traffic concerns as long as its placement doesn't hinder sight distance for emerging roadways or road signs). Mr. Bolos said the position of the existing sign was carefully selected by himself, the State, County, and Codes so cars get in and out easily with no visibility problems.

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

-Mr. Dick Rondinelli, 307 Winchester Drive, New Hartford. He feels Mr. Bolos had done a good job making the property look better and has no objection to the sign.

County 239 Review was received with no comments. There being no further input, the Public Hearing closed at 6:55 P.M.

Codes Enforcement Officer Back was asked why this application was back before the Board – he said because of the application made previously for this type of sign with the additional square footage. However, they are not adding any square footage, just changing the panels to allow for a message board. He is not saying the rotation is illegal, they are just changing what was approved. If Mr. Bolos wanted a sign that was a legal size, he would have to give him a permit.

Reference was made to free standing/portable signs and the enforcement of these signs. Mr. Back explained the situation concerning these signs.

Board Member Schulman feels this type of technology is the future and there is no Town Ordinance prohibiting them. Board Members Shaheen, Tallman and Montrose have concerns regarding this being a heavy traffic area, and a distraction at this location.

Codes Enforcement Officer Back said the Town is in the process of updating the Zoning Ordinance for signs within the next year or so.

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.
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: difference of opinion.
- 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 difference of opinion.
- 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 application for Mr. Peter Bolos/Big Apple Music as presented as it did not meet the criteria; seconded by Board Member John Montrose. Vote taken:

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

Motion to **deny** was passed by a vote of 5 – 2.

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**Mr. William Snyder, 3580 Oneida Street, Chadwicks, New York**, who is requesting to construct a new front porch with a roof onto his existing home. Zoning in this area is Medium Density Residential, which requires a 30' front yard setback. The new porch will set back 5' from the front property line, thus, the applicant is requesting a 25' front yard setback Area Variance. Tax Map #349.012-1-28; Lot Size: 109' x 283'; Zoning: Medium Density Residential. Legal Notice was placed in the Observer Dispatch on

July 9, 2007 and residents within 500' were notified. Mr. Snyder appeared before the Board with pictures and diagrams of the porch.

Board Members Kristen Shaheen and Tim Tallman abstained from this application.

Mr. Snyder presented pictures of his home and the porch. He was not aware he needed a Building Permit to replace a porch, but was notified by Codes that once a roof is built, it changes the setback. That is why he is here this evening.

Chairman Bogar asked how far back the porch was set back before – Mr. Snyder said about 5' to 6'. It now sets back about 8'. He presented letters from Amy Peek, 3578 Oneida Street and Donald Campbell, 3584 Oneida Street, who support his application. Walls will not be built on this porch, but it has vinyl railings with vinyl columns.

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

Ms. Pat Savicki, 3565 Oneida Street, Chadwicks. She supports this application and said that Mr. Snyder is doing a nice job taking care of his property.

There being no further input, 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.
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no.
- 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.
- 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 John Montrose to approve the application of Mr. Snyder as it met the criteria; however, with the conditions that the walls of the porch not be enclosed; that the steps come off the driveway side of the porch; that a railing be placed on the front across the porch; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Steve Welty. Vote taken:

Chairman Randy Bogar – yes  
Board Member Fred Kiehm – yes  
Board Member John Montrose – yes

Board Member Steve Welty – yes  
Board Member Bob Schulman – yes

Motion was **passed** by a vote of 5 – 0. (Board Members Shaheen and Tallman abstained).

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**Mr. Andrell Thomas, 309 Winchester Drive, New Hartford, New York**, who is requesting to construct a new porch with roof onto his existing home. Zoning in this area is Low Density Residential, which requires a 30' front yard setback. The new porch will set back 22' from the front property line, thus, the applicant is requesting an 8' front yard setback Area Variance. Tax Map #317.011-3-43; Lot Size: 65' x 155'; Zoning: Low Density Residential. Legal Notice was placed in the Observer Dispatch on July 9, 2007 and residents within 500' were notified.

Mr. Thomas appeared before the Board with a drawing of his porch. He didn't know he needed a permit to replace an existing porch. He stated that the porch was rotten and needed to be replaced, and found out from Codes that because he was going to place a roof on it, it changed the setbacks. The dimensions are the same as what existed before. The gable roof will be tying into the house.

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

-Mr. Dick Rondinelli, 307 Winchester Drive, New Hartford. He said he is in favor of this application as they are doing a lot of good things to the home to make it better.

Board Member Schulman asked about siding. Mr. Thomas said his contractor is going to try to match the roof and siding as closely as possible to what exists there now. He stated that the roof of the whole house may be done over in a year or two.

There being no further input, the Public Hearing closed at 7:25 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.

- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no.
- 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.
- 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 application of Mr. Thomas as presented and that the shingles and siding match as closely as possible to the existing house; seconded by Board Member Fred Kiehm. (Building Permit had already been taken out for this porch). Vote taken:

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

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

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After discussing the availability of the Board Members for the next meeting, it was decided to hold the Zoning Board meeting on **Monday, August 27, 2007 at 6:30 P.M.**

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Chairman Bogar asked Secretary Dory Shaw to read a letter received from Dr. Frank Mondi of the New Hartford Animal Hospital asking for an extension of approval for an Area Variance he received on November 21, 2005 and the reasons why.

It was the unanimous decision of the Board Members to extend approval of Dr. Mondi's Area Variance to July 16, 2008.

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Chairman Bogar explained to the Board Members what has transpired on property located at 117 New Hartford Street. Codes Enforcement Officer Back explained that the property was being purchased by someone who wanted to store his antique/expensive vehicles. There would be no commercial sale of cars or auto dealership. It was his decision, after speaking to this gentleman, that he could use this existing building for offices and storage of his vehicles. This gentleman has dealer plates to be able to take his cars out of storage and driven. To have the dealer plates he needs a sign displayed on the

outside of the building. A decision had to be made whether to allow this and the zoning for this area states many things but not the storage of vehicles. This is a lesser type use than what is allowed in this zone.

A question came up if someone purchases the property. Mr. Back said there are a list of permitted uses, however, no auto dealership activity. If this gentleman wanted to do anything further than the storage of his vehicles, he would need to apply to the Zoning Board of Appeals. Mr. Back said he talked to the attorney for this gentlemen and stated he permitted the use with the dealers sign on display, but that he only allowed the office/vehicle storage use.

The Board Members discussed this and all were in agreement with Codes Enforcement Officer Back that this use be for office/storage of vehicles only.

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There being no further business, the meeting adjourned at 8:00 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary/Zoning Board of Appeals

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