

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
NEW HARTFORD PUBLIC LIBRARY  
DECEMBER 27, 2011**

The Special Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were Fred Kiehm, Tim Tallman, Taras Tesak, Lenora Murad and John Montrose. Board Member absent: Karen Stanislaus. Also in attendance was Town Attorney Herbert Cully, and Codes Enforcement Officer Joseph Booth. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting. The applicant was instructed that there were only six board members in attendance and that she could postpone until a full board was available. The applicant elected to proceed.

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The application of **CEM Realty LLC, Mrs. Christine Martin**, who is seeking a Use Variance to expand a non-conforming use (former Oxford Road Grocery. 132 Oxford Road, New Hartford, New York). Mrs. Martin is proposing to make a side porch larger with a cable roof for tenant/personal use; add a three-stall garage in rear for personal use; add a fixed roof structure to front porch if awning is not feasible; expand back depth of garage for more room and have it handicap accessible. Therefore the request for a Use Variance. Tax Map #339.011-1-16; Lot Size: 120' x 217'; Zoning: Low Density Residential. Notice was in the Observer Dispatch on December 21, 2011 and property owners within 500' were notified. Mrs. Martin appeared before the Board.

Items discussed: The applicant received a Use Variance in January 2011 for an artist studio. Currently the applicant is looking for additional floor space and square footage. New Items: 1) There is no change to the current non-conforming use of an Artist Studio/Gallery where artists can perform, display and sell their work as well as sell items associated with the production of their work. All items granted in January 2011 will remain the same. The request is to have the option to expand and enhance the property, both aesthetically and functionally; 2) Applicant is requesting the addition of a 12' x 8' porch (originally 4' x 4') with gable roof for 2<sup>nd</sup> floor tenant and owner use; 3) Applicant requesting the option to build an attached three-stall garage, 48' x 24' (originally 38' x 24') with loft in rear of building. One stall would be available for the upstairs tenant and two stalls for owner use. Additional square footage to be used as storage space for upstairs tenant and owner use. The second floor loft space would be for owner's personal use – driveway extension for access to the garage; 4) Fixed roof structure over the front porch – this may be an alternative to an awning in the event that the original plan for an awning is not feasible; Existing garage expansion for Art Studio/Gallery: 1) There may be a need for additional floor space for artist use to perform, display and sell their work. Applicant asking for the option to expand back as far as 20' deep and 18' wide. There may be a need for a re-build of existing garage structure if it is not in good condition. The current structure is 20' from the property line. With the addition, it would still be within the allowable 15' setback.

Also, there will be a smaller door to the garage for the tenant and a larger door for the owners. In discussions with the applicant it was decided that the Zoning Board needs to see some drawings of what the proposed addition will look like. It also was discussed that the new proposed hand out changed the size of the garage addition from 38 feet long to 48 feet long. Based on these changes the Zoning Board requested the applicant to supply additional information – drawings of the proposed addition.

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

Robert Patel, Oxford Road who lives next door, is concerned about additional water problems with the addition. The water problems have gotten worse in the last couple of years.

Patricia Cunningham-Sherman, 3 Beechwood Road – she is concerned about water problems. There is an underground stream that runs through the back of her property which very rarely dries up. She is concerned about increasing this problem. She also asked about the percentage of the lot that will be covered with the addition of the garage.

Peter Angelini – 3 Bromwich Road – He is in support of the applicant. The property is the best that it has looked in a long time. The Board should grant the application.

Town Attorney Cully suggested that the applicant should submit an amended application changing the size of the addition and re-notify everyone. Board Member Terry Tesak suggested the applicant submit better drawings along with the amended application. All Zoning Board members were in favor.

Codes Officer Booth asked the Board if they could address/grant the side porch this evening. The applicant also asked the Zoning Board members to consider granting the side 8' x 12' porch. The Zoning Board considered the side porch and went through the criteria for granting a Use Variance:

- Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence – response: agreed all in favor
- 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: agreed all in favor
- The requested variance, if granted, will not alter the essential character of the neighborhood – response: - no agreed all in favor
- The alleged hardship has not been self-created – response – no agreed all in favor

Motion was made by Board Member Terry Tesak to grant the 8' x 12' side porch; Building Permit to be obtained within one-year of approval date. Seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar – yes  
Board Member Fred Kiehm – yes  
Board Member Tim Tallman – yes

Board Member John Montrose – yes  
Board Member Terry Tesak – yes  
Board Member Lenora Murad – yes

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Motion for the 8' x 12' side porch was **approved** by a vote of 6 - 0

Applicant will reappear at the January 23, 2012 Zoning Board meeting with drawings.

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There being no further business, the meeting adjourned at 7:00 P.M.

Respectfully submitted,

Randy Bogar, Chairman  
Joseph Booth, Codes Officer