

MINUTES OF THE REGULAR MEETING
NOVEMBER 19, 2007

The Regular Meeting was called to order by Chairman Randy Bogar at 6:30 P.M. Board Members present were Kristen Shaheen, Steve Welty, John Montrose, Tim Tallman, Fred Kiehm and Bob Schulman. Also in attendance were Councilman David Reynolds; Councilwoman-elect Christine Krupa; Codes Enforcement Officers Joseph Booth and Thomas Rowlands; 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.

The application of **Mr. James Becker, 12 Allman Place, New Hartford, New York**. Based on the interpretation by the Zoning Board of Appeals Mr. Becker's barrier was determined to be a fence. Maximum height for a fence (side-yard) is 6'. The sports net/fence is 12' high. Therefore, the applicant is seeking a 6' height Area Variance. Tax Map #328.012-3-17; Lot Size: 50' x 166'; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on November 10, 2007 and residents within 500' were notified. Mr. Becker appeared before the Board.

Board Member Kristen Shaheen abstained from this application.

Mr. Becker said this net is a temporary structure which he has already taken down. His children like to play basketball and sometimes the ball goes over onto the next property. He would like to have the net up from May 1 to October 1 and explained that with the weather as good as it has been, the net has been up longer. His children like to play basketball but the ball hits onto the neighbor's home and hopes that with this 12' net/fence, it would alleviate this problem.

Board Member Montrose asked if there was any other place to put the basketball hoop; Board Member Kiehm asked if there was any way the poles could be adjusted – Mr. Becker said no. Board Member Welty asked if the net could go up and down – Mr. Becker said he would have to place a pulley system on the top of it. He also asked if in the future when this is not being used, would he take it down (all of it) – Mr. Becker said yes. He stated that when he had the net up, he never got a call from the neighbor that there was a problem – he is looking to avoid a confrontation with his neighbor if he forgets to pull the fence up. Board Member Tallman doesn't know whether a regular 6' fence and something above that might be better.

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

Mr. Richard Pratt, 14 Allman Place. He gave each Board Member and Secretary Dory Shaw a copy of his memorandum for the file which outlined his issues with this request and what has transpired in the past. He is against this variance for a 12' fence. He stated he doesn't have issues with kids playing basketball, but he wants to know what kind of fence and type of fence can go up so they don't have to keep coming back before this Board. Board Member Welty asked if he has an issue with the fence going up and down – Mr. Pratt said yes because he doesn't know of any fence that goes up and down. He has an issue with the type of fence as well as the height. If there was another type of fence, maybe he wouldn't be opposed, but the height is an issue – a 12' fence is not acceptable to him.

Chairman Bogar doesn't want to mediate between neighbors, and maybe we can work something out by putting the proper type of fence in that would satisfy both parties.

Secretary Dory Shaw stated that a few calls were received from neighbors in opposition:

- Mr. Michael Morrison, 20 Allman Place
- Mr. Rycraft, 4 Allman Place
- Mrs. Karen Sents, 27 Allman Place

There being no further public input, the Public Hearing ended at 6:50 P.M.

The Board Members tried to think about a compromise to solve the situation – the problem is the ball going over into the neighbor's yard. Discussion ensued regarding the places to play basketball within the Town; front yard vs. side yard for the erection of a fence (Codes Officer Joseph Booth explained the criteria for a 4' and 6' fence); the height of the proposed fence and any other type of fence; a precedent being set for a 12' fence; and trying to keep the ball within the confines of the property.

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: yes.
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: 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.

Motion was made by Board Member John Montrose to deny the application as presented as it does not meet the criteria; seconded by Board Member Steve Welty. Vote taken:

Chairman Randy Bogar - yes

Board Member John Montrose - yes

Board Member Tim Tallman – yes

Board Member Fred Kiehm - yes

Board Member Steve Welty - yes

Board Member Bob Schulman - yes

Motion for **denial** was passed by a vote of 6 – 0. (Board Member Kristen Shaheen had abstained from this application).

The new/revised application of **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 #328.011-1-12.1; Lot Size: Approximately 1.5 Acres; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on November 10, 2007 and residents within 500' were notified. Mr. Bolos appeared before the Board.

Chairman Bogar explained that this Board has to determine if there is enough new information for Mr. Bolos to reappear/reapply. If the Board Members determine to go forward, then we listen to the reapplication.

