

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

**JULY 21, 2008**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:30 P.M. Board Members present were Fred Kiehm, Bob Schulman, Kristen Shaheen, Tim Tallman and Kimberly Carolan-Faga. Board Member absent: John Montrose. Also in attendance were Councilman David Reynolds, Codes Enforcement Officer Joseph Booth, Town Planner Kurt Schwenzfeier, AICP, 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 also mentioned that there is one (1) Board Member absent and it is the applicant's decision whether to go forward with their application.

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The application of **Mr. Kenneth Colton/Allied Sign Company, for Empire Vision, 4551 Commercial Drive, New Hartford, New York**, who is requesting to place another free standing sign on that property. Zoning in this area prohibits more than one (1) free standing sign per site. Therefore, the applicant is requesting an Area Variance for another free standing, 30 square foot, sign. Tax Map #328.008-1-20.64; Lot Size: approximately .01 Acres; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on July 11, 2008 and residents within 500' were notified. Mr. Colton appeared before the Board. Mr. Kenneth Colton and Mr. John LoFaro appeared before the Board.

Mr. LoFaro explained that NYSDOT enlarged the roadway and the sign for Empire Vision was removed. Codes Enforcement Officer Booth referred to a similar situation by NYSDOT on another property. The new sign proposed is more aesthetically pleasing, and it will be internally illuminated. There is one tax map designation, which is for an adjacent property. Empire Vision owns the property and leases the land from the owner of the plaza. The other tenants pay a common fee for a pylon sign, therefore, Empire Vision is on its own and needs the exposure/sign. They figured out the minimum size for this sign – there is no visibility problem with its new location. People need to recognize and know where their business is. The new sign will be about 20' back from the curb. The only other sign on the property is on the building.

Chairman Bogar asked if there was anyone present to address this application – there was no one in attendance. The file indicated a telephone call from Mr. Mike Kallet who is not

in opposition to this proposal. OC Planning review was received with no comments; and a letter from NYSDOT was received regarding right-of-way. There being no further input, the Public Hearing ended at 6:40 P.M.

The Board Members reviewed the proposal and 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 – the six (6) Board Members responded no as there is no sign there now – it is a unique parcel.
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance –the six (6) Board Members responded no as this sign is separate from the other parcel;
- The requested variance is substantial –the six (6) Board Members responded no;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – the six (6) Board Members responded no;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – the six (6) Board Members responded no.

Motion was made by Board Member Fred Kiehm to approve this application as presented as it has met the criteria; that this sign meet the Code regulations; 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 Fred Kiehm – yes
Board Member Tim Tallman – yes	Board Member Bob Schulman – yes
Board Member Kristen Shaheen – yes	Board Member Kimberly Faga – yes

Motion **passed** by a vote of 6 – 0.

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The application of **Mr. Leland Wratten for Emily Wratten, 92 Hartford Terrace, New Hartford, New York**, who is requesting to replace an existing deck and porch roof located at the rear of the house. Zoning in this area is Low Density Residential, which requires a 15' side- yard setback. The applicant is seeking an 8.5' left side-yard setback Area Variance. Tax Map #339.006-2-30; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on July 11, 2008 and residents within 500' were notified. Mr. Leland Wratten appeared before the Board.

Mr. Wratten explained that Emily Wratten is his daughter. He presented some photos of the existing property. His daughter bought the house last fall and they are faced with a large amount of water runoff from Hilltop Terrace. They needed to excavate and make some changes on the property. They decided to take down the deck as it was in need of repair. They want to duplicate the deck, put in a concrete pad and roof it. They will install a gutter system to divert water from running onto the neighbor's yards, and he was told a culvert and storm drain was installed in their area which would also help.

Chairman Bogar asked if there was anyone present to address this application – there was no response and no letters or calls received. There being no further input, the Public Hearing closed at 6:50 P.M.

