

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
NOVEMBER 1, 2010**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present were Tim Tallman, John Montrose, Bob Schulman, Julius Fuks, Jr., Fred Kiehm, and Karen Stanislaus. Also in attendance was Town Supervisor Patrick Tyksinski, Town Attorney Herbert Cully, 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. Minutes of August 16, 2010 approved by Board Member John Montrose; seconded by Board Member Julius Fuks, Jr. All in favor.

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Continuation of the application of Mr. Ned Walker of Walker Planning & Design for **Jay-K Lumber, 8448 Seneca Turnpike, New Hartford, New York**. The applicant's property is zoned Manufacturing which does not permit a mercantile occupancy. Therefore, the applicant is seeking a Use Variance to construct a 15,400 square foot mercantile occupancy. Tax Map #328.011-1-20.1; Lot Size: 13.97 Acres; Zoning: Manufacturing. This application was tabled at the August 16, 2010 meeting to be addressed further this evening. Mr. Ned Walker, Mr. Dean Kelly and Attorney Dan Cohen appeared before the Board.

Mr. Walker gave a brief history of what has transpired since June. He feels they have a strong case in addressing the criteria for a Use Variance. They have done the traffic study as requested with Interested and Involved agencies notified. He stated that Mr. Ken Andella, Regional Permit Coordinator/NYS DOT, was also in attendance to address any questions. Mr. Walker is requesting a vote tonight in consideration of their application.

Board Member Schulman commented that he is disappointed with the response from NYSDOT. He is looking for some remediation of impact in this area. He also felt the financial information wasn't adequate.

Mr. Andella stated that they reviewed this traffic study and they analyzed it like they would for the Planning Board. For the use change in this capacity they are comfortable with it. He feels traffic has calmed down in this area with the new Route 840 - this is an opportunity for them to look at their existing driveway and have some ideas to make their complex fit the area much better. The main access point is the only one utilized at this point for ingress. They want to make things safer and it will progress as time goes on and will work with the Kelly's and Mr. Walker to make it work for them and traffic in front of Jay-K area.

Board Member Fuks asked if this means NYSDOT is taking responsibility for modifications on a failed intersection? Mr. Andella said again that they will work with the applicants. This area has been on the books for years and maybe this is an opportunity to make things a little better. He feels that improvements made elsewhere in this corridor made things safer today. Between what this applicant plans and what we plan in the future we will be making improvements in this area.

Mr. Walker said that Lochner Engineering issued a response to NYSDOT comments and they concur. Mr. Walker said the applicant will take responsibility for impacts that are legally theirs and permit-wise. They will work with NYSDOT and end up with a plan that is doable at the Planning Board level.

Mr. Andella said they won't allow this project to go through without proper mitigation. He is confident whatever they do with the Highway Work Permit will either equal or make things better.

Attorney Daniel Cohen stated this is a retail corridor with traffic and what you want is more traffic. He feels there is no adverse impact and what is involved is a Site Plan issue and they would have to meet Planning Board requirements.

Board Member Fuks addressed the Town Attorney. We had specific concerns and questions at the previous meeting relative to the traffic study. We now have a document from NYSDOT telling us their comments relative to that study. NYSDOT is now saying to forget what was said, the concerns relative to that traffic study is not an issue for the Zoning Board. Does that have any impact on future discussion tonight?

Attorney Cully disagrees with Mr. Andella and agreed with Board Member Schulman. He is saying from a traffic point of view and NYSDOT's point of view there will be a reckoning with the Planning Board. He doesn't feel we should lose sight why we are here – it is a request for a Use Variance, which is a special treatment of the law. Those things will weigh in your mind when you address the criteria. He agrees that they will still have to deal with the Planning Board with traffic and NYSDOT if the Use Variance is granted.

Mr. Walker addressed the summary letter from Mr. Andella dated October 28, 2010. They are aware of the comments and traffic data and permit action at the appropriate Board. The reason this Board directed us to do the traffic study is to judge whether we are on the right track. He feels the data is there for consideration tonight with an approval.

Mr. Andella appreciates the concerns with that corridor. He referred to the work done at Woods Highway and Route 5 and how it was accomplished. They will do the same thing at this application site. They will make sure this proposal will proceed with traffic and safety earmarked for mitigation. He feels we can make improvements with this project with certain measures. Had there been any red flags, they would have told them (the applicant) not to go forward.

Chairman Bogar said we are being asked to change the law for the applicant for this specific endeavor. We want to make sure we have everything in order prior to making a decision in the interest of the applicant and the Town. This intersection is a problem and we don't want to make it worse.

