

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
NH PUBLIC LIBRARY
MAY 16, 2011**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were Fred Kiehm, Bob Schulman, Tim Tallman, John Montrose and Karen Stanislaus. Board Member absent: Julius Fuks, Jr. 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. He also mentioned there is one (1) Board Member absent and it is up to the applicant whether to proceed.

Chairman Bogar notified the Board Members that Bob Schulman will not be seeking reappointment to this Board and his term expires on June 9, 2011. Chairman Bogar thanked him for his ten (10) years of service on this Board and appreciates all of his hard work and contributions to this Board and the Town of New Hartford.

The application of **Mr. David Mazloom, 8411 Seneca Turnpike, New Hartford, New York**, who is seeking an Interpretation for a use on his property at 8411 Seneca Turnpike (Crossroads Plaza). The use appears to be a wholesale trade establishment which is not allowed in any zone in the Town of New Hartford. Applicant is seeking an Interpretation to determine whether the use is an office or wholesale trade establishment. Tax Map #328.000-3-16.1; Lot Size: approximately 8 Acres; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on May 6, 2011 and property owners within 500' were notified. Mr. David Mazloom appeared before the Board.

Codes Officer Booth said the Town has a definition of wholesale trade establishment, however, none of the zones permits such a use. It is recognized in the definition but not in the bulk regulations. This application appears to be a close resemblance.

Mr. Mazloom stated Omni Care would like to move into his complex at the very end of his building. They provide pharmaceuticals to hospitals, nursing homes, etc. One-third will be office space and two-thirds will be wholesale trade. There is no walk-in business. The only people who can buy or get delivered in trucks are the people with accounts.

Discussion ensued regarding this request, square footage of space, parking, etc.

Chairman Bogar asked if there was anyone present to address this application – there was no response. Responses were received from OC DPW – no significant issues; OC Planning – not subject to their review.

The Public Hearing closed at 6:15 P.M.

The Board Members discussed this Interpretation request and the need to address any criteria..

Motion was made by Board Member Fred Kiehm to accept this establishment in this particular location. The Interpretation is that this wholesale trade establishment meets the criteria of that particular zone; seconded by Board Member Bob Schulman. Vote taken:

Chairman Randy Bogar – yes
Board Member Bob Schulman – yes
Board Member Karen Stanislaus – yes

Board Member Fred Kiehm – yes
Board Member John Montrose – yes
Board Member Tim Tallman – yes

Motion **approved** by a vote of 6 – 0.

The application of **Mr. Al Forte for Mr. Antonio Cristiano for property at 9270 Kellogg Road, New Hartford, New York** to erect a 49 square foot, 25' high freestanding sign on this property. The applicant is located in a Retail Business 2 zone which requires a freestanding sign to be set back 20' from a side lot line. Applicant is seeking a 16' side-yard setback Area Variance for this freestanding sign. Tax Map #339.016-1-69; Lot Size: approximately 1.30 Acres; Zoning: Retail Business 2. Legal Notice was published in the Observer Dispatch on May 6, 2011 and property owners within 500' were notified. Mr. Forte appeared before the Board representing the Cristiano's.

Mr. Forte presented an updated/revised plan. He amended the description of the sign – it is not 12' high. It was reduced from 25' high because of the power lines at the site. The proposed sign is 8' wide and approximately 6' off the ground located on Kellogg Road. Mr. Forte explained the exact location of the proposed sign and the entranceway into the Cristiano site by Kellogg Road. The proposed sign is for Salvatore's Bakery and Tosha's Hail Salon, whose location is to the rear of the property and they need visibility for these businesses. The sign is two-sided and will not be lit. Mr. Forte said these businesses are accessible from Oneida Street but are isolated to the rear. Mr. Forte explained the location of buildings on this property and explained a surveyor was done in 1987 and they have verified there have been no takings or anything that would interfere with their request on Kellogg Road.

Mr. Forte stated they are not in the County or State right-of-way. He referred to the letter received from OC DPW and has addressed those issues – there is no visibility problem and not on the right-of-way. They know they are on their own property. The entry is on private road/property. Their application does not affect drainage.

Discussion ensued regarding sign location, site distances, private property, etc.

Chairman Bogar asked if there was anyone present to address this application – there was no one present. One call was received by Dory Shaw and it was for sign location only. Responses were received from OC Planning with no recommendation; NYSDOT – make sure it is not in their right-of-way; OC DPW – items addressed.

The Public Hearing closed at 6:35 P.M. The Board Members discussed the location of the sign with this being the most logical place with visibility and right-of-way not being an issue; and that

the sign has been reduced in height to 12'. 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 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 John Montrose - yes
Board Member Karen Stanislaus – yes

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

Motion **approved** by a vote of 6 – 0.

Mr. Scot Hayes, New York Sash, for Mr. Vincent Pristera, 8 Harrogate Road, New Hartford, New York. Mr. Pristera is proposing to remove an existing deck and replace it with a new 10' x 12' sunroom. The property is zoned High Density Residential which requires a 10' side-yard setback. The applicant is seeking a 2' 5" right side-yard setback Area Variance. Tax Map #339.011-3-41; Lot Size: 117' x 125'; Zoning: High Density Residential. Legal Notice was published in the Observer Dispatch on May 6, 2011 and property owners within 500' were notified. Mr. Hayes and Mr. Pristera were present.

Mr. Hays stated the applicant would like to take down an existing deck and replace it with a four-season sunroom to provide for additional living space. The corner of the home is 7.1' from the property line and the proposed sunroom will be 7.5' from the property line. It will be approximately 1' in from the corner and a little smaller than the original footprint. The sunroom will come out about 12'. Mr. Hays said a majority of the room will be glass with solid kick panels and a gabled roof.

Discussion ensued regarding what part of the existing structure will stay, what will be removed and elevation of the sunroom (which will be 70 inches off the ground).

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

-Mr. Brian Martin, 10 Harrogate Road. He is the neighbor most affected but sees this as an improvement – he has no problem with this request.

There were no calls or letters received. The Public Hearing closed at 6:45 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 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 Tim Tallman. Vote taken:

Chairman Randy Bogar - yes
Board Member John Montrose - yes
Board Member Karen Stanislaus – yes

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

Motion **approved** by a vote of 6 – 0.

The May 2, 2011 Zoning Board of Appeals draft minutes were received by each Board Member. Motion was made by Board Member Fred Kiehm to approve these minutes as written; seconded by Board Member Karen Stanislaus. All in favor.

There being no further business, the meeting adjourned at 6:50 P.M.

Respectfully submitted,

Dolores Shaw
Recording Secretary

dbS