1) New reapplication information: Mr. Bolos explained to the Board what he feels is new to his application: the message board will now not flash – it will not constantly scroll and it will not be as bright (he picked an amber color which is softer in color). The fastest the message would be is 17 seconds (this is what he came up with in discussions with the supplier but it could be adjusted). He knows the constant scrolling and flashing is an issue, and that is why he decided to change the color and time of scroll – he is dealing with a local company. Also, he would be willing to remove an existing sign on the building that houses a Big Apple sign, and also the Valley Brook Motel sign on top of the building. He displayed photos of the property for the Board's review.

Chairman Bogar referred to an old, small Plaza 5 sign on the building near the travel agency location and asked if that was going to be removed – Mr. Bolos said he would check into it as he is not familiar with this one.

The Board Members discussed whether to proceed with this application. Motion was made by Board Member Bob Schulman to hear the new application as Mr. Bolos brought new evidence to the table; seconded by Board Member Kristen Shaheen. All in favor.

2) Public Hearing for reapplication: Mr. Bolos explained that he received approval for the new free standing sign on Seneca Turnpike. He has cleaned up a lot of the signage on the building and the lot itself. This thought of putting in a message board on the free standing sign came up because he and his brother decided to move their business to the back of the property. Board Member Shaheen had a question regarding signs on Commercial Drive – she also asked if there would still be entrances on Commercial Drive – Mr. Bolos said yes. She also asked if the Big Apple sign on Commercial Drive is going to stay – Mr. Bolos said no – that would come down. Board Member Shaheen further asked if there would be other signs there – Mr. Bolos said they have approval to put up a few signs according to Town Code. Mention was made of plastic signs around the property – Mr. Bolos said those are not allowed and have come down. Mr. Bolos stated he had an arrow sign on the corner 24 years ago, which was removed 2 years ago.

Mr. Bolos explained that he is trying to keep his business going – his dollar numbers have dropped by \$70,000 the first year that sign was gone – he is competing with other places and wants to recoup some revenue. He referred to other message boards around the area.

Board Member Welty asked if the sign on Commercial Drive will be removed but something would be put back in place – it was stated only Valley Brook sign is being removed. He is going to take the Big Apple signs down where the Plaza 5 sign is across from Jay-K Lumber. Mr. Bolos said that building has been leased out – he doesn't know of any sign for on top of that building but he will check into it. He wouldn't have a problem removing a sign but that might affect the renters. Valley Brook is looking to clean up their sign also. Any request for a free standing sign has to go through Codes.

Mr. Bolos said that little by little he has been cleaning up the property and the signage. He has spent a lot of time and money cleaning up the area; the parking lot has been paved; and he believes that within the next year you won't recognize the building.

Chairman Bogar asked if there was anyone present to address this application – there was no response. There were no calls or letters received on this application. The Public Hearing closed at 7:25 P.M.

Board Member Shaheen agrees that Mr. Bolos has been making progress at this site, and she likes the idea of the message remaining stationary for a time. She can't govern what the sign will be with new tenants, but in conformance with the Town Code. Board Member Schulman said this type of sign is permitted in our Code. He feels he has addressed the Board's concerns and we shouldn't handicap a local businessman. If he didn't need a variance, he could have put up his sign. He would like to see the message stay a little longer; no new signs affixed to the building; and that Valley Brook sign be taken down.

Board Member Welty feels it is our job to conform to what goes up and that we shouldn't set a precedent at that corner. He is opposed to this sign.

Board Member Montrose feels everyone knows where Big Apple is – there will be different businesses in the front and he likes the idea of limiting the time for the scroll. Board Member Tallman understands the need for the sign but he has a problem with scrolling and flashing. He would like the message to stay on longer.

Chairman Bogar spent some time walking the premises with Mr. Bolos and recognizes the improvements made to the property. He agrees about a possible interference at the stop light and likes the idea about limiting the message time.

Codes Officer Booth stated that any free standing pylon signage would need a variance.

Discussion ensued regarding the timing of the scroll, 17 seconds vs. 30/60 seconds; scrolling vs. non-scrolling; flashing vs. non-flashing; and trying to regulate any additional signage at this site and on the buildings.

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: 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: difference of opinion.
- The requested variance is substantial – response: difference of opinion.
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: 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: difference of opinion.

Motion was made by Board Member Bob Schulman to grant the application of Mr. Bolos with the following conditions:

- The color of the scroll will be amber in color;
- That the signage will change at intervals of a minimum of one minute;
- Message will not scroll but will disappear and be replaced with a new message;
- That the Valley Brook sign on the roof be removed as the applicant said he would do so.

seconded by Board Member Fred Kiehm. Vote taken:

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

Motion to grant the application was **denied** by a vote of 4 – 3.

