

MINUTES OF THE REGULAR MEETING
JANUARY 28, 2008

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, Fred Kiehm , Tim Tallman and Bob Schulman. Also in attendance were Councilman David Reynolds, Codes Enforcement Officer Joseph Booth, 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 **Murphy Excavating, Inc., 9309 Chapman Road, New Hartford, New York**, who is seeking to add approximately 2,000 square feet of office space to a legal non-conforming building/use. The addition will be two (2) stories and erected to the southerly end of the existing building with each floor measuring 1,020 ± square feet. In accordance with the Town of New Hartford Code, Section 118-69A, a non-conforming use may not be expanded. Applicant is seeking a Use Variance to expand. Tax Map #339.016-1-30; Total Lot Size: 7.42 Acres; Zoning: Retail Business 2. Legal Notice was published in the Observer Dispatch on January 19, 2008 and residents within 500' were notified.

Richard Compson, Esq., appeared before the Board representing Murphy Excavating. He supplied a summary of information for the Zoning Board regarding this Use Variance request, including financial information. The information shows that moving this business will cost approximately \$2,5 million dollars. They want the addition to make it useful to allow them to stay at this location. The Murphy's need the addition for office space on the second floor (existing office space is already on the second floor). The downstairs will be used for storage, etc. A diagram was enclosed prepared by Donald D. Ehre, P.E., which illustrated the addition. Mr. Ehre also stated that there were no environmental impacts. Attorney Compson also stated that replies were received by Oneida County Planning and Oneida County DPW will no significant impacts.

Attorney Compson stated that Murphy Excavating has been located in the Town of New Hartford for a long period of time, they have worked with the Highway Department with problems, and local businesses, and their history with the Town has been excellent.

Board Member Montrose acknowledge the paperwork submitted and felt they have addressed all concerns the Board may have. He also stated that there is no other zone in the Town of New Hartford that allows for this type of business. Board Members Schulman, Welty & Tallman felt this isn't a significant change to the property; that this is a unique Use Variance application in that the business has been there for so many years and they aren't creating a new use, and comments were made regarding the type of business and service the Murphy's have shown and provided over the years.

Chairman Bogar asked Codes Enforcement Officer Booth if this needed Planning Board review/approval – Mr. Booth said yes as the addition is over 500 square feet in this zone.

Board Member Shaheen asked why they needed the additional office space and if files could be placed off site. Mr. Dick Murphy explained their existing office accommodations, and they are coming out 14' from the existing office space. They need the space to review plans, which are at times as large as a desk. They cannot relocate files off site as it would be too costly and they need the plans available. He said their paperwork has tripled over the years. The finished addition will be 100' off the roadway.

Board Member Kiehm asked if there would be more people hired and additional parking, and if this addition could be placed anywhere else on site – Mr. Dick Murphy said there would be no additional staff or parking, and it is not feasible for them to place the addition anywhere else on the property.

There were no calls or letters received on this application, other than County Planning 239 Review and County DPW response which have been made a part of the file.

The Public Hearing closed at 7:00 P.M.

Chairman Bogar referred to the Town Attorney's recommendation for a Use Variance for this applicant, and that letter has been made a part of the tile.

After a discussion, the Board Members reviewed the criteria necessary for the granting of a Use Variance:

- Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence – response: yes - Board Members felt there was sufficient financial evidence provided;
- The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood – response was yes;

- The requested variance, if granted, will not alter the essential character of the neighborhood – response was yes as there are other commercial businesses;
- The alleged hardship has not been self-created – response was yes.

Motion was made by Board Member John Montrose to approve the Use Variance as presented as he feels they have met the criteria; seconded by Board Member Tim Tallman. Vote taken:

Chairman Randy Bogar – yes
Board Member Tim Tallman – yes
Board Member Steve Welty – yes
Board Member Kristen Shaheen - yes

Board Member John Montrose – yes
Board Member Fred Kiehm – yes
Board Member Bob Schulman – yes

Motion **passed** by a vote of 7 – 0.

The Board Members referred to the existing Sign Ordinance in the Town of New Hartford and the proposed changes. The Town Planner will be contacted regarding this and information to be forwarded to them for review.

There being no further business, the meeting adjourned at 7:25 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

dbbs