The Board Members reviewed the photos of the proposal and 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 – the six (6) Board Members responded no as this will enhance the property;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance –the six (6) Board Members responded no;
- The requested variance is substantial –the six (6) Board Members responded no;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – the six (6) Board Members responded no;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – the six (6) Board Members responded no.

Motion was made by Board Member Bob Schulman to approve the application as presented; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Kristen Shaheen. Vote taken:

Chairman Randy Bogar – yes  
Board Member Kristen Shaheen – yes  
Board Member Tim Tallman – yes

Board Member Bob Schulman – yes  
Board Member Fred Kiehm – yes  
Board Member Kimberly Faga – yes

Motion **passed** by a vote of 6 – 0.

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The application of **Mr. Antonio Cristiano, 3921 Oneida Street, Washington Mills, New York. Mr. Cristiano** is proposing to construct a single story commercial building at **3921 Oneida Street, Washington Mills**. This property is zoned Retail Business 2, which requires the following:

- 25 foot rear setback,
- 20 foot side yard setback
- 10 foot setback from a side property line to a parking lot
- 15 feet setback from a front property line to a parking lot
- 12 parking spaces for a retail use
- maximum coverage of 66%

Therefore, applicant is seeking:

- 1) An 11.6 foot rear yard Area Variance
- 2) Two - 9 foot side yard Area Variances
- 3) A 2 foot side yard parking lot Area Variance
- 4) An 8 foot side yard parking lot Area Variance
- 5) A 10 foot front yard parking lot Area Variance
- 6) 3 parking spaces Area Variance
- 7) A 4% maximum lot coverage Area Variance

Tax Map #339.016-1-72 & 70; Lot Size: Approximately .180 Acres; Zoning: Retail Business 2. Legal Notice was published in the Observer Dispatch on July 11, 2008 and residents within 500' were notified. Mr. Antonio Cristiano, Mr. Frank Cristiano and Mr. Alex Forte of Octagon Engineering appeared before the Board.

Mr. Forte referred to the location of this proposed building (between Roma's and the Chinese Restaurant). There is an existing insurance agency on site and two (2) apartments upstairs. It is his understanding that the apartments are grandfathered in. Mr. Forte explained that the request is to demolish a portion of the Roma's building (where the garage door and one apartment are) to have two (2) separate parcels – one (1) building on each parcel. The parcels have been in the Cristiano family since 1979 and Frank Cristiano said a body shop formerly had been on the site. They took that body shop down and extended the building that is there now. Mr. Forte referred to maps indicating the layout of the properties now and what they are proposing (maps are on file with application). He mentioned that the other restaurants located nearby are completely separate and not affected. (Mr. Cristiano does not own the building where the Chinese Restaurant is). The insurance agency will stay and one 3 bedroom apartment. Parking at Roma's is about 20 spaces; however, the building will be made smaller and would require less parking.

Chairman Bogar asked what they want to place on site. Mr. Forte said commercial/retail rental – no food/restaurant type of use at all. Mr. Forte also stated that because they don't know what may move in, they are proposing two (2) restrooms. Codes Enforcement Officer Booth stated that depending on the use, the parking may comply. If it were to be mercantile, we would have to grant the three (3) parking spaces, which could be done tonight. If it stays business, it would be one (1) parking space. Codes Enforcement Officer Booth stated that mercantile is any retail type establishment –non-food sales. If a business use is approved then there would be sufficient parking.

Mr. Forte stated that they will be increasing green space – from 18% to 25% on the existing parcel and 22% to 25% by the creek and behind the building – all behind the buildings. They are looking into moving the existing power pole near Roma's to another area on the parcel for easier vehicle flow or to contact National Grid to have utilities placed underground. Both proposed buildings will now have separate utility bills, etc. – everything separate. They are proposing to place dumpsters between the buildings and to screen them so as not to be exposed to the public.

Chairman Bogar asked what the net increase in square footage would be after all demolition is completed – it was determined to be approximately 1,000 square feet. It was stated that on the second parcel it will all be conforming to the current zoning.

