

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
BUTLER MEMORIAL HALL
JUNE 15, 2015**

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

The application of **Mr. Paul Sierak, 5 Brantwood Road, Utica, New York (Town of New Hartford)**. Mr. Sierak is requesting to place a 6' fence 30' from the front property line. The front most projection of his home is 38' from the front property line. Therefore, the applicant is seeking an 8' front yard setback Area Variance. Tax Map #339.008-3-42; Lot Size: approximately 1 Acre; Zoning: Low Density Residential. Note: Mr. Sierak did not stay for the May 18, 2015 Zoning Board meeting. He requested to be placed on the June 15, 2015 Zoning Board agenda. Mr. Sierak appeared before the Board.

Mr. Sierak explained to the Board that the fence would start at the corner of his house so when you look at it his house it would never go in the front. It would run along the property line to the rear. He presented a picture from the side looking forward. The type of fence would be a cedar plank or dog earned cedar.

Chairman Bogar asked how far it is off the property line – Mr. Sierak said about an inch or two.

Board Member Kiehm asked Mr. Sierak why he would want to hide his beautiful landscaping. Mr. Sierak said the purpose is to get some privacy. The area gets quite busy with children. He would like to put in a screened patio and some type of garden. Chairman Bogar addressed the screening and gardening and if he needed a fence to do this. Mr. Sierak said he wants privacy. Also, he wants to do the same thing his neighbor has done, but he (Mr. Sierak) needs a variance.

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

-Mr. Zygmunt Malowicki, 4 Brantwood Road. He presented a picture of the view from his patio and dining room window and they couldn't see Mr. Sierak's house at all. He is concerned about this being a small variance – it could be a problem if a fence is put in the wrong place. There was some discussion about the stakes on the property. Also, there was a question about the natural landscape. There are no fences in the area. He likes the natural landscape. Further, there is a significant elevation. This fence would be going through a wooded area. The biggest negative is the fence would detract from the lay of the land. There is no practical reason for the fence.

He likes children but he wants to have some privacy from his neighbor's activities.

There being no further input, the Public Hearing closed at 6:25 P.M.

A question arose about where the property line is located – concern regarding the lack of a survey map. Discussion ensued about the location of the proposed fence, where it sets from the house. It can be 38’ back but with the 8’ in front is the question.

The Public Hearing opened again at 6:27 P.M. Mr. Sierak was asked if he could live with the 8’. He said no. He wants to block an area to provide some privacy. The Public Hearing closed again at 6:30 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: yes – 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: difference of opinion;
- 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: yes – 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 Byron Elias. Vote taken:

Chairman Randy Bogar - no
Board Member John Montrose - yes
Board Member Karen Stanislaus – yes
Board Member Tim Tallman - no

Board Member Fred Kiehm - no
Board Member Byron Elias – no
Board Member Lenora Murad – yes

Motion **did not** pass by a vote of 4 – 3.

The application of **Mr. Thomas Serviss, 33 Evalon Road, New Hartford, New York**. Mr. Serviss would like to construct a 14’ x 16’ covered deck, which will be 5’ from the left side property line. The existing property is located less than 10’ from the left side property line and is located in a Medium Density Residential zone. This is a legal non-conforming structure, which cannot be enlarged. Therefore, the applicant is seeking a 5’ left side yard Area Variance. Tax Map #329.013-1-11; Lot Size: 50’ x 184’; Zoning: Medium Density Residential. Mr. Serviss appeared before the Board.

Mr. Serviss presented some pictures. The roof is the problem because it is not 10’ from the right side of the property. It will be a composite deck – the roof would extend from beyond the dormer out 14’. There is a concrete patio there, approximately 12’ x 14’. It will extend about a foot out. He is not going to the edge of the house. Mr. Serviss spoke to his neighbors and they have no objection. This project is located in the back of the house.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at 6:40 P.M.

Oneida County Planning was received with no impacts.

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 Tim Tallman. Vote taken:

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

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

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

Motion was made by Board Member John Montrose to approve the minutes of the May 18, 2015 Zoning Board meeting; seconded by Board Member Fred Kiehm. All in favor.

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

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

dbS