Chairman Bogar also noted that a recent email was received from Mr. John Kivela, 6 Cone Circle, New Hartford who is opposed to this application. Chairman Bogar asked if there was anyone present who wanted to address this application:

-Mr. Neil Pritchard, Oxford Road. He wanted to know the type of business, which is Aldi's. Mr. Pritchard has been to Aldi's on Oriskany Boulevard and he has seen many cars there at one time.

At this time, the Board Members discussed the material submitted and comments. It was noted that some still have a problem with the traffic problem at this site. Board Member Montrose mentioned turning right from Middle Settlement onto Seneca Turnpike and near Jay-K. He has been to the Aldi's site in Yorkville and there is a lot of traffic, especially on Saturday and Sunday. He has nothing against Jay-K but there is a traffic issue at this site – Seneca Turnpike was made wider to get traffic away from there.

Board Member Stanislaus is not sure what the points of ingress and egress will be but feels confident that it can be done.

Board Member Kiehm feels retail is what is there now. He doesn't think the State will allow this to happen if it is going to make this area worse.

Board Member Schulman appreciated Mr. Andella's comments and agrees that it is a retail area. He doesn't know if it will change the character of the property. He still has traffic concerns, and also has concerns that economic hardship hasn't been shown.

Board Member Fuks is concerned whether this is the best mechanism for a Use Variance. Perhaps they should have a Zone Change.

Chairman Bogar referenced a case in 2004 where this Board approved a Use Variance on what we thought at the time was a lesser use, and it was overturned on appeals from the Appellate Division from Rochester.

The Board Members went thru 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: not shown to be proven;
- 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: discussion ensued as it was mentioned that it is unique, but there is a difference of opinion;
- The requested variance, if granted, will not alter the essential character of the neighborhood – response: some feel it will alter the character. With the traffic study aside, the traffic study is for a safety issue. Look at every specific element and types of businesses in this area – a portion of that is retail and it will be increased;
- The alleged hardship has not been self-created – response: perhaps, but there is a difference of opinion.

Motion was made by Board Chairman Randy Bogar to deny the application as presented as it has not met the criteria; seconded by Board Member Bob Schulman. Vote taken:

Chairman Randy Bogar – yes  
Board Member Fred Kiehm – no  
Board Member Julius Fuks - yes  
Karen Stanislaus – no

Board Member Tim Tallman – no  
Board Member John Montrose – yes  
Board Member Bob Schulman – yes

Motion was passed by a vote of 4 – 3 to **deny** the application of Jay-K

Attorney Cully asked to repeat the voting on this application, which vote was 4 – 3 to deny the application.

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The application of **Affordable Senior Housing Opportunities of New York, Inc.** represented by **Mr. Christopher Trevisani in conjunction with property owners James & Harold Julian, and Realtor Dominic Pavia** who is representing the Julian's. The applicant is proposing a 126 unit senior housing complex located to the rear of the building formerly housed by the Julian's at 4752-4756 Middle Settlement Road, New Hartford, New York. This area is zoned RB3 (Office Business) which does not allow for multi-family or congregate housing. Therefore, the applicant is seeking a Use Variance to build a senior housing complex in an RB3 zone. Tax Map #316.016-6-64; Lot Size: 13.25 Acres; Zoning: RB3 Office Business. Legal Notice was published in the Observer Dispatch on September 10, 2010 and residents within 500' were notified. Mr. Christopher Trevisani of Affordable Senior Housing, Mr. Dominick Pavia, Realtor, and Mr. James Napoleon, P.E. of Jim Napoleon & Associates appeared before the Board. (Continuation of the Public Hearing of September 20, 2010).

Mr. Trevisani stated that traffic was the major topic of this Board. They hired Jim Napoleon & Associates to do a traffic study in conjunction with NYSDOT. In addition, they received other review letters from other agencies. On October 20, 2010 he drafted every review letter and responded to each comment (which each Board Member received).

Mr. Napoleon stated he is a traffic and transportation engineer. He waited until BOCES facility was open and operating to measure traffic volumes, counting morning and afternoon peak traffic. Took site distances, and exiting/entering to the site. He explained how he secured information regarding traffic generation, traffic volumes to the proposed use. They found only minimal traffic, about 10-15 cars per hour in and out. He feels there is no impact.

Board Member Stanislaus asked how they arrived at choosing this site. Mr. Trevisani said they wanted to locate in New Hartford and be near services, they needed a flat area with about six (6) acres, and based on what they could afford.

