



TOWN of NEW HARTFORD

COUNTY of ONEIDA

ZONING BOARD OF APPEALS

111 NEW HARTFORD STREET, NEW HARTFORD, NEW YORK 13413

OFFICE: (315) 724-4300 ext 2

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MINUTES OF THE REGULAR MEETING

ZONING BOARD OF APPEALS

BUTLER MEMORIAL HALL

MARCH 18, 2013

CHAIRMAN
Randy Bogar

VICE CHAIRMAN
Timothy Tallman

SECRETARY
Dolores Shaw

Board Members

Frederick C. Kiehm
John Montrose
Lenora Murad
Karen Stanislaus, Esq.
Taras Tesak

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Fred Kiehm, Taras Tesak, Tim Tallman (arrived at approximately 6:15 P.M.), Lenora Murad, and Karen Stanislaus. Also in attendance were Town Attorney Herbert Cully, Codes Enforcement Officer Joseph Booth, Councilmen David Reynolds and Paul Miscione, 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.

Chairman Bogar addressed the Board Members and public that Utica College has postponed their application until further notice. Recording Secretary Dory Shaw read a letter for the record from Bonacci Architects, who represents Utica College, addressing the postponement (this letter has been made a part of the file). Mrs. Shaw also stated she notified residents on Ney Avenue of the postponement.

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. Tabled at the December 17, 2012 Zoning Board meeting. Mr. Randall Hall, contractor, appeared before the Board representing Mr. Cunningham.

Secretary Dory Shaw read a letter for the record from NYSDOT dated March 7, 2013 granting approval to Mr. Cunningham for their Use and Occupancy permit. Once appraisal is completed, they can issue permits. (This letter has been made a part of the file).

Board Member Tesak asked Codes Officer Booth to recap what transpired with this application previously. Also, if this letter grants permission for the applicant to proceed. Chairman Bogar stated this letter from NYSDOT permits the applicant to move forward. The Board Members stated that they have been waiting for NYSDOT to respond to this application regarding the parking spaces.

Chairman Bogar asked if there was anyone present to address this application – no response. Mr. Edward Waitr asked if this letter was from NYSDOT or a third party. The letter is from NYSDOT. There being no further input, the Public Hearing closed at 6:10 P.M. County Planning 239 was received with no comment.

Board Member Tesak asked Town Attorney Cully if he agreed with the NYSDOT letter. Attorney Cully said it is an indication that they are approving the permit for the parking spaces in their right-of-way, but they have not determined a rental amount. The applicant needs to reach an agreement with NYSDOT for this rental.

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 Fred Kiehm to approve the application pending an agreement, between Mr. Cunningham and NYSDOT for the rental agreement, and to provide the Zoning Board with a copy; and that it has met the criteria for an Area Variance; also, 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 Lenora Murad – yes

Board Member Fred Kiehm - yes
Board Member Taras Tesak – yes
Board Member Karen Stanislaus – yes

Motion was approved by a vote of 6 – 0.

Board Member Tallman arrived at 6:15 P.M. and did not participate in the Cunningham Coins application.

The application of Ms. Candice Hobin who is requesting a Use Variance for apartments at this site on 3900 Oneida Street (former Massoud's building – next to the Washington Mills Post Office). Apartments are not an allowed use in a Retail Business 2 zone, thus, necessitating a Use Variance request. Tax Map #339.016-1-48.1; Lot Size: 2.56 Acres; Zoning: Retail Business 2. Ms. Candace Hobin appeared before the Board with Mr. John Jweid from Pavia Real Estate Services.

Ms. Hobin presented a proposed site plan for the apartments, which she didn't receive until Friday, March 15, 2013. Mr. Buck was unavailable for tonight's meeting. She also presented a letter from NBT bank dated March 12, 2013 relating to the foreclosure and a copy of the delinquent tax bill for this property. Ms. Hobin referred to the criteria: 1) she has not been able to sell this property for two (2) years; One previous offer was made but because of a deed restriction, that offer did not proceed; 2) this property has been ordered to be sold by the Supreme Court – she feels this is a hardship; she feels the building will be substantially improved and enhance the area; 4) she purchased the property for the use of her software company but since 2010 it has not been used.