Chairman Bogar asked the Codes Officer if this Board established uncomfortable conditions that he would be unable to monitor – Mr. Booth said yes as it would be impractical for the Codes Department to monitor the timing of scrolling signs with the amount of Staff in the Codes Department. He would respond if someone complained, then he would research the minutes of the application. Any change would be in violation of the variances and then a proceeding would be brought against that person.

The application of **Mr. Tom Mathew, 1223 Pleasant Street, Utica, New York (Town of New Hartford)**, who is requesting to build a bus shelter in the front of his property. This bus shelter is an accessory use which, in a Low Density Residential zone, an accessory use cannot be any closer than 30' off the front property line. Therefore, the applicant is requesting a 30' front yard setback Area Variance. Tax Map #331.017-4-16; Lot Size: 2 Acres ±; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on November 10, 2007 and residents within 500' were notified. Mrs. Mathew appeared before the Board with photos of her property and a sketch of the proposed structure.

Mrs. Mathew is asking for a 4' x 6' structure to be placed behind the stone wall in the front of her property. The reason is that there are accidents at that location and this has become a safety factor. Cars come through the area at 40-50 mph – their driveway is long and the way the school bus comes from Graffenburg Road, she can't see it. They want to make this structure aesthetically pleasing and it will match the existing home. It shouldn't be visible from the road.

Board Member Shaheen asked if it would be placed behind the stone wall facing the house on the left side – about 30' inside – Mrs. Mathew said yes.

Chairman Bogar asked if there was anyone present to address this application – there was no response. There were no calls or letters received on this application. The Public Hearing closed at 8:05 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 – response: 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 Tim Tallman to grant the variance as requested as long as the structure/siding blends with the existing home; that this structure be placed behind the stone wall and tree; and 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 Kristen Shaheen - yes
Board Member Steve Welty - yes
Board Member Bob Schulman - yes

Board Member Fred Kiehm - yes
Board Member John Montrose - yes
Board Member Tim Tallman - yes

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

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The application of **Sangertown Square Mall, Seneca Turnpike, New Hartford, New York**. The applicant is proposing to erect a new tenant sign for Dick's Sporting Goods attached to the outside of the building at Sangertown Square Mall. Zoning in this area is Retail Business 1, and the maximum height in this zone is 35'. The proposed attached building sign will be 43' 4" ±. Therefore, the applicant is requesting a 8' 4" ± height Area Variance. Tax Map #328.008-1-12.1; Total Lot Size: 100 ± Acres; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on November 10, 2007 and residents within 500' were notified. Ms. Donna Houseman appeared before the Board.

Ms. Houseman presented a sketch of the proposed signage for Dick's Sporting Goods on the back of the building and on the front. It was brought to the Board's attention that there was only one (1) application for an Area Variance for the proposed sign on the Seneca Turnpike (main entrance) side, that being located on the front of the building. There was no variance application submitted for the rear sign by Target. The Board addressed the front sign only.

Board Member Shaheen asked why the sign needed to be so big and the other not. Ms. Houseman said this is their prototype drawing and this is what they are requesting because it is the store front. She would need to contact Dick's to find out why they want it this way.

Board Member Tallman asked how far above the roof it would extend – it was decided it would be about 13'± higher than the top of the building.

Board Member Welty asked if this could be accomplished another way without a variance – Ms. Houseman said no, not with this particular tenant as this is what they are requesting for exposure. Board Member Shaheen asked if they would back out of their contract with Sangertown when on the other side the sign is less – Ms. Houseman said she can't speak for Dick's, but the back isn't their store entrance. She doesn't know if there is another feasible way to achieve this.

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

-Resident, 44 New Hartford Street. He is against this application as he feels the Town is getting overcrowded with signage. Also, large signs use a lot of energy. He referred to several large signs throughout the Town, both free standing and on buildings. He feels people know where businesses are located. Further, he feels a precedent would be set to allow these large-type signs.

Chairman Bogar asked if there were any calls or letters received.

-Ms. Patricia Fancett, 8 Hara Crescent is opposed to this request – she doesn't like big signs.

There being no further input, the Public Hearing closed at 8:25 P.M. Board Members reviewed this application and referred to the location of the sign being in a shopping center. Board Member Shaheen feels the sign is excessive and no documentation was produced as to why it has to be this large. Board Member Welty is concerned about the size. Chairman Bogar referred to the height of this and it is bigger than what may be needed. He and Board Member Montrose are not opposed to the sign, but the size of it. Board Members Schulman and Kiehm have no major issues with this as it is located in a shopping center.

