

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
BUTLER MEMORIAL HALL  
NOVEMBER 18, 2013**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Fred Kiehm, Byron Elias, Tim Tallman, Lenora Murad (arrived at 6:07 PM), and Karen Stanislaus. Also in attendance were Town Attorney Herbert Cully, Councilman Richard Woodland, Codes Officer Joseph Booth, and 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.

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The application of **Mr. Albert Roberts, 43-45 Clinton Road, New Hartford, New York**. Mr. Roberts is seeking a Use Variance for a veterinary clinic at 43-45 Clinton Road. Zoning in this area is RB4 Neighborhood Business and a veterinary clinic is not a permitted use in this zone; therefore, necessitating the Use Variance request. Tax Map #328.016-2-61; Lot Size; 0.27 Acres; Zoning: RB4 Neighborhood Business. (This application was tabled at the October 21, 2013 meeting). Mr. Albert Roberts appeared before the Board.

Mr. Roberts submitted additional documentation to support his application. He had shown the house through a realtor with no action on it. He feels the use is low impact and one that fits in nicely with the area. It is a veterinary clinic for cats only with no overnights, and no cremation – with limited days and hours.

Board Member Montrose asked if the property was going to be cleaned. Mr. Roberts said the material there now is to build the berm. He waited to see if he got approval from this Board to continue. Board Member Tallman asked if he was going to pave the front section – Mr. Roberts said yes and also put in shrubs – he will have six or seven parking spaces, and there is parking in the rear. The parking lot will be put in once the tenant gets approved. He can put the driveway in by only by next week as the plants close.

Chairman Bogar asked if there was anyone in attendance to speak on this application:

-Mr. Ed Wiatr handed a written statement which he wanted to read aloud (this has been made a part of the file). He feels this application doesn't comply with the law and Mr. Roberts hasn't supplied the necessary financial information, which is a requirement. He is neither for or against this, he wanted to make sure this matter is within the law. He proceeded to address case law. He also stated that financials rests with the individual to get a third party and addressing this for the Board's purpose as to whether or not there could be a profit made on this property in its existing zoning. Mr. Wiatr referred to the value of the home, storage building on site, condition of the property, current zoning and proposed rezoning of this area. He feels this application lacks dollars and cents.

-Mr. George Bauries, 11 Tamarack Drive: he doesn't live close to this property, but not too far away. He would like to see a vet's office rather than what could be placed on this site. There are other commercial-type uses in that area. When he heard the presentation for a vet's office, he supports it, especially no large animals are involved.

-Mr. Ken Kostolecki, 44 Clinton Road. He referred to 40% green space requirement and asked how this applied to this property. He feels Mr. Roberts can't proceed on that requirement alone.

-Mr. Bill Richards, Winn Avenue. He can't think of a better use for this property.

-Councilman Richard Woodland: he represents this area. He wanted the Board to be aware of traffic and parking concerns in this area.

-Mr. Ed Wiatr: Can action be taken as there is quite a bit of debris. He also doesn't know how this material could be used for a berm. He again stated that no financial information has been submitted and feels this application should be denied.

Mr. Roberts stated that he can't understand the opposition as he chose a low key-type business as opposed to what could go on this site. He has upgraded this house to make it look better. He's upset that people have talked about negatives and not positives for this property.

Chairman Bogar explained to Mr. Roberts about the Use Variance criteria and what has to be met, even though this may be a good use for the property. Board Member Elias felt the application is incomplete but felt the application should be addressed, whether to proceed with an extension to the applicant or not – without prejudice. It was the consensus of the Board Members that this is a good use, but financial information is necessary and required. Board Member Kiehm stated that this Board attends several hours of training every year and to be reminded of things from the audience is insulting to him. We have a Town Attorney to advise this Board. We review every application based on the State of New York laws. He also feels this application is incomplete. Board Member Stanislaus stated that all feelings aside, we need to go by the criteria as we have no other option.

Mr. Roberts left the meeting at 6:40 P.M. The Board Members discussed this application and how to proceed at this time. Mrs. Roberts addressed the Board and asked exactly what the Board wanted to see regarding this application. It was explained to her they would have to hire someone to give financial information on each type of use; whether a profit can be met and they need to address it – a detailed report.

Board Member Elias said he talked with the Department of State as to why this law was put in on a piece of property that in this case the Board felt was a reasonable use. He is waiting for a response.

Town Attorney Cully said we can table this and give the applicant a number of days to resubmit.

Motion was made by Board Member Byron Elias to table this application for ninety (90) days to allow the applicant to provide the information required; seconded by Board Member Lenora Murad. All in favor.

