

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
NEW HARTFORD PUBLIC LIBRARY
AUGUST 20, 2012**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were Tim Tallman, Lenora Murad, Taras Tesak, John Montrose, and Karen Stanislaus. Bob Member absent: Fred Kiehm. Also in attendance were Town Attorney Herbert Cully, Codes Enforcement Officer Joseph Booth, Councilman Donald Backman, and Recording Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting. Also stating that one (1) Board Member was absent.

The application of Mr. **Matt Wilsey, New York State Tool Company, 3343 Oneida Street, Chadwicks, New York 13319**. Mr. Matt Wilsey of New York State Tool Company is requesting to add a 288 square foot addition to the existing break room. Zoning is Medium Density Residential, which does not permit a light manufacturing facility, and this building is a non-conforming use. Therefore, Mr. Wilsey is seeking a Use Variance for this proposed expansion. Tax Map #349.020-1-58; Lot Size: approximately .63 Acres; Zoning: Medium Density Residential. Legal Notice was published in the Observer on August 10, 2012 and property owners within 500' were notified. Mr. Matt Wilsey, Mr. Paul Sbarra of Bonacci Architects, and Mr. Michael Bonacci, Contractor, appeared before the Board.

Mr. Wilsey explained that he would like to add to the existing office space area on his building. There is a small parking area and he would like to add a break room for his employees. Mr. Sbarra stated this is a non-conforming use and he took into consideration some typical setbacks and requirements for this RB4 zone. This project would not encroach beyond any setback requirements. The break room will be for employees only. The overhead door will remain, and they anticipate changing the roofline. There are no issues with parking – the request is for a break room only.

Board Member Murad asked if this construction will go to the concrete – Mr. Wilsey said yes and the pad will stay.

Board Member Tesak asked if there was any other way to accomplish this without a variance; and will the new room be parallel with the front? Mr. Wilsey said he cannot locate this room anywhere else; it is not cost effective. Also, the room will be parallel with the frame.

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

Mr. & Mrs. Ken Driskell, 3325 Oneida Street: They wanted to review the sketch presented. Both support the application, but wondered if anything could be done to reduce the noise level when the door is open. He would like someone to check into a noise ordinance. However, they feel this request will improve the area.

Codes Officer Booth stated there is no noise ordinance in the Town, only through the Police Department for automobiles.

Mr. Wilsey explained the door is open at times to release heat.

Mrs. Nancy Kneller, 33418 Oneida Street: She feels the employees need a place for a break room. She wanted to know what time construction would take place.

Mr. Michael Bonacci, contractor, addressed the Board stating that he does not start a job before 8:00 A.M.

Mr. Wilsey said the existing part of the office and front of the building would be refaced.

-Mr. John Matt: He owns the funeral home and supports this application. He thinks it is a wonderful opportunity for the 18 employees to have a break room.

Councilman Donald Backman. Mr. Backman represents this area. He asked the Board Members to take into consideration the criteria. In addition, to consider Mr. Wilsey's progress at this site in that he employs people and is staying in Chadwicks. Further, speaking for the Town Board, they are hiring a company to rewrite the Codes. This application is one where it should be rewritten where small businesses are being overly regulated.

There being no further input, the Public Hearing was closed at 6:17 P.M.

The consensus of the Board Members is that this is a good business and they are keeping people employed. This is already a non-conforming building. A break room should be available to the employees. Chairman Bogar referred to the criteria for a Use Variance in that this Board has to look into each one. Board Member Tesak referred to a previous variance for this company in 1996 and what transpired. He feels the residents still support this business.

At this time, the Board Members 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: difference of opinion;
- 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: basically not;
- The requested variance, if granted, will not alter the essential character of the neighborhood – response: - it will not alter the character;
- The alleged hardship has not been self-created – response: it has not been self-created.

Motion was made by Board Member Lenora Murad to approve the Use Variance request as presented; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar – yes	Board Member John Montrose – yes
Board Member Terry Tesak – yes	Board Member Karen Stanislaus - yes
Board Member Tim Tallman – yes	Board Member Lenora Murad – yes

Motion to **approve** was carried by a vote of 6 – 0.

The application of **David and Linda Hart, 17 Westwood Lane, New Hartford, New York.** Mr. and Mrs. Hart are proposing to construct a 20' x 26' family room addition onto rear of their existing home. Zoning in this area is Low Density Residential, which requires a 15' side yard setback. The applicants are seeking a 4' left side yard setback Area Variance. Tax Map #340.008-2-7; Lot Size: 132' x 200'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on August 10, 2012 and property owners within 500' were notified. Mr. & Mrs. Hart appeared before the Board.

Mr. Hart explained that he needs the additional living space – they have three (3) sons. They want to stay at this location but found out they needed a variance to construct. He presented pictures of the property and also a survey map. He stated no one can actually see the new construction the way their house sets on the lot – they are secluded.

Chairman Bogar asked if he was going to follow the same type of shingles, etc. Mr. Hart said yes.

Chairman Bogar asked if there was anyone present to address this application – there was no response. The Public Hearing closed at 6:25 P.M.

Board Member Tesak feels this application is a good example of how to be proactive. It was the consensus of the Board Members that they do not have an issue with this application as presented.

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 Karen Stanislaus to approve the application as presented as they need the additional living space and it meets 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 Tim Tallman. Vote taken:

Chairman Randy Bogar - yes
Board Member John Montrose - yes
Board Member Lenora Murad – yes

Board Member Tim Tallman - yes
Board Member Taras Tesak – yes
Board Member Karen Stanislaus - yes

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

Draft minutes of the July 16, 2012 Zoning Board of Appeals meeting were received by each Board Member. Motion was made by Chairman Randy Bogar to approve these minutes; seconded by Board Member Tim Tallman. All in favor.

Councilman Donald Backman addressed the Board about the updating of the Codes in the Town of New Hartford. This is currently in the discussion stage.

There being no further business, the meeting adjourned at 6:40 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

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