Chairman Bogar asked about the status of her ex-husband's interest with this application and she if represented him also. Ms. Hobin explained her ex-husband's situation and through the divorce, it has been ordered to sell. Attorney Cully explained to her the legal requirements with the sale of assets of a

corporation. He stated that depending on how this Board acts, she should be providing a copy of the divorce decree. He asked if Mr. Hobini signed the contract – Ms. Hobin said no, but he signed a resolution and she has a copy to provide to us if we would like. She said the sale of the property is contingent on the Use Variance being granted.

Ms. Hobin explained that this is Mr. Buck's project – she is seeking the Use Variance as owner of the property. Also, she said Mr. Buck negotiated a contract with the neighbor to secure more land (she did not have any correspondence to submit on this). She also asked if she could provide corporate tax returns, which she does not have at this time.

Discussion ensued with the Board Members regarding character of the neighborhood, etc. Mr. Jweid stated there was interest in this property, but no sale or lease has transpired until Mr. Buck.

Board Member Montrose asked about height requirements. Mr. Booth stated this zone doesn't permit apartments so there is no regulation. If zoned for apartments, it would be 35' in height.

Board Member Tesak asked Ms. Hobin whether the existing building will be torn down. Ms. Hobin said no – it would be altered but the side by the creek will be straightened out – it will be reconfigured.

Chairman Bogar asked if there was anyone interested in this application.

Mr. Ed Wiatr, resident of New Hartford. He has submitted information for the Board's review on this application and the Use Variance procedures. He referred to a previous Use Variance application which he supported but after reviewing background information, he was wrong. He stated Mr. Tesak was correct in his deliberation on that application. Mr. Wiatr read from the prepared submission regarding the criteria (see attached). He does not feel Ms. Hobin has met the criteria. One item in particular is he feels this is a personal hardship that is self-created and not a basis for approval. He also referred to a Court of Appeals statement – he feels the Use Variance should be denied. He is a concerned citizen. Also, he referred to a Comprehensive Plan that the Town is working on – if this Board grants this application, it could encumber this plan review. He also feels this would be spot zoning.

Mr. Wiatr commented on his submission. This was prepared by Mrs. Kathy Lawrence and he wanted to Board to know this.

Board Member Tesak is concerned about traffic in this area. Residents at this apartment complex would be using utilities 24-7 compared to an allowed business use that would have scheduled hours.

There being no further input, the Public Hearing closed at 6:40 P.M.

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: the Board hasn't seen any evidence;

- 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: the Board discussed in detail about this part of the criteria; difference of opinion;
- The requested variance, if granted, will not alter the essential character of the neighborhood – response: - there is a difference of opinion; some members felt it would change the character;
- The alleged hardship has not been self-created – response: it could have been self-created.

The Public Hearing was reopened again at approximately 6:45 P.M. – all members in agreement. Mrs. Lawrence stated there is only one (1) driveway at this site. This is a busy area, perhaps better suited for a business. Mr. Wiatr referred to a business across the street that has problems with ingress and egress.

Ms. Hobin reiterated that there are 32 apartments to be rented to professionals. She can't do anything with the building as she cannot afford it. Also, it has been marketed for restaurants but no offers.

Mrs. Lawrence said she thought the deed restriction is for a fast food restaurant only.

The Public Hearing closed again at approximately 7:50 P.M.

The Board discussed the criteria again and which Ms. Hobin has to meet all four (4).

Board Member Tesak asked Mr. Booth if the new Comprehensive Plan review addresses this corridor – Mr. Booth said yes but it will remain retail. The last rezoning was done in 1999.

Board Member Murad noted that we have to look at the traffic objectively, but this application is for apartments.