Chairman Bogar asked the Town Planner if he had any comments. Mr. Schwenzfeier stated that Staff has met with Mr. Cristiano many times and he feels this is one proposal that meets the intent of use, cleaning up the site and bringing it back to what the Town desires for that intersection and also the removal of one (1) apartment. He stated that this does not have to go before the Planning Board. Mr. Forte said this has been a cooperative effort to get to this stage.

Codes Enforcement Booth recommended that now is the time to address any aesthetic issues.

Chairman Bogar asked if anything is written into the deeds regarding the placement of dumpsters – to have an agreement in the deed for both lots. Mr. Forte thought this was a good idea. He said that Roma takes their trash to another site. He also stated that depending on the type of use coming it, they may not need dumpsters.

Codes Enforcement Officer Booth wants clarity regarding the use, and for Staff to have leeway on this plan regarding dumpsters or parking issues that may come up.

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

-Mr. Peter Bianco, 12 Hara Crescent. He asked if there would be water runoff problems with the increase in square footage. Mr. Forte explained that they are reducing the paved area which would reduce runoff. Green space will be increased also.

OC 239 Planning was received with no recommendation; OCDPW and NYSDEC replied with comments (all letters are a part of the file). Mr. Forte said all comments will be addressed. The flood administration will be done through the Codes Office and they have to provide paperwork to satisfy this.

There being no further comments, the Public Hearing closed at 7:15 P.M.

Chairman Bogar doesn't see a problem with the request and he referred to the increase in green space, the removal of the pole, the screening and placement of the dumpsters, and the clarity of use with Codes. Also, we would be granting the minimum variance necessary.

The Board Members went through the criteria necessary for the granting of an Area Variance for all of Mr. Cristiano's requests:

- 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 – the six (6) Board Members responded no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance –the six (6) Board Members responded no;
- The requested variance is substantial –the six (6) Board Members responded no and the applicant is improving green space;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – the six (6) Board Members responded no;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – the six (6) Board Members responded no as this is an unusual parcel.

Motion was made by Board Member Kristen Shaheen to approve the application as presented with the following provisions:

- Both buildings substantially match in materials and appearance;
- In the event there is to be a dumpster located on the property, it be between the two (2) buildings with fencing and/or screening to block the view of the dumpsters; and in the event that if there needs to be any easements or other

language included in the deeds on the separate properties that it will be prepared and in accordance with the directive of the Board;

- That the following uses shall be permitted on the property: that the property can be used for business as well as mercantile and that this variance will be granted with respect to the mercantile use and the number of parking spaces permitted under the Town Zoning Law;
- Grant Codes and Planning Staff the ability to work with the applicant to meet these requirements;
- In the event that the use is to be business use only, the applicant may exercise the right to reduce the additional parking space by one (1) for whatever purpose deemed necessary;
- No food/restaurant use or assembly for the consumption of food products ;
- That a Building Permit be obtained within one (1) year of approval date.

motion seconded by Board Member Tim Tallman. Vote taken:

Chairman Randy Bogar – yes  
Board Member Tim Tallman – yes  
Board Member Bob Schulman – yes

Board Member Kristen Shaheen – yes  
Board Member Fred Kiehm – yes  
Board Member Kimberly Faga – yes

Motion **passed** by a vote of 6 – 0.

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The application of **Mr. Richard Russo of Imageone Industries, Inc., who is representing Dick's Sporting Goods** for outside building mounted signs at **Sangertown Square Mall**, New Hartford, New York. This area is zoned Retail Business 1, which allows for 2 walls signs not to exceed 80 square feet each. Therefore, the applicant is seeking 3 Area Variances for sign square footage: 1 sign of 242 square feet; 1 of 162 square feet and 1 of 82 square feet. Tax Map #328.008-1-12.1; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on July 11, 2008 and residents within 500' were notified. Mr. Richard Russo appeared before the Board and thanked Joseph Booth and Dory Shaw for their assistance to appear.

Mr. Russo explained that the proposed signs are standard throughout the country and presented photos of several sites.

