

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS**

MAY 19, 2008

The Regular Meeting was called to order by Chairman Randy Bogar at 6:30 P.M. Board Members present were Steve Welty, John Montrose, Fred Kiehm, Bob Schulman and Tim Tallman. Board Member absent: Kristen Shaheen. 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. He mentioned that one (1) Board Member is absent and gave the applicant the opportunity on whether to proceed.

The new application of **Mr. Peter Bolos/Big Apple Music, 4452 Commercial Drive, New Hartford, New York** who is requesting to remove panels on existing pylon sign on Seneca Turnpike and install an electronic message sign. This sign was previously approved by the Zoning Board of Appeals on October 25, 2005 without electronic panels, and any change to this would need to be heard before the Board again. Thus, necessitating the new application before the Zoning Board of Appeals for the electronic panels. Tax Map #341.005-2-49; Lot Size: approximately 1.5 Acres; Zoning: Retail Business 1. (This application was tabled at the April 21, 2008 Zoning Board meeting to be addressed at the May meeting for the Valley Brook replacement sign).

Mr. Bolos appeared before the Board and displayed copies of the proposed Valley Brook sign free standing sign. Copies are different but both proposed signs are the same square footage, just two (2) different layouts. It is approximately 117 square feet, which is under the maximum allowed and is about 13' high. The base is 88" and inside diameter is 72". The sign will set back 10' from where it is now and inside the property boundary. He will also have a green space area around the sign. He doesn't anticipate any visibility problems as it is set back far enough from the road access. Board Member Tallman asked if this is considered a different sign. Codes Officer Booth explained what the Zoning Board granted Mr. Bolos previously.

Mr. Bolos asked, if the square footage is the same for both signs presented, does it make a difference with the layout? The answer is no. Codes Officer Booth doesn't have a problem as long as it is below the maximum.

Chairman Bogar asked if the 117 square feet is one (1) side or two (2) – Mr. Bolos said two (2) sides. Chairman Bogar asked if there was anyone present to address this application – there was no response. There were no calls or letters on this application. The Public Hearing closed at 6:45 P.M.

The Board Members reviewed what was presented by the applicant. It was stated that the new sign is an improvement over the existing sign. 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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – 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 – no.

Motion was made by Board Member Bob Schulman to approve the Valley Brook sign variance request of Mr. Bolos; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar – yes
Board Member Steve Welty – yes
Board Member Bob Schulman – yes

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

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

The application of **Mr. Richard Manuele, 3734 Oneida Street, Washington Mills, New York** who is proposing to construct a 7' 3" x 32' front porch (covered) onto his existing home. Zoning in this area is Residential/Agricultural 2 which requires a 50' front yard setback and a 25' side yard setback. The applicant is seeking a 15' front yard setback Area Variance and a 15' left side yard setback Area Variance. Tax Map #349.008-1-43; Lot Size: 80' x 151'; Zoning: Residential/Agricultural 2. Legal Notice was published in the Observer Dispatch on May 9, 2008 and residents within 500' were notified.

Mr. Manuele appeared before the Board and presented a letter from the adjacent neighbor, Mrs. Tanya Keller, 3730 Oneida Street, who is not in opposition. He wants to

place a covered porch onto the front of his home for enjoyment and privacy. It will be 6” above the ground. The shingles of the new porch will match the house. Posts will be treated lumber and the deck will be treated wood or trex. He tried planting shrubs but they didn’t last. He feels the porch would add to the value and not impact the neighbors.

Board Member Montrose asked if he was going to place a railing on the porch. Mr. Manuele said yes, but not right away.

Chairman Bogar asked if there was anyone present to address this application - there was no response; and no calls or additional letters. The Public Hearing closed at 6:55 P.M.

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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – 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 – no.