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The application of **Mr. Cy Karrat** for vacant property he owns located on **Stratford Drive in the Town of New Hartford**. Zoning in this area is Low Density Residential, which requires 120' of frontage. Mr. Karrat is seeking a 95' Area Variance for street frontage at this location. Tax Map #328.005-4-17; Lot Size: 71' x 120'; Zoning: Low Density Residential. Ms. Kristina Karrat appeared before the Board for her uncle, Mr. Cy Karrat.

This is a corner lot with about 25' of road frontage. They are hoping to put a driveway in and make the required 120' of frontage to get a Building Permit. This is a dead end street. They want to erect a 50' x 28' home; 50' of driveway from the road to the home.

Chairman Bogar asked if there were any plans by the Town to extend the road – Town Attorney Cully said no. This is a development where someone just stopped – there are paper roads in this area. Board Member Montrose asked about frontage – frontage would be at the 72' side. The applicant would have to pay for the road, sewer and water main extension according to Town specs.

It was stated that there is no intention to extend the road. The driveway will be set 50' back to the middle of the lot and a house built in the middle of the lot.

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

-Mr. Ed Wiatr – he has no opposition.

The Public Hearing closed at 6:55 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;
- 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 as presented; and a Building Permit be obtained within one year of approval date; seconded by Board Member Karen Stanislaus. Vote taken:

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

Board Member Fred Kiehm - yes  
Board Member Byron Elias – yes  
Board Member Tim Tallman – yes

Motion was **approved** by a vote of 7 – 0.

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The application of **Mr. George Bauries, 11 Tamarack Drive, New Hartford, New York**. Mr. Bauries would like to construct a 600 sf bathroom, bedroom and living room addition onto the rear of his existing home, which is a non-conforming structure. Zoning in this area is Medium Density Residential, which requires a 10' side-yard setback. Mr. Bauries is seeking a 5' left side-yard setback Area Variance. Tax Map #328.019-102; Lot Size: 70' x 237'; Zoning: Medium Density Residential. Mr. George Bauries appeared before the Board.

Mr. Bauries explained that he has a growing family, and they want to stay in this area. He presented pictures of his property. He needs the additional living space. The property is non-conforming now. His property extends almost 300' in the rear. He contacted some of his neighbors and they have no opposition. Mr. Bauries has spoken to the contractor and told him to keep the area clean and neat during construction.

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

-Mr. Ken Kostolecki, 44 Clinton Road – he supports this application.

The Public Hearing closed at 7:05 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;
- 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 John Montrose to approve the application as presented and a Building Permit be obtained within one year of approval date; seconded by Board Member Karen Stanislaus. Vote taken:

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

Board Member Fred Kiehm - yes  
Board Member Byron Elias – yes  
Board Member Tim Tallman – yes

Motion was **approved** by a vote of 7 – 0.

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The application of Mr. John Vella, Utica Signs, for **Uptown Interest, LLC, 8374-78 Seneca Turnpike, New Hartford, New York**. The applicant is located in a Planned Highway Business zone, which allows 64 sf of signage for a multi-tenant building. The applicant is seeking a 39 sf Area Variance to erect a 103 sf freestanding sign. Tax Map #328.011-1-1.1; Zoning: Planned Highway Business. Mr. John Vella appeared before the Board.

Mr. Vella explained that they would like to make the sign to incorporate the look of the building. The panels will be illuminated. The other sign located nearby will be moved as it is not on the applicant's property. They want this size sign so traffic will notice that there is a business at this site. It will be 5' off the front of the property – not in any right-of-way.

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

-Mr. Norm Ruzinsky, Seneca Turnpike. He lives across the street and he was wondering if the sign will be lit.

Mr. Vella said it would not be lit 24 hours. Discussion ensued regarding the time for the sign to be off.

The Public Hearing closed at approximately 7:10 P.M. Chairman Bogar stated that OC Planning, OC DPW and NYSDOT has no adverse comments on this application.

The Public Hearing opened again at approximately 7:10 P.M. Mr. Ruzinsky wanted to know what is going to be on the sign - are all the uses commercial. He feels a commercial use might need more time to be lit. Public Hearing closed again at approximately 7:12 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;
- 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; that the sign not be lit from 11:00 P.M. to 6:00 A.M. also, a Building Permit be obtained within one year of approval date; seconded by Board Member Lenora Murad. Vote taken:

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

Board Member Fred Kiehm - yes  
Board Member Byron Elias – yes  
Board Member Tim Tallman – yes

Motion was **approved** by a vote of 7 – 0.

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Draft minutes of the October 21, 2013 Zoning Board of Appeals minutes were approved by Board Member Tim Tallman; seconded by Board Member John Montrose. All in favor.

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There being no further business, the meeting adjourned at 7:15 P.M.

Respectfully submitted,

Dolores Shaw  
Recording Secretary

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