

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
APRIL 25, 2011**

The Regular Meeting was called to order at 6:00 P.M. by Board Member John Montrose, who is the Acting Chairman for this meeting. Board Members present were Fred Kiehm, Julius Fuks, Jr. and Karen Stanislaus. Board Members absent: Chairman Randy Bogar, Tim Tallman, and Bob Schulman. 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. Board Member Montrose introduced the Board Members and explained the procedures for tonight's meeting.

Town Attorney Cully further explained to the applicants this Board is comprised of seven (7) members and that three (3) Board Member were absent this evening. A majority of the total Board is required for approval, which is four (4) members. It would be the applicant's decision whether to continue or wait for a full Board. If the applicants wish to have their application considered this evening, they would need a total of the entire Board present this evening for approval, which is the four (4) members). A special meeting has been setup for Monday, May 2, 2011 at Butler Memorial Hall (Rodger Reynolds meeting room), 48 Genesee Street, New Hartford, NY at 6:00 P.M. if the applicants would rather postpone. Additional Board Members are expected at this special meeting.

The application of **Mrs. Mary Hamlin, Hamlin Properties, LLC, 147 Genesee Street, New Hartford, New York**. Mrs. Hamlin 's property is zoned Professional Office, which requires a 10' side-yard setback. She is seeking a 3' left side-yard setback Area Variance for an existing apartment at this property. Prior variance was issued to this building for a Professional Office only, thus, necessitating the Area Variance request. Tax Map #329.013-3-8; Lot Size: 57' x 275'; Zoning: Professional Office. Mrs. Mary Hamlin appeared before the Board. Legal Notice was published in the Observer Dispatch on April 15, 2011 and residents within 500' were notified.

Ms. Lisa Kowalczyk, representative for Mrs. Hamlin, addressed the Board stating Mrs. Hamlin would like to have this application adjourned until May 2, 2011.

The application of **Mr. Donald D'Amico, 120 Powell Avenue, Whitesboro, New York (Town of New Hartford)** who is proposing to install an in ground pool on his property (Corner of Powell Avenue and Shepherd Avenue). Zoning in this area is Medium Density Residential, which requires an accessory structure to be setback from the front property line a minimum of 30'. Therefore, the applicant is seeking a 15' front yard setback Area Variance to install the pool. Legal Notice was published in the Observer on Sunday, April 17, 2011 and properties within 500' were notified.

In addition, Mr. D'Amico is locating a fence 4 ½' forward of the front of his home, which necessitates a 4 ½' front yard setback Area Variance. Tax Map #316.016-6-28; Lot Size: 100' x

90'; Zoning: Medium Density Residential. Mr. D'Amico requested to have his application addressed this evening.

Mr. D'Amico presented some pictures of his property to the Board Members. Codes Officer Booth said Mr. D'Amico is at a disadvantage as he owns a corner lot (two front yard setback requirements). Mr. D'Amico said to have the pool in compliance and meet Codes he would have to place the pool on top of the existing shed. Therefore, the pool cannot be located anywhere else on the property. He is also asking for a 4 ½' Area Variance for a fence. The fence will be 4' in height (he does not have a sketch of the fence at this time). It will be placed on four (4) sides of the pool and be heavy duty aluminum. It will have slight openings, and be in compliance with Codes. It will match their existing deck. Mr. D'Amico asked if he could request a higher fence at this time. He was advised that it would need to submit another application and go through the process again.

Board Member Fuks asked Codes Officer Booth if Mr. D'Amico's property wasn't a corner lot, there would be no issue. Mr. Booth responded, yes.

Mr. D'Amico was asked if the drain will be moved from its current location – he said yes.

There were no calls or letters received, and no one was present to address this application. The Public Hearing ended at 6:10 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: difference of opinion.

Motion was made by Board Member Fred Kiehm to approve the application as presented for 1) the pool Area Variance and 2) the fence Area Variance; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Karen Stanislaus. Vote taken:

Acting Chairman John Montrose - yes
Board Member Fred Kiehm – yes

Board Member Julius Fuks, Jr. - yes
Board Member Karen Stanislaus - yes

Motion **approved** by a vote of 4 – 0.

The application of **Mr. Brian Rahn, 8 Alexandria Road, New Hartford, New York**, who is requesting to place an above ground pool on his property (corner of Alexandria Road and Osborne Road). Zoning in this area is Medium Density Residential, which requires an accessory structure to be setback from the front property line a minimum of 30'. The applicant is seeking a 20' front yard setback Area Variance. Tax Map #328.016-2-28; Lot Size: 108' x 33'; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on Sunday, April 17, 2011 and residents within 500' were notified. Mr. Rahn appeared before the Board.

Mr. Rahn was given a letter received today's date (April 25, 2011) from a resident addressing his application. Mr. Rahn would like to have this application adjourned until May 2, 2011.

Draft minutes of the March 21, 2011 Zoning Board of Appeals meeting were received by the Board Members. Motion was made by Board Member Fred Kiehm to approve these minutes as written; seconded by Board Member Julius Fuks, Jr. All in attendance in favor.

There being no further business, the meeting adjourned at 6:20 P.M.

Respectfully submitted,

Dolores Shaw
Recording Secretary

dbS