Motion was made by Chairman Randy Bogar to deny the application of Ms. Hobin for the 32 apartments at 3900 Oneida Street as he feels she did not meet the criteria for a Use Variance – he feels she failed to meet three (3) of the four (4) criteria; 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 Fred Kiehm - yes
Board Member Taras Tesak – yes
Board Member Karen Stanislaus – yes

Motion to deny was passed by a vote of 7 – 0.

The application of Mr. Michael Dakus, 8803 Tibbitts Road, New Hartford, New York. Mr. Dakus is proposing to build an attached 15' x 30' garage onto his existing home. Zoning in this area is Residential/Agricultural 2 zone, which requires a 25- side-yard setback. The applicant is requesting a 10' right side-yard setback Area Variance. Tax Map #339.000-1-34; Lot Size: 1.11 Acres; Zoning: Residential/Agricultural 2. Mrs. Connie Dakus appeared before the Board

Mrs. Dakus said they have a 1 ½ stall garage now but they need the additional garage for another car. She had a hip replacement and she needs to maneuver the car into the garage in a bigger space for her to easily get to and from her car. There is no other reason for the expansion – no business. The existing garage is attached to the house and this new addition would be attached also. It will be 2' lower than the roof line and set back about 4' from the house.

Chairman Bogar asked Mrs. Dakus if she needed the 15' width. She stated her husband measured and this is what he came up with for a good clearance. Further, she said there would be enough room from the side of this new addition to the property line for an emergency vehicle to get through. Board Member Tesak referred to the existing barn to the rear and if she could park a car there. Mrs. Dakus said no, it is too wet to get back there.

Mrs. Dakus referred to the pictures taken by her husband and stated the existing trees belong to her neighbor. Board Member Tesak asked if she talked with her neighbor – Mrs. Dakus said no.

Chairman Bogar asked if there was anyone present to address this application – there was no public input. The Public Hearing closed at 7:05 P.M.

Secretary Dory Shaw read a letter dated March 12, 2012 (although it should have stated 2013) from Mr. Alan Rosenblum (adjacent neighbor to the Dakus') asking the Zoning Board to postpone the meeting until he gets back in the area on April 9th. (This letter has been made a part of the file). At the advice of Chairman Bogar and Town Attorney Cully, Secretary Dory Shaw called and left Mr. Rosenblum a telephone message stating that the meeting would still be held on March 18, 2013 and if he'd like to put something in writing or send a representative, it would be received as part of the file. There was no response.

The Public Hearing was reopened at approximately 7:10 P.M.

Mrs. Dakus was asked if she knew what Mr. Rosenblum's input would be. Mrs. Dakus explained that it is a personal issue with Mr. Rosenblum. She stated, however, that his son is in town.

Town Attorney Cully stated the Board should take a vote on whether to wait for Mr. Rosenblum or to continue. The vote was 5-2 to proceed with this application. It was stated that Mr. Rosenblum could have stated in his letter what his concerns were, if any; or a representative could have attended the meeting.

Codes Officer Booth stated Mr. Rosenblum could always take an Article 78 against this Board's decision if approved.

Board Member Stanislaus referred to Town Attorney Cully – he stated this is a Board determination as to whether or not to wait – it is discretionary.

Board Member Murad asked Mrs. Dakus about the distance between the proposed garage and property line. Mrs. Dakus said they wouldn't be encroaching on Mr. Rosenblum's privacy.

The Public Hearing closed again at approximately 7:15 P.M.

At this time, the Board Members reviewed the criteria for 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 as there is an existing garage;
- 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 and which is shown on the pictures presented; also, she feels the applicant has presented a need; 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

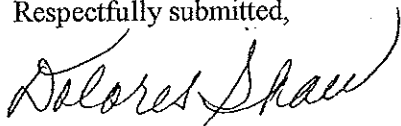
Board Member Fred Kiehm - yes
Board Member Taras Tesak – yes
Board Member Karen Stanislaus – yes

Motion was approved by a vote of 7 – 0.

Minutes of the February 25, 2013 meeting were approved by all Board Members.

