

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
BUTLER MEMORIAL HALL  
JULY 21, 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, Fred Kiehm, and Karen Stanislaus. Board Members absent: Lenora Murad and Tim Tallman. 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. He also mentioned that the Board has two members absent and it is up to the applicants whether to proceed or wait for a full Board.

The application of **Mr. Patrick Dutcher, 11 Oakdale Avenue South, New Hartford, New York**. Mr. Dutcher would like to construct a 6' x 32' roofed front porch onto his existing home. Zoning in this area is Medium Density Residential, which requires a 30' front yard setback and stipulation that the home meet the average prevailing setback. The applicant is seeking a 10' average setback Area Variance. Tax Map #328.012-1-49; Lot Size: 54' x 203'; Zoning: Medium Density Residential. Mr. Patrick Dutcher appeared before the Board

Mr. Dutcher explained that he would like to add a front porch to the full length of the home. He feels this would be aesthetically pleasing to his home and neighborhood. There are other porches in his neighborhood. He has lived here for 20 years and there has never been a porch on his home. It will not be enclosed. The porch will be wooden with a step in the front leading to the front door. He stated he talked with his neighbors and they didn't have a problem with this request.

Mr. Decker stated how the roofline would appear; the roof part will be shingled and siding to match where needed. Mr. Dutcher was asked if he could reduce the length of the porch. He said he probably could but he wanted this effect, as it would look better on the house and area.

The Board Members asked if Mr. Dutcher had a rendering or photo of what the porch would look like. He did not have a rendering, as he wanted to wait until his application was addressed. He explained to the Board how it would look. Codes Officer Booth stated Mr. Dutcher could make a diagram for the Board while he is here. The Board Members agreed, as they would like to see some type of rendering.

The Board addressed the next application at approximately 6:05 P.M. Mr. Dutcher reappeared to the Board at approximately 6:15 P.M. He displayed a rendering of what the porch would look like.

Chairman Bogar asked if there was anyone present to address this application – no response. There were no calls or letters received.

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 Byron Elias to approve the application as presented; and a Building Permit be obtained within one year of approval date; seconded by Board Member John Montrose. Vote taken:

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

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

Motion was **approved** by a vote of 5 – 0.

\*\*\*\*

The application of **BG New Hartford for Wal-Mart, Commercial Drive, New Hartford, New York**. This area is zoned Retail Business 1, which allows a maximum of 160 sf of wall signage. Applicant is seeking a 312 sf Area Variance. Tax Map #317.013-3-23; Zoning: Retail Business 1. (Note: applicant had received approval for some signage in 2008; but the sunset clause has expired. This is the remainder of the request). Mr. James Gallagher appeared before the Board.

Mr. Gallagher referred to the drawings submitted. The store now holds 393 square foot of signage. They are asking to reduce this to 312 square feet. Wal-Mart has changed their graphic sign system, hence, the request. He explained the locations of the signs. There will be a change in the Wal-Mart sign as planned. Most importantly, there will be a sign placed to indicate where the Auto Center is located, as people have had difficulty locating it. He also explained that there was a sunset clause with the 2008 approval where a Building Permit had to be obtained within one (1) year of approval date.

Board Member Kiehm asked if there were any new signs from the ones this Board granted in 2008 – Mr. Gallagher said they did not add any more signs. The only change technically is the auto sign. There is no change to the sign out front at all. None of the signs will be illuminated except for Wal-Mart, which is already illuminated.

Codes Officer Booth stated this applicant applied for this variance under the former Code. The new Ordinance would allow 20 sf more, but the applicant could not wait.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at 6:20 P.M. County Planning 239 was received with no comments, as well as NYSDOT. The Board Members reviewed and discussed this application.

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; this is a reduction in square footage from the application in 2008; 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 Fred Kiehm - yes
Board Member John Montrose - yes	Board Member Byron Elias – yes
Board Member Karen Stanislaus – yes	

Motion was **approved** by a vote of 5 – 0.

\*\*\*\*

Minutes of the June 16, 2014 Zoning Board of Appeals meeting were approved by motion of Board member John Montrose; seconded by Board Member Karen Stanislaus. All in favor.

\*\*\*\*

There being no further business, the meeting adjourned at 6:30 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary/Zoning Board of Appeals

dbS