

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
BUTLER MEMORIAL HALL  
JUNE 16, 2014**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Byron Elias, Tim Tallman, Fred Kiehm, Lenora Murad, and Karen Stanislaus. Also in attendance were Town Attorney Herbert Cully, Codes Officer Joseph Booth, Councilman James Messa 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. Timothy Decker from Oneida County Department of Public Works** who is proposing to install a 4' chain link fence into the front yard at **1221 Pleasant Street, Utica, New York (Town of New Hartford) (property owned by Mr. Richard Alpert)**, which is located in a Low Density Residential zone. This applicant is seeking a 25' front yard setback Area Variance to erect this fence at this location. Tax Map #331.017-4-18; Lot Size: 155' x 176'; Zoning: Low Density Residential.

Mr. Richard Alpert appeared before the Board and distributed pictures of his home and property. The County DPW had done a lot of work by/on his property last year, i.e., parked trucks, fill, etc. because of the culvert work they were fixing. They damaged a lot of his property. He also had overgrown trees that they removed. There is about a 25' drop off on his property alone. They reinforced it with huge rocks. The County did put fence in the roadway, but now Mr. Alpert would like to have the fence extended and the County will do so, thus, the variance request. The fence, which is black, would be tied in with the other fencing there.

Mr. Alpert wants to keep his children and grandchildren safe. They can't use the yard like they did before. It is a dangerous situation.

Mr. Hilton, adjacent neighbor, spoke to the Board stating that he took down many trees himself. He doesn't have a problem with the setback situation but he would like to see some bushes planted there also to make the area more aesthetically pleasing. He feels the fence detracts from the appearance of the area. Mr. Hilton said the County agreed to put in bushes. He doesn't want to look at a fence without bushes.

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

-Ms. Ann Gilley. Ms. Gilley is new to the area and she was concerned about this request, but after hearing from the people involved, she is satisfied.

There being no further input, the Public Hearing closed at 6:20 P.M. OC Planning had no comments.

The Board reviewed the pictures and statements made. 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

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

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

Chairman Bogar would like to see a letter written to the County DPW to include bushes. Town Attorney Cully will look into this.

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The application of **Mr. John Collins, 100 Washington Drive, New Hartford, New York**, who is requesting to construct a new 9' x 11' roofed porch on the front of his home. Zoning in this area is Low Density Residential, which requires a 30' front yard setback. Mr. Collins is seeking a 9' front yard setback Area Variance. Tax Map #317.015-2-65; Lot Size: 99' x 148'; Zoning: Low Density Residential. Mr. John Collins appeared before the Board.

Mr. Collins stated that his project had started, but didn't know he needed a variance. This porch is replacing a concrete porch that was crumbling. This became a dangerous porch, and he decided to replace it. He changed the footprint of the porch by about 3'. This new porch will definitely be more aesthetically pleasing.

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

-Mr. Sebastian Pagano, 103 Washington Drive. He supports this application as Mr. Collins has done a nice job upgrading his property, and he is a good neighbor.

There being no further input, the Public Hearing closed at 6:28 P.M. OC Planning and NYSDOT had no comments.

The Board Members discussed this application and reviewed the submittals. 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 Tim Tallman. 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. Adam Hovak, 4 Claridge Court, New Hartford, New York**. Mr. Hovak lives in a Low Density Residential zone, which requires an accessory structure to be set back 10' from the side property line. He is seeking a 5' right side yard setback Area Variance for an in ground pool. Tax Map #339.006-1-14; Lot Size: 100' x 116'; Zoning: Low Density Residential. Mr. Adam Hovak appeared before the Board.

Mr. Hovak presented some pictures of his property for the Board's review. He would like to save two (2) huge trees in his backyard and place the pool where located on the property. The pool is approximately 16 ½' by 35 ½'. He will put in a fence, most likely white vinyl and whatever is required by Code.

Board Member Montrose asked how far this pool is from the house – Mr. Hovak said about 7'. Board Member Elias expressed his thoughts about being able to see the pool from the street. However, he read the letter from the neighbor most affected, Mr. & Mrs. Howard Heffron, 2 Claridge Court, New Hartford, and they are in support of this application, even though they had a room located nearby. This letter has been made a part of the file.

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

-phone call received from Ms. Jessica McNair, 79 Sanger Avenue – she supports the application.

There being no further input, the Public Hearing closed at 6:35 P.M.

The Board Members reviewed the file. 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 Lenora Murad. 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. Rob Luckina, contractor for **Mr. Peter Knoth, 4 Beechwood Road, New Hartford, New York**. Mr. Knoth is proposing a 16' x 26' addition onto the rear of his existing home. The left side of the existing home is 8' from the side property line. Zoning in this area is Low Density Residential, which requires a 15' side-yard setback. Therefore, the applicant is seeking a 7' left side-yard setback Area Variance. Tax Map #339.007-5-16; Lot Size: 75' x 305'; Zoning: Low Density Residential. Mr. Peter Knoth and his contractor, Mr. Rob Luckina, appeared before the Board.

Mr. Knoth explained he has two (2) children who are sharing a bedroom, and he'd like the additional living space. He is not going any further than the existing footprint of the house. Mr. Luckina said the roofline will be a little lower so as not to touch the windows. Same materials as the existing house will be used.

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

Mr. Mary Hall, 6 Beechwood Road has no objection.

There being no further input, the Public Hearing closed at 6:45 P.M.

The Board Members reviewed the file. 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 Lenora Murad to approve the application as presented; and a Building Permit be obtained within one year of approval date; seconded by Board Member Byron Elias. 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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Minutes of the May 19, 2014 Zoning Board of Appeals were approved by Board member Tim Tallman; seconded by Board Member Lenora Murad. All in favor.

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Next Zoning Board of Appeals meeting is July 21, 2014.

There being no further business, the meeting adjourned at 6:50 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary/Zoning Board of Appeals

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