There being no further business, the meeting adjourned at 7:20 P.M.

Respectfully submitted,



Dolores Shaw
Secretary/Zoning Board of Appeals

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New Hartford, N.Y. Online

Discussions on politics and other topics of interest in the Town of New Hartford, N.Y.

SUNDAY, MARCH 17, 2013

Use Variances on Ney Ave and Oneida Street

Earlier this week, Utica College sent a FAX to the town withdrawing, until further notice, their Use Variance request of February 25, 2013 to allow a student health center on Ney Ave.

However, a Use Variance for 3900 Oneida Street is still on the agenda for the March 18, 2013 ZBA meeting.

According to the agenda:

Ms. Candice Hobin is requesting a Use Variance for apartments on 3900 Oneida Street (former Massoud's building - next to the Washington Mills Post Office). Apartments are not an allowed use in a Retail Business 2 zone, thus, necessitating a Use Variance request. Tax Map #339.016148.1; Lot Size: 2.56 Acres; Zoning: Retail Business 2. Tabled until the March 18, 2013 Zoning Board meeting.

As we recently blogged, there are four (4) standards that must be proven by the applicant; a request must be denied if one or more of the standards are not met by the applicant.


The owner cannot realize a reasonable return on the property as zoned.

According to the Dept of State:

An applicant must prove that he or she cannot realize a reasonable return from each of the uses permitted in the zoning district. The mere fact that the property owner may suffer a reduction in the value of property because of the zoning regulations, or the fact that another permitted use may allow the sale of the property for a better price, or permit a larger profit, does not justify the granting of a variance on the grounds of unnecessary hardship.

There are several other permitted uses in the Retail Business 2 Zone to include offices; retail store; grocery store; church; restaurant; and bank to name a few. Ms. Hobin merely says that she is unable to sell the property after two (2) years on the market and now she needs to sell it post-haste due to a personal problem.

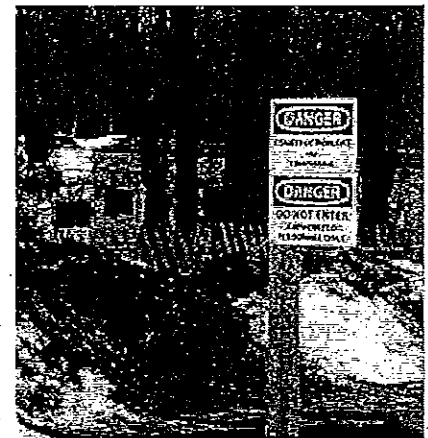
New Hartford Library Vote Blog

 www.newhartfordlibraryvote.blogspot.com
New Hartford Public Library
Recharter Vote...
6 months ago

All Blogs Written by New Hartford NY Online regarding...

New Hartford Public Library

2012 Town of New Hartford
Tentative Assessment
2012 Residential Assessments
Spreadsheet



Scully Toxic Waste Dump Site

Part 1 - Scully Toxic dump site, Valley View Road

Part 2 - They used that oily substance where?

Part 3 - Toxic Dump - New Hartford, N.Y. - See No Evil, Hear No Evil, Speak No Evil

Part 4 - The more you know...

Part 5 - Scully Toxic Waste Dump...Digging Up the Dirt

The Town of New Hartford Use Variance application states:

Such inability to yield a reasonable return must be shown by specific fact (dollars and cents) from an expert or authority in economic deprivation, not the unsupported opinion of the owner or those appearing for the owner.

The applicant has failed so far to meet this standard; no expert witness testimony was presented.

The hardship must be unique to the owner's property and not applicable to a substantial portion of the zoning district.

Again, according to the Dept of State:

The statutes provide that an applicant must demonstrate to the board "that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood."

The only uniqueness in the property in question is a deed restriction that was placed on the property many years ago. The deed restriction was on the property when the current owner purchased the property; however, at that point, the owner was looking for office space so the restrictions didn't matter to her. It only became a problem when personal problems forced her to sell.

