

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
NEW HARTFORD PUBLIC LIBRARY
DECEMBER 6, 2011**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were Fred Kiehm, Tim Tallman, Lenora Murad, John Montrose, and Karen Stanislaus. Board Member absent: Taras Tesak. Also in attendance was Town Attorney Herbert Cully, 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.

Draft minutes of the November 21, 2011 meeting were not available at this time.

The application of **Mr. James Clifford (Clifford Fuel)** for property located at **1701 Burrstone Road, New Hartford, New York**. Applicant is located in a Planned Highway Business zone which does not allow LED signage and only allows one sign on each side of a building at 40 square feet apiece, maximum two signs – one free standing at 32 square feet, a maximum height of a free standing sign at 15 feet. Applicant is seeking an Area Variance to 1) place an LED sign on the site, 2) an 82 square foot Area Variance on the freestanding sign 3) along with a five foot height Area Variance, 4) a ten square foot Area Variance for building signage 5) along with a 72 square foot Area Variance for additional building signage on the canopy. Tax Map #317.000-2-22; Lot Size: 100' x 200'; Zoning: Planned Highway Business. Mr. James Clifford appeared before the Board.

Mr. Clifford indicated that he thought signage was addressed at the June 20, 2011 meeting when they had asked for a Use Variance. This is why he is here tonight to ask for signage requests. The requests are for standard signage for petroleum outlets. This would be consistent with other Sunoco graphics/locations. The canopy is considered signage also.

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

-Mr. Ron Polizzi – he owns Campus Plaza, 629 French Road. He wanted to see the exact locations for the sign requests and how they may affect his property. Mr. Clifford presented a sketch of the locations of the proposed signs. All signs are on the property of the applicant. Mr. Polizzi said he is satisfied with what Mr. Clifford has shown him.

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

Chairman Bogar referred to replies from NYSDOT and OC Planning, who have no issues other than the signs be on the private property and not rights-of-way.

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 Tim Tallman to approve the application as presented as it met the criteria necessary for the granting of an Area Variance; and 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 John Montrose - yes
Board Member Fred Kiehm – yes

Board Member Tim Tallman - yes
Board Member Karen Stanislaus – yes
Board Member Lenora Murad - yes

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

The application of **Ms. Rachael Sann, 8603 Seneca Turnpike, New Hartford, New York**. Ms. Sann is requesting an 18' front yard Area Variance to place a 4' high fence two feet in from the front property line on Allman Place. Zoning in this area is Medium Density Residential which does not allow fencing forward of a home. Tax Map #328.012-3-26; Lot Size: 80' x 190'; Zoning: Medium Density Residential. Mr. & Mrs. Sann appeared before the Board.

There is an existing chain link fence on the property and they want to enclose the entire yard. Mr. Sann had placed a string along the property where the fence would be, it isn't accurate – they are waiting for a survey to be done. This is a double lot and they don't want to separate the lot - it wouldn't look right.

Mr. Sann asked about changing the variance to a 5' fence. Chairman Bogar asked the Town Attorney what the procedure would be. This would require a re-filing and re-notification to residents. Mr. Sann decided to stay with the 4' request for a chain link fence.

Chairman Bogar asked the applicant if the child care proposed is the reason for the fence. Mr. Sann said yes, but they have three (3) children and are safety conscious people. Mrs. Sann said the State Child Services for Day Care told them they didn't need a fence, but Mr. & Mrs. Sann felt they should put the fence in.

Chairman Bogar asked if there was anyone present to address this application – there was no public response. However, the following people called with no objection:

Diane Wright, 18 Allman Place and Donna Robertson, 33 Allman Place.

Also, a letter was received and distributed to the Board Members from Mr. & Mrs. Richard Pratt, 14 Allman Place, who are opposed. This letter has been made a part of the file.

There being no further input, the Public Hearing closed at 6:23 P.M.

Chairman Bogar referred to the reply received from NYSDOT who has no concerns as long as the fence does not create a sight distance issue for vehicles and that the fence be on private property. OC Planning has no recommendation.

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 Lenora Murad to approve the application as presented with a 4' chain link fence as it met the criteria necessary for the granting of an Area Variance; and 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 Fred Kiehm – yes

Board Member Tim Tallman - yes
Board Member Karen Stanislaus – yes
Board Member Lenora Murad - yes

Motion was approved by a vote of 6 – 0. All in favor.

Town of New Hartford
Zoning Board of Appeals
December 6, 2011
Page 4

There being no further business, the meeting adjourned at 6:30 P.M.

The next meeting of the Zoning Board of Appeals is January 23, 2012.

Respectfully submitted,

Dolores Shaw
Recording Secretary

db