Motion was made by Board Member Steve Welty to approve the application of Mr. Manuele; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar – yes
Board Member Steve Welty – yes
Board Member Bob Schulman – yes

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

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

The application of **Mr. Thomas Mathew, 1223 Pleasant Street, Utica, New York (Town of New Hartford)**, who is requesting to install a 6’ high fence/gate at the entrance to the driveway of his home. Zoning in this area prohibits fencing in excess of 4’ in height when erected in a front yard. Therefore, the applicant is seeking a 2’ height Area Variance for the fence/gate. Tax Map #331.017-4-26; Lot Size: 2 Acres \pm ; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on May 9,

2008 and residents within 500' were notified. Mr. & Mrs. Mathew appeared before the Board.

Mr. Mathew stated that he enclosed photos of his driveway and what they would like to do for a gate. They have a long driveway from the street, and it is a wooded lot. He is concerned about the safety of his children. They want to erect a wrought iron gate at the entrance of the drive set back another 10'. This location of the gate would also provide for any type of delivery truck they may come to the house so visibility wouldn't be a problem. Also, there are similar homes in his area with gates. The requested variance is the smallest prefabricated gate they could purchase more than a 4' height. The stone pillars will remain. The bus shelter on the property will be inside the gate. Mr. Mathew will be doing the construction with a friend.

Board Member Schulman asked about fire protection. Mr. Mathew said he will look into emergency access but felt there was a way to have the gate open in case of fire, etc.

Chairman Bogar asked if there was anyone present to address this application – there was no response, and no calls or letters received. The Public Hearing closed at 7:05 P.M.

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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – 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 – possibly.

Motion was made by Board Member John Montrose to approve the variance request of Mr. Mathew; seconded by Board Member Tim Tallman. Vote taken:

Chairman Randy Bogar – yes
Board Member Steve Welty – yes
Board Member Bob Schulman – yes

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

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

The application of **Ms. Elizabeth Parker, 181 Merritt Place, New Hartford, New York**, who is requesting construct a new 8' x 24' front porch to replace a dilapidated existing porch. Zoning in this area is Medium Density Residential, which requires a 30' front yard setback. The applicant needs an approximate 13' front yard setback Area Variance. Tax Map #328.019-2-2; Lot Size: Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on May 9, 2008 and residents within 500' were notified. Ms. Parker appeared before the Board.

Ms. Parker presented pictures of her existing porch and also a plan of the proposed porch. The stairs will not have a roof over them. She referred to the stairs, landing and roof line. She will be going along the front of the home. She will be using pressure treated wood. Ms. Parker also submitted a contract showing cost and type of materials. Shingles will match the existing home.

Chairman Bogar asked if there was anyone present to address this application – there was no response, and no calls or letters received. The Public Hearing ended at 7:15 P.M.

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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – 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 – no.

Motion was made by Board Member Fred Kiehm to approve the variance request of Ms. Parker; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Bob Schulman. Vote taken:

Chairman Randy Bogar – yes
Board Member Steve Welty – yes
Board Member Bob Schulman – yes

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

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

The application of **Mr. Jeff Manion, 9542 Sessions Road, Sauquoit, New York**, who is requesting to construct a 36' x 30' garage addition on the left side of his home. Zoning in this area is Residential/Agricultural 2, which requires a 25' side yard setback. The applicant is seeking a 20' left side yard setback Area Variance. Tax Map #350.000-1-32.2; Lot Size: 9.6 Acres; Zoning: Residential/Agricultural 2. Legal Notice was published in the Observer Dispatch on May 9, 2008 and residents within 500' were notified. Mr. Manion appeared before the Board.

Mr. Manion explained that he has a one stall garage, and he needs a bigger garage for his vehicles and storage, i.e., bikes, lawn equipment, etc. Also, his vehicles got broken into last March and wants to place the vehicles inside the garage, especially for safety purposes. He currently parks his cars on the side of the house. It makes sense for him to construct the garage at this location as the driveway is there now. He will be roofing and siding his house shortly and he will have everything match. Mr. Manion wants to reverse the gable of the roof. Mr. Manion was asked if the 30' portion was facing the road – he said yes. He submitted a letter from his neighbors, Nina & Taras Zenczak, 9542 Sessions Road, who have no objection.