The Town of New Hartford Use Variance application states:

The personal situation of the owner shall not be considered unique.

According to Town Attorney Cully when a deed restriction was mentioned as a concern for another use variance request a few months ago, he stated that a deed restriction is not the concern of the town or the ZBA; we would have to assume that would also apply in this case. A deed restriction does not make a "unique hardship". All parcels in the RB2 zone have the same zoning restrictions as the property in question; therefore, the standard of uniqueness does not apply.

Granting the variance will not alter the essential character of the neighborhood.

From the Dept of State:

The Bookkeeper and Santa Reed...

Part 1 - written Jan. 8, 2009

Part 2 - written Jan. 9, 2009

Part 3 - written Jan. 24, 2009

Part 4 - written Jan. 28, 2009

Part 5 - written Jan. 29, 2009

Part 6 - written March 9, 2009

Part 7 - written March 20, 2009

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Tip Line

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Report fraud, abuse or misuse of taxpayer monies anonymously.

Tip Line

FOOD FOR THOUGHT

Every day is "Comment Day" in New Hartford, New York!

Labels

[earle reed\(89\)](#)

[New Hartford Public Library\(81\)](#)

Because one of the basic purposes of zoning is to adopt reasonable regulations in accordance with a comprehensive plan, it follows that changes which would disrupt or alter the character of a neighborhood, or a district, would be at odds with the very purpose of the zoning regulation itself.

3900 Oneida Street is bordered on one side by McDonald's, a car wash and the Washington Mills Post Office. On the other side is Creekside Cafe; they recently received approval for a miniature golf course on the other side of the creek. Across the street is Tony's and a retail strip mall. This property is close to a high traffic intersection with many accidents.

The applicant has stated that they want to build high end apartments...the number of units which is in question. Their application says 42 units, however, they state to the ZBA and the Observer Dispatch there will be 32 units. Regardless of how many units, this property is clearly in a high traffic commercial zone; not a residential zone.

The hardship is not self-created.

The Dept of State writes:

It is well settled that a use variance cannot be granted where the "unnecessary hardship" complained of has been created by the applicant, or where she/he acquired the property knowing of the existence of the condition she/he now complains of.

By examining the page from the property deed containing the restriction, it is clear that Ms. Hobin knew, or should have known, the zoning and deed restrictions when she purchased the property. However, she bought the property for offices so the deed restriction and zoning didn't matter at that point; the property fit her needs at the time of purchase. Now her needs have changed and she seeks a use variance so she can sell the property as apartments to resolve her personal issues. Clearly this is a personal hardship that is self-created.

Finally, from the Dept. of State:

A final word on use variances

The rules laid down in the statutes and in the applicable cases are requirements. They must be used by zoning boards of appeals in reviewing applications for use variances. Furthermore, the board must find that each of the elements of the test has been met by the applicant.

The board must also consider the effect of the grant of the use

new hartford business park(79)

FOIL request(62)

town budget(60)

roger cleveland(55)

New Hartford Central School(45)

New Hartford town board meeting(44)

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empire zone(10)

philo (10)

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Note (9)

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planning board(9)

police contracts(9)

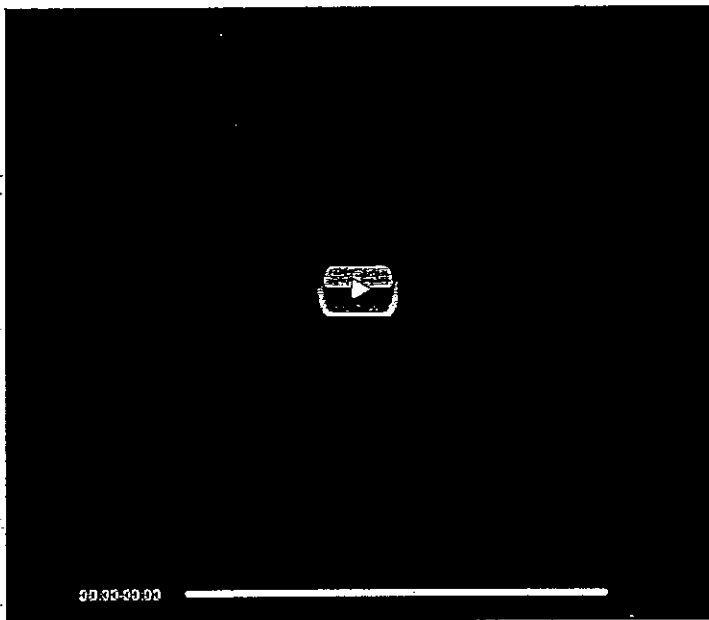
variance on the zoning law itself. The Court of Appeals pointed out in the Clark decision, *supra*,

