

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
FEBRUARY 28, 2011**

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, Julius Fuks, Jr., Karen Stanislaus, and Tim Tallman (who arrived to the meeting at 6:10 PM). Also in attendance was Town Attorney Herbert Cully, Codes Enforcement Officer Joseph Booth, and Dory Shaw, Recording Secretary. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting. Minutes of January 24, 2011 were approved - All in favor.

The application of **Mr. David Mazloom/Crossroads Plaza (former Pharmhouse Plaza), 8411 Seneca Turnpike, New Hartford, New York**. He is proposing to add another sign to the existing free standing sign on site. This existing free standing sign is a legal non-conforming sign in a Retail Business 1 zone. He is seeking an Area Variance of 104 square feet to add a second sign of 132 square feet. Thus, necessitating the Area Variance request. Tax Map #328.000-3-16.1; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on February 18, 2011 and properties within 500' were notified. Mr. David Mazloom appeared before the Board.

Mr. Mazloom wants to upgrade the existing sign. He would like to encapsulate the sign to match the front of his buildings. Also, install a backlit sign for all his tenants now and in the future. It is adding a net gain of 76 square feet. The setback from the road is 9' 7" and it is not located in the right-of-way – it is on private property. Mr. Mazloom said there are no visibility problems. The existing poles will be all brick – the sign will be 5 ½' from the ground up.

Chairman Bogar asked if there was anyone present to address this application – there was no response. Chairman Bogar referred to the replies from County 239 Planning with no recommendations; County DPW 239K with no adverse comments; and NYSDOT who had no concerns which were addressed..

There being no further input, the Public Hearing closed at 6:15 P.M.

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 sign will be backlit only; 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 Fred Kiehm – yes
Board Member Julius Fuks - yes
Karen Stanislaus - yes

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

Motion was **approved** by a vote of 6 – 0 with one (1) abstention. Board Member Tallman abstained as he was not in attendance at the beginning of the meeting/discussion.

Mr. Michael Sheridan, Sheridan Engineering, representing 2 Ellinwood LLC for 2 Ellinwood Drive, New Hartford, New York. This application is for a 1400 square foot addition to the existing building at 2 Ellinwood Drive,. The existing building is non-conforming and is prohibited from expansion per Section 118-69A. Therefore, the applicant is seeking a 1400 square foot Area Variance to expand the non-conforming building. Tax Map #316.020-1-7 & 8; Zoning: Retail Business 1. Mr. Michael Sheridan, Engineer, and Attorney Richard Compson appeared before the Board

Attorney Compson explained that the addition will actually be 42' x 38' (approximately 1600 square feet). This is for a proposed urology department located at the underground level (basement area). There will be grass/bushes planted on top.

Board Member Fuks asked why it is located underground compared to grade. It was stated the grade would have to be built concrete up and high above ground with no windows. Mr. Sheridan said the building itself is actually split level. Because of the nature of construction, we have to build concrete walls above grade or below. Also, the office located on the top is already occupied – it works together. It is more of a split than completely below grade construction. The parking lot is at the upper level. The lower level is parking and all below grade. If the addition goes at the lower level, it would remain below grade as well.

Board Member Montrose mentioned exits. It was stated one person at a time would go in – no desks, no receptionist – there will be no stairway. Just an exit and enter from the building. Board Member Montrose asked Codes Officer Booth if they needed sprinklers – Mr. Booth said no.

Mr. Sheridan said the size of the addition is really to accommodate the concrete walls necessary for the piece of equipment.

Board Member Fuks asked about the size of the wall. Mr. Sheridan stated the walls will be addressed with a physicist to analyze equipment and determine how thick those walls need to be for radiation. Board Member Fuks also referred to excavation and are they going to be excavating any amount to the adjacent property owner – it is the same owner, 2 Ellinwood LLC.

Chairman Bogar asked if there was anyone in attendance to address this application – there was no response. He referred to the letters submitted by NYSDOT which referred to a storm water management plan – this application does not need it as the project is not over one (1) acre; Oneida County DPW: no adverse impacts; OC Planning 239: no recommendations.

There being no further input, the Public Hearing closed at 6:30 P.M.

It was the consensus of the Board Members that this application would have no impact to the area.

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 Bob Schulman to approve the application as presented; 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.

Town of New Hartford
Zoning Board of Appeals Minutes
February 28, 2011
Page 4

There being no further business, the meeting adjourned at 6:42 P.M.

Respectfully submitted,

Dolores Shaw
Recording Secretary

db