Reference was made the existing tree, but it belongs to his neighbors and they asked him to tear it down.

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

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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – 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 – no.

Motion was made by Board Member John Montrose to approve the variance request of Mr. Manion; 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 Tim Tallman – yes
Board Member Steve Welty – yes	Board Member Fred Kiehm – yes
Board Member Bob Schulman – yes	Board Member John Montrose – yes

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

The application of **Ms. Carol Stappenbeck, 3 Medford Place, New Hartford, New York** who is requesting to erect a 6' fence in her front yard. Zoning allows for a 4' fence when placed in a front yard, therefore, the applicant is seeking a 2' height Area Variance. Tax Map #329.013-1-62; Lot Size 40' x 120'; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on May 9, 2008 and residents within 500' were notified. Ms. Stappenbeck appeared before the Board.

Ms. Stappenbeck presented photos of her property as well as photos of adjacent neighbors who have fences, and also submitted a survey of her property. She stated that the existing cedar trees are dying. Ms. Stappenbeck explained the unique layout of her home at this location. She would like a vinyl fence with lattice on top and chain link. She needs this 6' fence for her dogs as they could jump a 4' fence.

Codes Officer Booth explained there is frontage on both sides of the property and she needs the variance because she wants a higher fence in the front.

Board Member Schulman asked her if there was any way the cedar trees could stay and the fence placed inside of these trees. Ms. Stappenbeck explained that the trees are not healthy and she doesn't want to worry about them coming down and damaging the fence.

Board Member Montrose referred to the fence coming in 2' from the front property line and how that affects her application. This matter was discussed further.

Chairman Bogar asked if there was anyone present to address this application – there was no response, and no calls or letters were received. The Public Hearing closed at 7:35 P.M.

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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – 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 – no.

Motion was made by Board Member Fred Kiehm to approve the variance request of Ms. Stappenbeck; and that this Board allows her to build the fence on the property line if desired due to the nature of her lot; seconded by Board Member Steve Welty. Vote taken:

Chairman Randy Bogar – yes
Board Member Steve Welty – yes
Board Member Bob Schulman – yes

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

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

The application of **Mr. James Tasior, 20 The Hills Drive, Utica, New York (Town of New Hartford)**, who is requesting to construct a 22' x 24' detached garage on his property. Zoning in this area allows an accessory structure to be 15' in average height. The applicant requires a 3' 6" Area Variance for the height of the structure. Tax Map #331.017-4-24; Lot Size: 120' x 114'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on May 9, 2008 and residents within 500' were notified. Mr. Tasior appeared before the Board.

Mr. Tasior presented pictures of his property, explained that he wants the garage for his cars and storage, and where it is proposed on the lot would be more aesthetically pleasing for the neighborhood. He needs the additional height for storage. The roof line will be exactly as the existing garage, which is lower than the peak of the main frame of the house. The garage will be vinyl sided – he plans on residing the house sometime next year, and the garage and house will match.

Chairman Bogar asked if there was anyone present to address this application – there was no response, and no calls or letters were received. The Public Hearing ended at 7:45 P.M.

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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – 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 – no.

Motion was made by Board Member Bob Schulman to approve the variance request of Mr. Tasior; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar – yes
Board Member Steve Welty – yes
Board Member Bob Schulman – yes

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

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

Codes Officer Booth brought the Board Members up-to-date regarding the Zoning Advisory Committee and their review of fences. He asked the Board for their input. It was recommended that the Board would like to see open-type fences for anything that projects in the front of the house, not stockade-type fences. This could also allow for residents to apply for a variance if they desired something different than an open-type fence.

There being no further business, the meeting adjourned at 7:55 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

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