“ . . . no administrative body may destroy the general scheme of a zoning law by [granting variances indiscriminately] . . . ”

On all counts, the variance should be denied; several other use variances that have recently been approved by the Zoning Board of Appeals also should have been denied, but they were approved. Either the ZBA is bending the rules for some or they need to refresh their understanding of the zoning laws.

Let's see what happens at Monday's ZBA meeting in Butler Hall starting at 6 p.m.

Meanwhile, here is the video of Ms. Hobin's presentation at the February 25, 2013 Zoning Board of Appeals meeting:



Posted by New Hartford, NY Online at 2:13 AM No comments:

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Labels: [zba](#)

WEDNESDAY, MARCH 13, 2013

New Hartford Public Library...

...is searching for a new library director. The Search Committee will be meeting on March 19 at 5:30 PM in the Sammon Room. This meeting is open to the public and your comments in regards to this selection are welcome.

If anyone is interested in applying for this position, information is available on the [library website](#).

[GEIS](#) (8)

[SNAFU](#) (8)

[assessment formula](#)(8)

[vote](#) (8)

[zba](#) (8)

[911 Dispatch contracts](#)(7)

[Higby Road Water District](#)(7)

[Mohawk Valley EDGE](#)(7)

[Utica Master Plan](#)(7)

[badger](#) (7)

[bids](#) (7)

[bookkeeper overtime](#)(7)

[consent order](#)(7)

[executive session](#)(7)

[joe pacini](#)(7)

[mistake](#) (7)

[mud creek](#)(7)

[surplus equipment](#)(7)

[Higby Park](#)(6)

[Robert Freeman](#)(6)

[Scully toxic dump site](#)(6)

[al roberts](#)(6)

[ethics](#) (6)

[fighting back](#)(6)

[harley police motorcycle](#)

[donation](#)(6)

[license plates](#)(6)

[revenue](#) (6)

[school budget](#)(6)

[tip line](#)(6)

[town court](#)(6)

[Standard and Poors Letter](#)(5)

[assessment FOIL](#)(5)

[audiotape](#) (5)

[close barn door](#)(5)

[emergency purchase](#)(5)

[new town offices](#)(5)

[oneida county](#)(5)

[town equipment list](#)(5)

[Election 2009](#)(4)

Applications must be submitted to directordecision@yahoo.com by March 31, 2013.

The next Library Board of Directors meeting is scheduled for Wednesday, March 20, 2013 at noon in Butler Hall.

Posted by New Hartford, NY Online at 12:50 AM · 2 comments:

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Labels: [New Hartford Public Library](#)

MONDAY, MARCH 11, 2013

What's the "Use"?

Use variance..the most difficult variance to get, but lately it seems to be getting a lot easier in the Town of New Hartford even though the town is currently in the process of updating their Comprehensive Plan.

In an August 10, 2010 decision by courts in Connecticut, *ROBERT E. MICHLER ET AL. v. PLANNING AND ZONING BOARD OF APPEALS OF THE TOWN OF GREENWICH ET AL.*, the judge opined:

"As both this court and our Supreme Court have cautioned, 'the power to grant variances from the strict application of zoning ordinances should be carefully and sparingly exercised.