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

-Tom Marchitelli, 9 Liberty Avenue. He has concerns with traffic. With more development in this area, traffic coming out of Liberty Avenue has become a big problem. He feels the right-on-red at Route 840 and Middle Settlement causes problems. He also has an issue with increased taxes, i.e., businesses come in and PILOT programs issued - taxes still go up.

-Ed Waitr, Sylvan Glen Road. He has been a resident of New Hartford since 1982. The individuals who spoke here at the last meeting were concerned about traffic and taxes, but most importantly, will the applicant be asking for a PILOT. He referred to the tax increase in New Hartford. If this property is taken off the assessment roll, this has a direct impact on tax revenue. It was indicated they couldn't make it unless they had a PILOT program. The property was for sale for ten (10) years or more. Any organization who wants to come here and if they can't contribute 100% he feels they shouldn't be here. He doesn't feel it is fair to the taxpayers. He would challenge the traffic report submitted.

-Jim Toomey, Jr., Liberty Avenue. Traffic and the PILOT program is a big concern of his. He wanted to know about the responses from the Police and NYM Fire.

Town Attorney Cully explained that the PILOT (payment in lieu of taxes) is an issue between the Town Board and the applicant. The applicant need to talk to the Town Board about this and not the Zoning Board of Appeals regarding this issue.

Chairman Bogar mentioned the responses received from some of the agencies.

-Jim Toomey, Sr., Liberty Avenue. He questions the main driveway location of this project as it is across from the Rayhill Trail entrance. Cars still park on Middle Settlement at this location – accidents and visibility are a problem. Mr. Toomey also questioned whether someone occupies the Julian building – it was stated yes, someone is in that building and it will still be occupied.

-Mr. Dominic Pavia, Pavia Real Estate. He addressed the PILOT program and gave his interpretation. He explained the amount of taxes this property brings in at this time is about \$1,000 a year. He further explained assessment, taxes and how this project could be assessed. There is no cost to the school district with a project like this. Mr. Pavia is a resident and taxpayer in New Hartford and feels there is a serious misconception of dollars with a PILOT program.

Mr. Trevisani stated they will pay 100% of services, i.e., police, fire, etc.

-Ed Waitr – He reiterated his statement made previously regarding a PILOT program. Who will mitigate costs, i.e., storm water, etc. He referred to the Business Park issue. He feels the Board should take into consideration the residents concerns also.

Chairman Bogar mentioned a letter just received from Mr. & Mrs. Nasto at 12 Liberty Avenue opposing this application. It will be made a part of the file.

There being no further input, the Public Hearing closed at 7:10 P.M.

Board Member Fuks felt that reviewing the minutes from the last meeting and comments tonight, it appears we were able to get a lot more knowledge from the applicant and residents.

The Board Members reviewed the file and went thru 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: the Board felt this was demonstrated;
- 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: the Board felt it is unique;
- The requested variance, if granted, will not alter the essential character of the neighborhood – response: some felt it did but there was difference of opinion;
- The alleged hardship has not been self-created – response: some felt it was but there was a difference of opinion.

Motion was made by Board Member Bob Schulman to approve the application as presented for the proposed senior housing; seconded by Board Member Julius Fuks. Vote taken:

Chairman Randy Bogar – no  
Board Member Fred Kiehm – no  
Board Member Julius Fuks - yes  
Karen Stanislaus - no

Board Member Tim Tallman – yes  
Board Member John Montrose – no  
Board Member Bob Schulman – yes

Motion was not approved by a vote of 4 – 3; project application **denied**.

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The application of **Mr. John Rich**, who is representing **Jubilee Estates**, for a 16 square foot monument/entry sign, for the Jubilee Estates Subdivision to be located on **Jubilee Lane and Tibbitts Road**. This development sign exceeds the size limitation of two (2) square feet. Therefore, applicant is seeking a 14 square foot Area Variance to construct this 16 square foot sign. Tax Map #339.000-4-16; Lot Size: approximately 200' x 300'; Zoning: Residential/Agricultural 2. Legal Notice was published in the Observer Dispatch on October 21, 2010 and residents within 500' were notified. Mr. John Rick appeared before the Board.

Mr. Rich stated this development would like a sign for recognition due to the distance from Oxford Road. The actual size is 6 square feet. It will be stone with some granite, not lit and not located in the right-of-way. The development did not include this at the time of their original plan. The owner of this development is also a resident at this location.

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

-Mr. Neil Pritchard, Oxford Road. He lives across the street and wanted to see a sketch of the sign; he wanted to know why they are deviating from what is allowed for a sign, and what is their hardship. He also wanted to know who would maintain the property as he said it is not kept up.

Codes Officer Booth explained what transpired with the new Sign Ordinance and how it was addressed by the Zoning Advisory Committee. This committee wanted the Zoning Board to review each sign application individually.