Board Member Shaheen questioned the difference between this application and the previously one that was denied. Mr. Russo said the former application was for the height of the sign. Codes Enforcement Officer Booth explained what happened previously, and with the new Code they are limited to 80 square feet on wall signage and now they have this to contend with when before it was the height..

Board Member Shaheen referred to the large lettering. Mr. Russo explained the letter sizes used in different areas – the 35' as drawn is within the Code. 8' letters are proposed. She also referred to the J.C. Penney sign which is smaller and everyone finds this business without trouble. She felt there are other businesses where signs are below the building, i.e., Macy's. Mr. Russo explained the difference in ceiling line for Macy's. She has concerns about the signage exceeding the height of the building. Chairman Bogar asked how far above the top of the mall is the sign going to be – Town Planner Schwenzfeier said he feels it is the same height of the proposed Dick's and this is a reduction from the last submittal. Codes Enforcement Officer Booth said they are making an architectural feature and feels it is not technically above the building. Mr. Russo agreed and he referred to the McDonald's sign layout.

Chairman Bogar asked why they need this type and size of sign. Mr. Russo said it is their opinion that the sign fits the background. Smaller would not fit the whole architectural intent of the green background. He isn't opposed to working with this Board if they have questions/concerns.

Discussion ensued regarding the letters appearing to be over the height of the building. It was stated that the lettering is below the building height. Mr. Russo presented a board illustrating similar signs, i.e., Target, Wal-Mart, Old Navy, etc.

Board Member Schulman referred to other two-story signs, i.e., Circuit City which go above the roof line. He also feels that this application/sign fits into the area location since it is a mall, and that they have downsized it from the last application.

Board Member Shaheen asked if they are willing to come back with something less significant than the 35' – Mr. Russo said he doesn't think so because it is within the Code. She also asked if this application was denied, would Dick's come back with something less/different – Mr. Russo said he can try to work something out, but Dick's is ready to open in September. He displayed the Dick's sign with the basketball used as an apostrophe and with it flush with the lettering for the Board to review. He also stated that the sign will not be lit all the time. It is tied into an energy management system – he is not sure what the mall dictates to the tenants regarding lighting. He mentioned that he notices an abundance of trees and shrubs between the mall and adjoining neighborhood.

Discussion ensued regarding the location of the signs.

Chairman Bogar asked if there was anyone present to address this application. Secretary Dory Shaw received a telephone call from Mrs. Tofolo, 37 Leard Road, who is against this application. She feels it will light up her yard and feels a privacy fence is needed to help minimize the lighting.

-Mr. Peter Bianco, 12 Hara Crescent. He asked about the height of the letters, which is 8' and it was stated that it meets the Town Code. Mr. Bianco feels signs are not vital to businesses in the mall – people find where they want to go.

-Mr. Charles Cianciola, 3 Coxe Avenue. He feels there are too many signs in the Town.

Town Planner Schwenzfeier said if the Board agrees, he could contact the Leard Road resident and the mall to try to work something out.

OC 239 Planning and NYSDOT reviews were received with no recommendation. There being no further input, the Public Hearing closed at 7:50 P.M.

The Board Members reviewed the application as submitted. Board Member Schulman feels that businesses have their own type and right to portray their identity. Board Member Shaheen feels it is excessive and should be reduced. Board Member Carolan-Faga didn't have an opinion at this time and the other Board Members felt it fit within the area of the mall. Chairman Bogar referred to the last application and how this one differs, especially in size. He also addressed the sign being lit.

The Board Members reviewed the photos of the proposal and 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 – difference of opinion between Board Members;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – difference of opinion between Board Members;
- The requested variance is substantial – difference of opinion between Board Members;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – difference of opinion between Board Members;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – the six (6) Board Members responded yes.

Motion was made by Board Member Bob Schulman to approve the application as presented and that the lights on the sign will be turned off a half hour after the store/mall

closes; 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 Bob Schulman – yes
Board Member Tim Tallman – yes	Board Member Fred Kiehm – yes
Board Member Kristen Shaheen – no	Board Member Kimberly Faga – no

Motion **passed** by a vote of 4 – 2.

