

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
NEW HARTFORD PUBLIC LIBRARY  
DECEMBER 17, 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, Fred Kiehm, John Montrose, and Karen Stanislaus. Board Member Taras Tesak arrived at 6:35 P.M. Also in attendance were Town Supervisor Patrick Tyksinski, Town Attorney Herbert Cully, 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. He further stated that one (1) Board Member was expected and it is the applicant's option whether to proceed or postpone.

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The application of Mr. Michael Sheridan, P.E., for **Mr. Robert Cunningham (Cunningham Coins building), 4528 Commercial Drive, New Hartford, New York**. The applicant is located in a Retail Business 1 zone, which requires one (1) parking space per 200 square feet of building. The applicant is required to have 32 parking spaces but only providing 23. Therefore, the applicant is seeking a quantity Area Variance for nine (9) parking spaces. Tax Map #328.008-1-17; Lot Size: .73 Acres; Zoning: Retail Business 1. Mr. Robert Cunningham and Mr. Michael Sheridan, P.E., appeared before the Board.

Mr. Sheridan referenced a variance for parking granted to Mr. Cunningham in 2008, which they accomplished basically at the suggestion of the State DOT and what the DOT had done on Commercial Drive. The building is not fully occupied at this time. Mr. Cunningham referred to what existed on that property years ago and how he now looks for tenants with low traffic volume to be able to accommodate parking. Also, they want to make handicap accessible parking, and to make alterations to the front. They can't go back any further because of an existing detention basin and flood area. Mr. Cunningham has done quite a bit of work at this location to improve what is a problematic situation. The property didn't conform in 2008 and it doesn't now. They are reducing the square footage from 7500 to 6600 square feet. Mr. Sheridan stated proposed parking is at an angle with controlled signage.

NYSDOT had responded this date under County 239 Planning Review which addressed encroachment and the securing of a Use & Occupancy Permit by the applicant. Mr. Sheridan will address this.

It was suggested to table this application until the applicant addresses the concerns of NYSDOT. Chairman Bogar asked the applicant if they would be ready to reappear at the January 28, 2013 Zoning Board meeting – Mr. Sheridan and Mr. Cunningham said yes.

Motion to table this application until the January 28, 2013 Zoning Board meeting was made by Board Member Fred Kiehm; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar – yes	Board Member Fred Kiehm – yes
Board Member John Montrose – yes	Board Member Lenora Murad – yes
Board Member Karen Stanislaus – yes	Board Member Tim Tallman – yes

Motion approved by a vote of 6 – 0 (Board Member Taras Tesak was not present at the time of this vote).

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The application of Pastor James Smellie of the **First Apostolic Church** who is requesting to place a 32 square foot freestanding sign on their front property at **140 Clinton Road, New Hartford, New York**. Zoning in this area is Medium Density Residential, which allows for a 2 square foot sign. Therefore, the applicant is seeking a 30 square foot Area Variance for this sign. Tax Map #328.019-1-4; Lot Size: 3.5 Acres; Zoning: Medium Density Residential. Mr. Shawn Dwyer appeared stating he was waiting for Pastor Smellie who had not arrived yet.

Board Member Kiehm asked if the proposed sign would be lit – Mr. Dwyer said eventually.

Mr. Dwyer tried to contact Pastor Smellie to no avail. Chairman Bogar stated that the Codes Officer has put the church on notice since July 2012 that their sign erected on the property is illegal as a permit is required. Chairman Bogar understands the need to let people know the church is there, but the Codes Office is still waiting for this to be rectified. He suggested that the church get in touch with the Codes Office.

Motion was made by Board Member Fred Kiehm to table this application until the January 28, 2013 Zoning Board meeting; seconded by Board Member Lenora Murad; Vote taken:

Chairman Randy Bogar – yes	Board Member Fred Kiehm – yes
Board Member John Montrose – yes	Board Member Lenora Murad – yes
Board Member Karen Stanislaus – yes	Board Member Tim Tallman – yes

Motion approved by a vote of 6 – 0 (Board Member Taras Tesak was not present at the time of this vote).

Town Attorney Cully mentioned that at this time the church is not in compliance with the sign.

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The application of **Mrs. Sherry Goldstone, 32 Foxcroft Road, New Hartford, New York**. Mrs. Goldstone is proposing a porch roof over the existing front door. Zoning in this area is Low Density Residential, which requires a 15' side-yard setback. The applicant is seeking a one (1) foot left side-yard setback Area Variance and a four (4) foot right side-yard setback Area Variance. Tax Map #339.001-1-81; Lot Size: 100' x 150'; Zoning: Low Density Residential. Mrs. Goldstone, her daughter and contractor, Mark McGauley, appeared before the Board.

Mr. McGauley stated the front doesn't have any overhang – they are proposing a small 4' pitched roof to keep rain, ice and snow off the porch. The existing concrete pad will be left. They are proposing vinyl columns and it will match the existing home.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:30 P.M.

The Board Members had gone to the site and have no issue with this request.

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 and it has met the criteria for 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 Lenora Murad – yes

Board Member Tim Tallman - yes  
Board Member Fred Kiehm – yes  
Board Member Karen Stanislaus – yes

Motion approved by a vote of 6 – 0 (Board Member Taras Tesak was not present at the time of this vote).

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Minutes of the November 19, 2012 Zoning Board meeting were approved by Board Member John Montrose; seconded by Board Member Karen Stanislaus. All in favor.

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The next scheduled Zoning Board meeting is Monday, January 28, 2013. It was stated that all future meetings will be held at Butler Memorial Hall, 48 Genesee Street, New Hartford in the Rodger Reynolds Meeting Room – back entrance.

There being no further business, the meeting adjourned at approximately 6:45 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary

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