...[U]nless great caution is used and variances are granted only in proper cases, the whole fabric of town- and city-wide zoning will be worn through in spots and raveled at the edges until its purpose in protecting the property values and securing the orderly development of the community is completely thwarted.

...The power to authorize a variance is only granted for relief in specific and exceptional instances."

Last month, two more Use Variance applications were presented to the Zoning Board of Appeals; one for a student health center on Ney Ave presented by Utica College; and one for a 32 unit apartment building at 3900 Oneida Street presented by the owner of the property, Candace Hobin.

No final determination was made on either application at the February 25, 2013 meeting; they are both scheduled to be discussed further at the March 18th Zoning Board meeting and more than likely a determination will be made at that time.

As part of the appeal process, the Town of New Hartford provides every applicant with an [information packet](#) that contains an application and outlines the standards that must be met in order for the ZBA to approve a use variance. *[The highlighting in the document linked to above has been added by us to emphasis some of the more pertinent information.]*

There are four (4) standards that must be proven by the applicant:

[FILM](#) (4)

[Oxford/Tibbitts/Longworth Acres](#) (4)

[Triple A Project](#)(4)

[civil rights](#)(4)

[cully](#) (4)

[gradall](#) (4)

[notice of claim](#)(4)

[preswick](#) (4)

[stormwater reports](#)(4)

[sunshine week](#)(4)

[valley view rd](#)(4)

[whitestown](#) (4)

[911 consolidation](#)(3)

[BJ's Wholesale](#)(3)

[Special Election](#)(3)

[Utica](#) (3)

[Woods Highway water](#)(3)

[grievance](#) (3)

[pat tyksinski](#)(3)

[purchase policy](#)(3)

[quinky dink](#)(3)

[sales tax distribution](#)(3)

[school board](#)(3)

[sign ordinance](#)(3)

[teachers' contract](#)(3)

[town funds](#)(3)

[town of whitestown online](#)(3)

[trash program](#)(3)

[whitestown property assessments](#) (3)

[Election 2013](#)(2)

[Opinion Letter](#)(2)

[Tax Day Tea Party](#)(2)

[Woodberry/Beechwood](#) (2)

[adverse opinion](#)(2)

[ebay](#) (2)

[excel spreadsheets](#)(2)

[highway dept.](#) (2)

[nh planning board meeting](#)(2)

[park](#) (2)

- The owner cannot realize a reasonable return on the property as zoned.
- The hardship must be unique to the owner's property and not applicable to a substantial portion of the zoning district.
- Granting the variance will not alter the essential character of the neighborhood.
- The hardship is not self-created.

According to the NYS Dept. of State:

If any one or more of the above factors is not proven, State law requires that the ZBA must deny the variance. [emphasis added]

A document found online from the [Pace University School of Law - Land Use Law Center](#) states:

New ork law provides statutory standards for the issuance of use and area variances. The statutes impose a heavy burden upon an applicant of demonstrating that a use variance should be granted, as that applicant is requesting the zoning board of appeals to alter the local legislature's determination that a specific use is not appropriate in the zoning district.

We videotaped both presentations at the February 25, 2013 Zoning Board of Appeals meeting. We will be providing the videotape and looking at each request over the next couple of days to discuss whether or not they meet the "burden of proof" required by NYS Law.

Posted by New Hartford, NY Online at 12:55 AM No comments:

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Labels: [zba](#)

MONDAY, MARCH , 2013

The New Hartford Historical Society...

has a new website!

For those that are not familiar with the New Hartford Historical Society, they are located at 2 Paris Road in the Village of New Hartford. Their hours are Mondays from 1 to 3 p.m. and Saturdays from 10 a.m. to 1 p.m although they are closed on Saturdays in January and February.

When you visit their website, be sure to view the [Museum Video](#); a virtual tour of the museum narrated by Barbara Coûtire, President of the Society.

For those wishing to become members of the society, there is a [membership form](#) to print and mail along with your check for the

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- [reynolds \(2\)](#)
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- [General Property Maintenance\(1\)](#)
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