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: 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: 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 – response: difference of opinion as this sign is located in a shopping center;
- 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 Kristen Shaheen to deny the application as presented as it has not met the criteria; seconded by Board Member Steve Welty. Vote taken:

Chairman Randy Bogar - yes
Board Member Kristen Shaheen - yes
Board Member Steve Welty - yes
Board Member Bob Schulman - no

Board Member Fred Kiehm - no
Board Member John Montrose - yes
Board Member Tim Tallman - yes

Motion for **denial** passed by a vote of 5 – 2.

The application of **Ms. Rhonda Conte, 94 Hartford Terrace, New Hartford, New York**, who is requesting to construct a detached garage on her property to replace the dilapidated existing garage. Zoning in this area is Low Density Residential, which requires a 10' side yard setback. The proposed garage will be 1' from the side property line, therefore, the applicant is seeking a 9' side yard setback Area Variance. Tax Map #339.006-2-33; Lot Size: 103' x 197'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on November 10, 2007 and residents within 500' were notified. Ms. Conte and Mr. Guy Danella appeared before the Board.

Mr. Danella presented pictures of their existing property. His existing garage is dilapidated and needs to be replaced. He explained where they want to place the garage, and they want to create a drainage area so as not to affect their neighbors. They want to move it over another foot from where it exists now, and the two (2) trees won't have to be removed. If they moved it to conform to the Code, it wouldn't be aesthetically pleasing, and it would affect their existing pool area. Mr. Danella said they need the additional space for storage, also. He talked to some immediate neighbors and they weren't in opposition. They will utilize the same driveway, and use the same footprint – they are not going any closer. The garage will have vinyl siding to match the house..

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

-Mr. Douglas Eich, 1 Root Street. He is opposed to this application as he has concerns about drainage. He had a question about the trees – he was told the trees would not be taken down. Also, he has a retaining wall on his property and he is concerned about construction at this site and how it affects this wall. There is a lot of water in the area and he feels anything that is done would make it worse. With those statements, he is opposed to the application as he feels it will impact his property.

There were no calls or letters received on this application. The Public Hearing closed at 9:00 P.M.

The Board Members reviewed the application. Board Member Welty felt what Mr. Danella has planned would relieve some of the drainage issues.

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 – response: 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 as presented; that the materials match the existing home; 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 Kristen Shaheen - yes	Board Member John Montrose - yes
Board Member Steve Welty - yes	Board Member Tim Tallman - yes
Board Member Bob Schulman - yes	

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

Reapplication of Mr. Ralph Humphreys, 8705 Tibbitts Road, New Hartford, New York, who is requesting to subdivide this parcel into two (2) lots – proposed building lot would have approximately ten (10) acres of land with 135’ of frontage. The remaining lot will have approximately 63 acres of land. Zoning in this area is Agricultural, which requires 200’ of frontage. Therefore, the lot to be subdivided requires a 65’ frontage Area Variance. Tax Map #339.000-1-18.1; Lot Size: Approximately 10 Acres; Zoning: Agricultural. Legal Notice was published in the Observer Dispatch on November 10, 2007 and residents within 500’ were notified. Mr. Ralph Humphreys appeared before the Board with his attorney, Murray Kirshstein.

Chairman Bogar explained that this Board has to determine if there is enough new information for Mr. Humphreys to reappear/reapply. If the Board Members determine to go forward, then we listen to the reapplication.

1) New reapplication information: Attorney Kirshstein stated he represents Mr. Humphreys. He feels they have new and expanded information. There is a pond on site that the Town put pipes in but not until August 2007. The pond has been improved since last year. It has value to the Town and that is why they put the work into it. Chairman Bogar reiterated that the issue is to determine if there is new evidence to rehear this

application. Attorney Kirshstein feels on a rehearing, the mater can be readdressed and is not limited to new. Chairman Bogar explained that this is what we have been advised by legal counsel. Attorney Kirstein said he can accept this. Attorney Kirshstein said new evidence is the letter Mr. Humphreys presented with his application and the work done over the summer with the pond and associated correspondence.

Mr. Humphreys brought pictures of the property. He feels that his letter, the pictures, the Town's installation of the dry hydrant, paving around the hydrant and the Town's desire for this easement is new information. Chairman Bogar asked the Board Members if they would like to continue with this presentation. Motion was made by Chairman Randy Bogar to proceed with the rehearing of this application as he felt there was new evidence to present; seconded by Board Member Tim Tallman. Vote taken:

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

Motion to **proceed** was approved with a vote of 6 – 1.