Mr. Rich said the owner of this development will be responsible for maintaining the property and until a home is built on site, the property will remain a lawn.

Codes Officer Booth stated there is no Code in the Town of New Hartford that addressed maintaining a vacant lot – only if there is a residence on it.

-Ed Waitr – with regard to the placement of this sign, will this piece of property be deeded over to the Town. Mr. Rich stated that this sign will be on the outside corner of the first building lot beyond the Town's right-of-way.

There being no further input, the Public Hearing closed at 7:20 P.M.

County Planning 239 was received with no impact; County 239K DPW had comments which are a part of the file.

At this time, Board Members reviewed the file and went thru 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 – response: no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member John Montrose to approve the application as presented; that there will be no lighting on this sign; that the property where the sign is located is maintained by the property owner; 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 Julius Fuks - yes  
Karen Stanislaus - yes

Board Member Tim Tallman – yes  
Board Member John Montrose – yes  
Board Member Bob Schulman – yes

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

Board Member Stanislaus asked Town Attorney Cully about the lighting issue. How does this apply if there is a transfer of property – Attorney Cully said the variance runs with the land.

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The application of **Mr. John Vella, Utica Sign & Graphics**, representing **#2 Ellinwood LLC**. The applicant is seeking a quantity Area Variance for one (1) additional sign, and a 5' front yard setback Area Variance for two (2) signs located on **Ellinwood Drive**. Additionally, applicant is seeking to add a 144 square foot sign which exceeds the size limitation by 16 square feet, thus, necessitating a 16 square foot Area Variance. Two (2) of the signs will be located on Ellinwood Drive and the third sign will be located adjacent to Commercial Drive. Tax Map #316.020-1-8; Lot Size: total acreage 3.06; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on October 21, 2010 and residents within 500' were notified. Mr. John Vella appeared before the Board.

Codes Officer Booth introduced this application and referred to a sketch on the bulletin board. He labeled each sign with location A, B & C. A & B are proposed to be installed one (1) parcel in or near the right-of-way. There was a taking by NYSDOT. Two (2) signs will be on one parcel. Our Ordinance requires if you have a sign, the leading edge of the sign is to be 5' from the property line and only one (1) free standing sign per parcel. Mr. Vella is showing the sign in the right-of-way (Clinton Street & Ellinwood). When the Savings Bank was there, NYSDOT increased the right-of-way so the pole is now in violation. It is still 16' from the corner of the road. They want to keep what is there because there are 10" poles there which would save them money. The County doesn't have a problem but they are still in the right-of-way. The height of the sign is within the height restrictions. A is 13' high; B is 14' high; C is 20' high. There shouldn't be a problem with snow removal as they are 16' from the curb.

Chairman Bogar read a letter dated October 13, 2010 from NYSDOT that a sign cannot be installed at the location known as B. Discussion ensued regarding this part of the application for signage at this site. It was suggested to Mr. Vella that he come back for this one (1) sign and go forward with the rest of the application – Mr. Vella agreed. Therefore, part B of this application is on hold. Mr. Vella said he would like a free-standing sign but if has to, he will get a building sign. He will advise this Board accordingly.

Location C: this other sign will be in the parking lot in the corner facing Commercial Drive and Route 840 at an angle. This is 350' away from the intersection.

Chairman Bogar asked if there was anyone present to address this application – there was no response. The Public Hearing ended at 7:40 P.M.

The Board Members reviewed the file and went thru the criteria necessary for the granting of an Area Variance for Locations A and C:

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



- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Fred Kiehm to approve the application as presented for Locations A & C; 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 Julius Fuks - yes  
Karen Stanislaus - yes

Board Member Tim Tallman – yes  
Board Member John Montrose – yes  
Board Member Bob Schulman – yes

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

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The application of **Mrs. Brie Spatuzzi, 2 Waterford Lane, Utica, New York (Town of New Hartford)**, who is requesting to place a fence in her front yard. Zoning at this location is Low Density Residential which does not permit a fence in the front yard. Therefore, Mrs. Spatuzzi is requesting a 43' front yard Area Variance to erect a fence in the front yard (Pleasant Street side). Tax Map #330.012-8-50; Lot Size: 125' x 121'; Zoning; Low Density Residential. Legal Notice was published in the Observer Dispatch on October 22, 2010 and residents within 500' were notified. Mrs. Spatuzzi appeared before the Board.

