

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
APRIL 20, 2009**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:30 P.M. Board Members present were Kristen Shaheen, John Montrose, Bob Schulman, Kimberly Carolan-Faga, Fred Kiehm, and Tim Tallman. Also in attendance were Councilman Christine Krupa, 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 **Mr. Roger Griffith, R. Griffith, LLC, 8477 Seneca Turnpike, New Hartford, New York**, who is seeking 5' right side-yard setback and 9' rear-yard setback Area Variances for the purpose of placing a parking lot less than the required 10' setback from rear and side lot lines in a Retail Business 1 zone. Tax Map #328.011-1-17; Lot Size: 157' x 210'; Zoning: Retail Business 1. Legal Notice was published in the Observer on April 10, 2009 and residents within 500' were notified. Mr. Roger Griffith appeared before the Board.

Mr. Griffith presented a sketch of the property dated 11/7/08 and photos of other properties in the area where cars are parked to the property line, and he would like to do the same. He is not changing anything on the site, but wants to be able to park cars as they are parked now. He is before the Planning Board for Site Plan Review to be able to sell cars at the site again, but was told he needs a variance for the parking lot setbacks. The car sales may be a temporary situation as his son is looking for another place, but he doesn't know how long that would take – it could be a few years.

Codes Officer Booth stated while Mr. Griffith could park the vehicles away from the property line, it would make it inconvenient to pull into the car wash, and as he parks now the radius is appropriate.

NYS DOT response was received with no recommendation (made a part of the file).

Chairman Bogar asked if there was anyone present to address this application – there was no response. A letter was received from Mr. Richard Zdyb of Hook, Line & Sinker with no objection.

The Public Hearing closed at 6:40 P.M. The Board discussed the application. 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.

The Public Hearing was reopened at 6:45 P.M. Mr. Griffith was asked if he was going to have additional signage – Mr. Griffith said no. The Public Hearing closed at 6:46 P.M.

Motion was made by Board Member Bob Schulman to approve this variance as granted based on the plan submitted; seconded by Board Member Tim Tallman. Vote taken:

Chairman Randy Bogar - yes	Board Member Tim Tallman - yes
Board Member Kristen Shaheen - yes	Board Member Bob Schulman - yes
Board Member John Montrose - yes	Board Member Fred Kiehm - yes
Board Member Kimberly Faga - yes	

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

The application of **Mr. Craig Stenske, 47 Beechwood Road, New Hartford, New York**, who is requesting to remove an existing garage and replace it with a new 22' x 25' attached garage that will set 4' from the right side property line. Zoning in this area is Low Density Residential, which requires a 15' side-yard setback, thus, necessitating an 11' right side-yard setback Area Variance. Tax Map #339.001-3-61; Lot Size: 75' x 193'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on April 10, 2009 and residents within 500' were notified. Mr. Stenske appeared before the Board and presented photos of properties in the area with a two-stall garage.

Mr. Stenske said he has lived at this site since 1991 and needs additional storage space, more room for his cars, and his personal tools. He spoke to his neighbors and there were no concerns expressed about his project.

Board Member Montrose asked Mr. Stenske if he is a contractor – Mr. Stenske said no. All the additional storage would be for personal use. The garage will be a little narrower than the width of the existing driveway. He was also asked if the garage will drain forward – Mr. Stenske said yes.

Board Member Shaheen asked Mr. Stenske if he had a survey of his property – he said no, but he has a plot plan. Mr. Stenske was advised that a plot plan isn't 100% accurate. He was asked if he could get a survey and present it to the Codes Officer before a Building Permit was approved – Mr. Stenske said yes. Board Member Shaheen stated that this garage will be close to the property line and to protect him and the neighbors, the Board would like to have a survey in the file.

Chairman Bogar asked if there was anyone present to address this application – there was no response. A phone call was received from Mrs. Alice Relyea, 30 Wills Drive, who had no opposition.

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 – no.