2) Public Hearing for reapplication: Attorney Kirshstein stated that Mr. Humphreys did not create the structures that inhibit the frontage along Tibbitts Road – those pre-existed his purchase. He approached a neighbor and swapped some land to get more frontage. It was the idea of the surveyor who laid out the swap of land. They are talking about a ten acre site. He feels the realistic frontage is across the back line behind that parcel. Could we fill in the pond – yes, but the pond serves a purpose. They presented a signed list of support by the neighbors at the original hearing – no one opposed it.

Mr. Humphreys wants to swap land with Mr. Bob Morris. Mr. Morris wants one residence with ten (10) acres because he wants horses. We aren't increasing density, we are utilizing land for the benefit of everyone with no harm. The entire neighborhood will be enhanced. The thought before was to deed the pond to Mr. Morris. The major property is sixty-three (63) acres remaining, and that is where the drainage area primarily goes.

Board Member Tallman mentioned that the drainage runs directly from the pond into the ravine so it is going on both properties. Mr. Humphreys stated that the Town wants an easement to take care of the fire hydrant. They will maintain the dry hydrant.

Chairman Bogar advised Attorney Kirshstein that this Board reviews each case individually – we are here to balance the interest of the property owners and the

applicant. We are talking about a parcel that has over 500' of frontage. If you move the property line, you don't have to be here. Attorney Kirshstein feels that lot would be destroyed. Mr. Humphreys felt you would have to divide the pond in half and there are two (2) houses there.

Board Member Montrose asked Codes Officer Booth, if someone wanted to develop the land, you would need 60' for a Town road – Mr. Booth said yes. Board Member Kiehm feels there is nothing new and nothing has changed. It is the same property, the same everything except there is a pipe in the middle of a pond.

Mr. Humphreys mentioned that he could not get a Certificate of Occupancy on his new home until it is subdivided.

Chairman Bogar asked if there was anyone present to address this application – there was no response. There were no calls or letters received on this application. Therefore, the Public Hearing closed at 9:35 P.M.

Board Member Welty felt this Board has approved other applications of this sort and that if Mr. Humphreys wanted to put a development in, he could without coming before this Board. Chairman Bogar felt that all Mr. Humphreys had to do was move the line to acquire the frontage he needs. Board Member Schulman suggested adding a condition that there only be a single building lot on the ten (10) acres and any change to this condition would have to come back before this Board.

At this time, the Board went through the criteria necessary for 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: 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: yes – he could get the frontage by moving the line – go around the pond;
- The requested variance is substantial – response: difference of opinion;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: 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 Bob Schulman to approve the variance as presented; and that the ten (10) acres be for one building lot and any change would have to be brought back before this Board; seconded by Board Member John Montrose. Vote taken:

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

Motion was to approve was **denied** by a vote of 4 – 3.

Mr. Humphreys advised the Board that he may need a variance at another time for his home and wanted the Board's input. He was told that when he decided to go forward with this, to make application.

The application of **Mr. Michael Flaherty, 25 Meadowbrook Drive, New Hartford, New York**, who is requesting to construct a 29' x 22' second floor living area addition over his existing garage. Zoning in this area is Low Density Residential, which requires a 15' side yard setback. The addition will be 11' from the side property line, therefore, the applicant is requesting a 4' left side yard setback Area Variance. Tax Map #340.014-1-30; Lot Size: 106' x 145'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on November 10, 2007 and residents within 500' were notified. Mr. Flaherty appeared before the Board.

Mr. Flaherty stated that this lot is pie-shaped. This construction will not be any closer than what is there no, he is only going up. He needs additional living space, closet space, and storage.

The Board Members reviewed his application. Chairman Bogar asked if there was anyone present to address this application – there was no response. Secretary Dory Shaw received a couple of telephone calls from the following:

-Mrs. Meislin, 20 Kensington Court – she doesn't object as long as it does not go back any further than the garage;

-Mr. Riley, 2 Kensington Court – no objection.

Board Member Welty asked Mr. Flaherty if he owns his own business as he is concerned about commercial work being done at the house – Mr. Flaherty said he does not; he does his own work.

There being no further input, the Public Hearing closed at 9:40 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 – response: 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 Fred Kiehm to approve the application as presented; that materials match the existing home; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Kristen Shaheen. Vote taken:

Chairman Randy Bogar - yes
Board Member Kristen Shaheen - yes
Board Member Steve Welty - yes
Board Member Bob Schulman - yes

Board Member Fred Kiehm - yes
Board Member John Montrose - yes
Board Member Tim Tallman - yes

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

There being no further business, the meeting adjourned at 10:00 P.M.

Respectfully submitted,

Dolores Shaw
Secretary

dbS