

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
AUGUST 24, 2009**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present were John Montrose, Bob Schulman, Fred Kiehm, and Tim Tallman. Also in attendance was Codes Enforcement Officer Joseph Booth. 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. Martin Hollister, 56 Root Street, New Hartford, New York**, who is proposing to expand his living area. Due to the fact that this home is a non-conforming structure, Section 118-69A prohibits expansion of such. Therefore, the applicant is seeking an Area Variance to increase the size by 96 square feet for the proposed two (2) dormers. Tax Map #339.006-1-77; Lot Size: 60' x 140'; Zoning: Low Density Residential. Legal Notice was in the Observer Dispatch on August 14, 2009 and residents within 500' were notified. Mr. Hollister appeared before the Board and explained the need for the expansion..

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 application; 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 – agreed
Board Member Bob Schulman – agreed
Board Member Fred Kiehm – agreed

Board Member Tim Tallman – agreed
Board Member John Montrose – agreed

Motion was **approved** by a vote of 5 – 0.

The application of **Mrs. Kristy Nole, 23 Kellogg Road, New Hartford, New York**, who is requesting a Use Variance to add a garage, master bedroom and bath. The applicant is located in an Retail Business 2 zone, which does not permit a single-family home. This home is a legal, non-conforming use, therefore, in accordance with Section 118-69A, a non-conforming use cannot be expanded. Therefore, the applicant is seeking a Use Variance to expand on this legal, non-conforming use. Tax Map #339.011-3-56; Lot Size: 100' x 261'; Zoning: Retail Business 2. Legal Notice was in the Observer Dispatch on August 14, 2009 and residents within 500' were notified. The applicant appeared before the Board and explained the need for the expansion (2-story addition).

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

-Resident, 25 Kellogg Road. She is concerned about distance from her house.

-Ms. Carol Bennett, 25 Kellogg Road. She is concerned about the driveway.

At this time, the Board Members went through 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 – yes;
- The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood – yes;
- The requested variance, if granted, will not alter the essential character of the neighborhood – correct;
- The alleged hardship has not been self-created – yes.

Motion was made by Board Member Fred Kiehm to approve the application with a condition that the applicant obtain a driveway permit from Oneida County; 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 – agreed

Board Member Bob Schulman – agreed

Board Member Fred Kiehm – agreed

Board Member Tim Tallman – agreed

Board Member John Montrose – agreed

Motion was **approved** by a vote of 5 – 0.

The application of **Mr. Craig Stenske, 43 Beechwood Road, New Hartford, New York**, who is requesting to demolish an existing garage and construct a 24' x 26' new attached garage onto his existing home; and also a 24' x 8' rear patio overhang. Zoning in this area is Low Density Residential, which requires a 15' side yard setback. The proposed garage will be 2.5' from the side property line, thus, necessitating a 12.5' side-yard setback Area Variance. Tax Map

#339.001-3-61; Lot Size: 75' x 193'; Zoning: Low Density Residential. (This is different than the Area Variance granted to Mr. Stenske on April 20, 2009. Mr. Stenske has changed the Area Variance to the above). Legal Notice was in the Observer Dispatch on August 14, 2009 and residents within 500' were notified. Mr. Stenske appeared before the Board and explained the need for this request.

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 this application with a condition that a Licensed Land Survey be obtained; 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 – agreed
Board Member Bob Schulman –agreed
Board Member Fred Kiehm – agreed

Board Member Tim Tallman – agreed
Board Member John Montrose – agreed

Motion was **approved** by a vote of 5 – 0.

There being no further business, the meeting adjourned at 6:52 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

*Notes taken at meeting by Codes Enforcement Officer Joseph Booth in Zoning Board Secretary Dory Shaw's absence.