Motion was made by Board Member Kristen Shaheen to approve this variance as presented and that variances have been approved in the same area for two-stall garages; that a survey of his property be obtained and presented to the Codes Officer for review reflecting what Mr. Stenske is seeking for the variance before a Building Permit is issued; and that a Building Permit be obtained within one year of approval date; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar - yes
Board Member Kristen Shaheen - yes
Board Member John Montrose - yes
Board Member Kimberly Faga - yes

Board Member Tim Tallman - yes
Board Member Bob Schulman - yes
Board Member Fred Kiehm - yes

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

The application of **Mr. Nameer Haider (represented by Mr. Zain Haider) and Mr. Zain Haider** is requesting the placement of two (2) driveway gates 8' in height each; one gate at the driveway entrance at **255 Higby Road, New Hartford** (property owned by Nameer Haider) and the other at the driveway entrance at **Upper Woods Road, New Hartford** (property owned by Zain Haider). Zoning in this area is Low Density Residential which only allows for a 4' high fence in any front yard, therefore, the need for two (2) height Area Variances of 4' each. Tax Map #'s 330.017-1-56.2 (255 Higby Road) and 330.017-1-56.1 (Upper Woods Road); Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on April 10, 2009 and residents within 500' were notified. Nameer and Zain Haider appeared before the Board.

Nameer Haider explained why he needed the gate at his residence at 255 Higby Road. He is a doctor and attends patients with special requirements. He wants the gate for security purposes as he worries about his residence because cars come into his driveway – usually people are just curious. He also had a break-in last year. Having the gate would give him the security he seeks. Also, there are other gates that have been approved and he is asking for nothing difference from what others have gotten.

The Board Members asked about the height of the pillars – Nameer said 8' and the center of the gate is 8' also.

Board Member Montrose referenced the location of the gate on Higby Road and asked if it swung in – response was yes. He explained because of the layout of his driveway, he may want to rethink how the gate swings as there could be an opening higher than what Nameer would like if it swings in. To swing out would be better.

Zain Haider stated that he wants his gate for security reasons also. He said someone is always at home, but would like additional security. There are always people coming in and out of their driveways.

It is noted that the gate on Upper Woods Road would not have a light on the top of the gate. The property will have the two pillars and gate and again, no light.

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

-Mr. Marty Morrell, Stonebridge Court – no opposition.

-Mr. Joseph Steet, Camden Way – no opposition and stated the Haider's have done a beautiful job with their property.

-Mr. Vincent LaPaglia, 4 Upper Woods Road – he feels a 4’ fence can keep cars out and doesn’t understand why they are seeking an 8’ fence/gate. He had a break-in at his home also and he doesn’t have a gate.

-Mr. Patrick Sullivan, 2 Upper Woods Road. He is the most affected and doesn’t want to see a large gate from his window. He feels the Haider’s have a lot of security now. He has dealt with construction noise from their site, cars parked when parties are held, and no one has come to talk with him about this. He feels these gates would change the character of the neighborhood. He doesn’t have a problem with the Higby Road side but definitely does with the Upper Woods side.

(Nameer Haider mentioned again that Upper Woods would not have any lights, the gate doesn’t make noise any more than a garage door opener or less; and he has lived in this area for 32 years and they want the added security, and it will further enhance their property. It will not be an eyesore).

-Mrs. Sullivan, 2 Upper Woods Road – she has had to basically block out a side of her house so as not to see the lights there now and if an automatic gate is put in, it would create noise as well as being an eyesore. She feels the value of their home would be affected.

-Mr. Paul Henning, 16 Upper Woods Road – the whole neighborhood is wide open. After hearing that the gate would be 50’ back, he is not sure how he feels.

-Mr. Kem, 207 Higby Road – if they wanted a 4’ fence, would they need a variance – no. He feels an 8’ fence would provide security and he is not against the application.

At this time, Chairman Bogar mentioned the letters/calls received:

- Mr. Joseph Nimey, 257 Higby Road – no opposition
- Hadiqa Haider, 1 Upper Woods Road – no opposition
- David Giglio, 211 Higby Road – no opposition
- Dr. Aymee Belen – no opposition
- Denise Fusco, White Pine Road – no objection
- Michele Ken, 204 Higby Road – no objection

The Board Members and applicants discussed location of stone, type of pillars, width dimensions of the structure from end to end, including gate.

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Board Members Schulman and Tallman stated they feel more information is needed, i.e., sketching, actual dimensions, etc. for each application to further review it. Also, they would like to see pictures of what they would like for each one individually showing exactly what they would like and to include all information, especially which way the gates will swing.

All Board Members agreed to table this application until the May 18, 2009 Zoning Board meeting pending the additional information.

Note: County Planning 239 and County DPW 239K were received with no comment.

There being no further business, the meeting adjourned at 7:50 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

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