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The application of **BG New Hartford, LLC, representing Wal-Mart at Consumer Square, New Hartford, New York**. Property is zoned Retail Business 1 which does not permit more than two (2) building wall signs at 80 square feet each. Applicant is proposing that they remove all signs on the Wal-Mart building and replace with eight (8) new signs for a total square footage of 553 square feet. Thus, this necessitates a 393 square foot Area Variance and a quantity variance of six (6) signs. Tax Map #317.013-3-23; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on July 11, 2008 and residents within 500' were notified. Ms. Becky Craddock appeared before the Board.

Ms. Craddock referred to the sign submittals given to all Board Members. She explained that they aren't adding new signage – they are removing about half ( $\pm$ ) of the signage there now. She referred to the signs that will be removed (i.e., Low Prices, Always, Quaker State, Bakery, etc. to name a few) and the new signs proposed (see sign plan in file). Just the Wal-Mart sign will be lit – all others are not.

Chairman Bogar asked Codes Enforcement Officer Booth, under the new Code, what about signage on the building. Mr. Booth said it is a more conservative Sign Ordinance, but big box stores are unique, that is why this application is before the Zoning Board.

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

-Mr. Peter Bianco, 12 Hara Crescent. He wanted to know what prompted this decision to change signs. Ms. Craddock said the store is getting a new remodel and it is part of the package.

-Mrs. Joan Milewski, 16 Royal Brook Lane, called stating she did not want to see any more signs and that people know where Consumer Square is located.

OC 239 Planning review was received with no recommendation. There being no further input, the Public Hearing ended at 8:15 P.M.

The Board Members reviewed the submittal papers, and recognized that this is a reduction in signage and an improvement to the store.

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 – the six (6) Board Members responded no as this will enhance the property;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance –the six (6) Board Members responded no;
- The requested variance is substantial –the six (6) Board Members responded no as this is a reduction;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – the six (6) Board Members responded no;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – the six (6) Board Members responded no.

Motion was made by Board Member Fred Kiehm to approve the application as presented as it met the criteria; 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 Fred Kiehm – yes
Board Member Bob Schulman – yes	Board Member Kristen Shaheen – yes
Board Member Tim Tallman – yes	Board Member Kimberly Faga – yes

Motion **passed** by a vote of 6 – 0.

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**INTERPRETATION:** Mr. Ralph Humphreys is requesting an interpretation from the Zoning Board of Appeals regarding property at 8699-8705 Tibbitts Road, New Hartford, New York. Mr. Humphreys would like to proceed with a three-lot subdivision on this property. Town Staff has determined to deny this three-lot subdivision application based on Town Code Sections 118-5 and 118-55 which addresses frontage. Tax Map

#339.000-1-18.1; Lot Size: approximately 76 Acres; Zoning: Agricultural. Mr. Ralph Humphreys appeared before the Board.

Mr. Humphreys stated that he had the minutes of a previous meeting regarding moving the line and addressing the pond. He stated he now has 20' of frontage. It is on that property but it is a unique piece of property with a pond, the dam and creek. He thought he was doing it properly but there were some questions for this Board to work out. He has a 20' driveway and any fire truck could come in. He has other areas that you can't get into but feels there are other people who have that same issue.

Board Member Shaheen asked Codes Enforcement Officer Booth about the interpretation. Mr. Booth said he wants this Board to consider this narrow strip of land, about 2'-3' deep, as frontage along the road.

It was stated that where it says Lot 2 – that is not a problem. He can subdivide this. It is the area that is left over – the right parcel is the problem (10 acre parcel). Mr. Humphreys said he doesn't want to divide the pond and have two (2) people own it.

Codes Enforcement Officer Booth stated that the front yard is being questioned. Every lot has four components. If you look at the definition of front yard, it was Staff's intention that this didn't meet the definition of front yard. From the main building to the street is the designated front yard.