Mrs. Spatuzzi said she has a row of hedges on her property and she would like to place the 6' wooden/cedar stained fence outside of this hedge row. Having the fence outside of the hedge row allows them to enjoy the beauty of the hedges. Mrs. Spatuzzi said she has two (2) children under the age of 2 and also two (2) dogs. She has an electric fence for the dogs but it does not work properly. Her property has been broken into and she wants the fence for security. They want the 6' fence to help with the noise situation also at this location. She presented signatures of adjacent neighbors who support her application and which has been made a part of the file. Mrs. Spatuzzi stated other neighbors who have fences had to have written permission from the builder, which were all approved. She does not see a problem with her request and approval from the developer.

Board Member Stanislaus wanted to see a copy of the deed, which was presented to her. It was stated that the Town has no jurisdiction over deed restrictions.

Mrs. Spatuzzi said they bought the house that was in foreclosure and they have been taking care of the property.

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

-Ed Waiter: he drives by this home and they have done a wonderful job. He feels the fence is a good idea at this location.

There being no further input, the Public Hearing adjourned at 7:55 P.M.

County Planning 239 and 239K were received with no recommendations.

The Board Members reviewed the file and went thru 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 – response: no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member John Montrose to approve the application as presented for the 6' fence; and that a Building Permit be obtained within one (1) year of approval date; seconded by Chairman Randy Bogar. Vote taken:

Chairman Randy Bogar – yes  
Board Member Fred Kiehm – yes  
Board Member Julius Fuks - yes  
Karen Stanislaus - yes

Board Member Tim Tallman – yes  
Board Member John Montrose – yes  
Board Member Bob Schulman – yes

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

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The application of **Mrs. Joann Zilske, 90 Clinton Road, New Hartford, New York** who is requesting to construct a 440 square foot addition onto the existing home. This property is located in a Medium Density Residential zone which requires that the front setback be at least 30' from the front property line and meet the average setback of all homes within 300'. Applicant is seeking a 7' average front yard setback Area Variance. Tax Map #328.015-2-40; Lot Size: 80' x 200'; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on October 22, 2010 and residents within 500' were notified. Mrs. Zilske appeared before the Board.

Mrs. Zilske said she wants to build a bedroom onto her home for her sister to live there. She presented a survey of her property. They cannot place it anywhere else on the property as it would be a financial hardship as it affects plumbing, heating, etc. This addition will carry the same line as the home – they are not infringing any further into the property line. The materials will match the existing home.

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

-Debbie Davoli, Clinton Road. She lives next door and wanted to see a diagram of the proposal. This addition will not come any closer to her property. Ms. Davoli asked if this addition would affect her assessment.

-Sharon Smith, 92 Clinton Road. She feels it will enhance the property and she has no objection.

There being no further comment, the Public Hearing closed at 8:05 P.M.

County Planning 239 and NYSDOT have no comments;

The Board Members reviewed the file and went thru 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 – response: no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – no, all in agreement.

Motion was made by Board Member Fred Kiehm to approve the application as presented with materials matching the existing home; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Karen Stanislaus. Vote taken:

Chairman Randy Bogar – yes  
Board Member Fred Kiehm – yes  
Board Member Julius Fuks - yes  
Karen Stanislaus - yes

Board Member Tim Tallman – yes  
Board Member John Montrose – yes  
Board Member Bob Schulman – yes

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

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The application of **Mr. Robert Duxbury for Presbyterian Home for Central New York, 4290 Middle Settlement Road, New York**. The applicant is located in an RB3 zone which does not permit more than one (1) free standing sign per site. Therefore, the applicant is seeking a quantity Area Variance to permit one (1) additional sign on their site on Middle Settlement Road. Mr. Robert Duxbury appeared before the Board.

Mr. Duxbury explained that Presbyterian Home has 800' of road frontage on Middle Settlement. The left-hand side of the property is a building for therapy and outpatient. People have trouble finding the entrance as there is no signage that points to this. They would like to add this second wooden sign that denotes the therapy/outpatient area. This sign will not be in the State right-of-way. The sign will be lit at all times, which will conform to their roadway lights.

Chairman Bogar asked if there was anyone present to address this application – there was no response. There being no further input, the Public Hearing closed at 8:10 P.M. County Planning 239 was received with no impacts, and NYSDOT wanted to make sure it is not in the right-of-way.

The Board Members reviewed the file and went thru 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 – response: no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Julius Fuks to approve the application as presented; that the sign not be in the State right-of-way; 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 Julius Fuks - yes  
Karen Stanislaus - yes

Board Member Tim Tallman – yes  
Board Member John Montrose – yes  
Board Member Bob Schulman – yes

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

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There being no further business, the meeting adjourned at 8:20 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary/Zoning Board of Appeals  
dbs