Board Member Shaheen said you can't place a building on 2' of frontage, so she feels there is no front yard. Codes Officer Booth felt this defeats the purpose of having frontage. Frontage regulates the spacing of buildings across the lot.

Mr. Humphreys referenced someone coming in for a similar interpretation and instead of 2' it is 4' – Codes Officer Booth cannot recall a time that this has been done. Staff reviewed this and came to this decision.

Board Member Shaheen stated that generally 30' is the setback in the front in a residential area and you would have to build approximately 30' back. Previous Ordinance stipulated frontage has to be at the minimum setback line.

Codes Enforcement Officer Booth said the frontage for a lot has to go all the way to the minimum setback line; Mr. Booth referenced a pie-shaped lot – it wouldn't be considered a legal lot until the lot had the required frontage at the minimum setback line.

Board Member Schulman's issue is the narrow strip that is only 2' deep – he feels it defeats the term of frontage and agrees with Staff's interpretation.

Mr. Humphreys said it needs to be 64' in order to meet the law. Codes Enforcement Officer Booth said you couldn't do a 30' minimum setback on this lot. He read what a front yard requirement is.

Mr. Humphreys said he doesn't have 550' of continuous frontage and he can't get it – he feels deprived of the use of his land. He feels it is a unique lot and he even worked with some neighbors to get additional frontage.

Chairman Bogar feels this doesn't meet the criteria – the definition of the 2'.

At this time, Attorney Murray Kirshstein appeared before the Board stating in his opinion that the front yard has to deal with the distance to the front of a building from a boundary. If a building cannot be put there, the argument is within the 2' area. What was done was in conformance with the Ordinance. He feels the frontage does not have to be contiguous. The area shown will exceed, and the issue of the front yard for the 2' area is a non-issue. The question of front and side yards would have to be with the building where it is set and then distance from adjoining neighbors and lines.

Mr. Humphreys stated that he is coming back to this Board based on the Zoning Board of Appeals minutes in April and November of 2007.

Chairman Bogar said we need to determine on this particular interpretation if we agree with Town Staff or disagree. He asked the Board for comments:

Board Member Kiehm said the question is does the additional 2' constitute frontage to meet the requirements of the total frontage for this subdivision since it is a connecting line. He doesn't see it here.

Board Member Schulman would like to hear from the Town Attorney for his opinion. Town Planner Schwenzfeier said the Town Attorney had contacted the Association of Towns and the Association of Towns said they can't see anything within the State regulations or Town's what is the minimum frontage – it is whether the 2' provides the adequate front yard. Further it was stated the actual frontage along the street is fine – everyone agrees, except the front yard is the issue and where the front yard is located. (NOTE: The Town Attorney was not present at this meeting to address/confirm this).

Town Planner Schwenzfeier said it is the charge of the Zoning Board of Appeals to interpret the intent of the Zoning Code.

Town Planner Schwenzfeier stated it is up to the Zoning Board of Appeals as to whether it agrees with the interpretation rendered by Staff. Staff feels 2' doesn't constitute a front yard.

It was stated that Mr. Humphreys went back to the minutes and structured something, but it sets a precedent and can't be considered a front yard.

Board Member Kiehm agrees with this statement. It is created but it doesn't meet the criteria. Board Members Tallman and Carolan-Faga agree also. It was the consensus of all Board Members that they agree with Codes Enforcement Officer Booth and Staff's interpretation. Mr. Humphreys was denied in accordance with 118-5 and 55 and it doesn't meet the criteria.

Mr. Humphreys stated that he thought the Board agreed that he had the frontage but because he is building another house he doesn't meet it. He said this is a large piece of property.

Reference was made by a Board Member regarding giving up the pond.

Chairman Bogar reiterated that the Board Members are unanimous and agree with Town Staff on their interpretation.

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There being no further business, the meeting adjourned at 8:55 P.M.

Respectfully submitted,

Dolores Shaw, Secretary  
Zoning Board of Appeals

dbbs