

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
BUTLER MEMORIAL HALL  
SEPTEMBER 21, 2015**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were Taras Tesak, Byron Elias, John Montrose, Lenora Murad, and Fred Kiehm. Board Member absent: Karen Stanislaus. Also in attendance were Town Attorney Herbert Cully, Codes Officer Joseph Booth, Councilman David Reynolds, 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. Chairman Bogar explained that we are down one Board Member and it is up to the applicant whether to proceed as approval would require four out of six members rather than four out of seven.

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The application of **Mr. Thomas Bolanowski, 7 Janet Terrace, New Hartford, New York**. The applicant will be removing the existing garage and constructing a new 24' x 32' garage. Mr. Bolanowski is located in a Medium Density Residential zone, which requires a 10' side-yard setback. He is seeking a 9' left side-yard Area Variance. Tax Map #339.011-2-25; Lot Size: 75' x 135'; Zoning: Medium Density Residential. Mr. Bolanowski appeared before the Board.

Mr. Bolanowski provided photos of his project. There are issues with the existing garage, it needs to be replaced, and he would like a side access door. The breezeway would be removed. Chairman Bogar asked him if he had a survey – he presented it to the Board. He also asked if this could be accomplished any other way. Board Members Elias and Montrose asked questions about the size of the door and its placement. It will be a regular access door. He needs space for four (4) cars. Board Member Montrose mentioned moving the garage forward, however, Board Member Elias preferred to stay with the current blueprint. Board Member Elias' concern is it will be too close to the property line and unable to get to the back yard.

Codes Officer Booth explained why it would be a 6' side yard variance with the applicant agreeing to downsize the application. Discussion ensued if the applicant would be able to change the application rather than a foot off the property line to four feet. Board Member Tesak also asked if there was another way this could be accomplished and stay within the law. Mr. Bolanowski said he would still need a variance.

Chairman Bogar asked if there was anyone present to address this application – no comments. The Public Hearing closed. The Board Members felt the one foot was too close to the property line and also where to place the structure. It was also mentioned about staying within 5' 11/100ths – no further discussion.

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: difference of opinion;
- The requested variance is substantial – response: no – but modified;
- 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: difference of opinion.

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 Fred Kiehm. Vote taken:

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

Board Member Fred Kiehm - yes  
Board Member Byron Elias – no  
Board Member Taras Tesak – no

Motion was **approved** by a vote of 4 – 2.

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The application of **Metropolitan Signs, Inc. for Wachs NH Development, 4535 Commercial Drive, New Hartford, New York (Price Chopper Plaza)**. The applicant is proposing the removal of two (2) existing entrance pole signs with replacements. This is located in a C1 General Commercial zone, which limits pylon signs to 128 sf and only one sign. The applicant is seeking a 148 sf Area Variance for each sign and a 300’ lineal feet Area Variance to place another pylon within the 1000 lineal feet limitation. Additionally, the applicant is seeking a height Area Variance of 13’ 9” to erect a 38’ 9” pylon sign. The maximum height allowed in a C1 General Business zone is 25’. Tax Map #328.008-1-20.61; Zoning: C1 General Business. (Application is different than submittal at the August 10, 2015 Zoning Board of Appeals meeting). Mr. Dave Razzante of Metropolitan Signs, Inc. appeared before the Board.

Chairman Bogar stated that this application has been properly notified and this was tabled at last month’s meeting. Board Member Murad asked about the height. He is requesting 548 square feet vs. 552 square feet. Board Member Montrose why the height was needed. The applicant stated this is needed for visibility. Board Member Elias thought it was too high now. The Board Members agreed that it is high. A comparison was made with Sangertown’s signs, which are much lower. It was also stated that each store has a sign on the building, which is visible from the road.

Chairman Bogar asked if there was anyone present to address this application – no comments. The Public Hearing was closed.

Discussion ensued about the height of the sign.

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: yes – all in agreement;
- The requested variance is substantial – response: yes – 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 Chairman Randy Bogar to deny the application as presented as the Board had concerns regarding the height of the sign; seconded by Board Member Fred Kiehm. Vote taken:

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

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

Motion was **denied** by a vote of 6 – 0.

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The application of **Mr. Frederick Sadallah for 301 Fairway Drive, New Hartford, New York**. Mr. Sadallah's home is located in a Low Density Residential zone and it is a legal, nonconforming structure. The applicant is seeking to expand the structure with an 8' x 12' master bathroom to the rear of the existing home, which is prohibited. Mr. Sadallah is seeking a 5' right side yard setback Area Variance. Tax Map #317.011-3-15; Lot Size: 100' x 122'; Zoning: Low Density Residential. Mr. Frederick Sadallah and Ms. Alissa Sadallah appeared before the Board.

Mr. Sadallah explained the need for this expansion. Board Member Tesak asked if this could be accomplished any other way – the applicant said no and explained why it was not feasible, i.e., based on the location of where he wanted to place this addition. He is not going any further than the current houseline. Mr. Sadallah said the new materials would match the existing house.

Chairman Bogar asked if there was anyone present to address this application – no comments. The Public Hearing closed.

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 John Montrose. Vote taken:

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

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

Motion **approved** by a vote of 6 – 0.

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The application of **Ms. Ann Gilley, 1238 Pleasant Street, Utica, New York** (Town of New Hartford). Ms. Gilley is requesting to place a 6’ privacy fence on her property facing Pleasant Street. The applicant is located in a Low Density Residential zone, which does not permit a fence in the front yard. Therefore, Ms. Gilley is requesting a 35’ front yard setback Area Variance. Tax Map #331.017-4-30; Lot Size: 210’ x 164’; Zoning: Low Density Residential. Ms. Gilley appeared before the Board.

Ms. Gilley had staked out where the fence was going to be placed. She presented photos and explained that there were trees and bushes there, but the deer had eaten through the foliage and she is looking to a fence for privacy. Board Member Tesak asked about the height limitation and Codes Officer Booth showed the Board what was legal and what she could do without seeking a variance. Ms. Gilley’s explanation was that she has a dog and wanted to keep it in the yard and also for other privacy reasons.

Chairman Bogar asked if there was anyone in attendance to address this application – no comments. The Public Hearing closed.

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: difference of opinion;
- 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: difference of opinion;
- 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: difference of opinion.

Motion was made by Board Member John Montrose to approve the application as presented, without prejudice; 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 Lenora Murad – no

Board Member Fred Kiehm - yes  
Board Member Byron Elias – yes  
Board Member Taras Tesak – no

Vote tied – did not pass.

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The application of **Mr. & Mrs. Kenneth Bord, 116 Washington Drive, New Hartford, New York.** The applicants would like to place a 6' fence on their property. They are located in a Low Density Residential zone, which does not allow fences to be placed in a front yard. They are seeking a 19.8' front yard Area Variance for the placement of a fence on the Read Street front yard. Tax Map #317.015-2-57; Lot Size: 83' x 160'; Zoning: Low Density Residential. Mr. & Mrs. Bord appeared before the Board.

They explained they wanted to place the fence just in the back of their yard, which will prevent them from seeing their neighbor's property and to also keep people from entering their yard. They keep their property in excellent condition and they want to continue to do so. Board Member Elias commented on how nice their property looked. This fence is on the Read Street front yard side of the property.

Board Member Tesak asked Town Attorney Cully if he needs to abstain as he may have a conflict. Town Attorney Cully told Board Member Tesak if he felt he could be impartial, then he should hear and vote on the case – Mr. Tesak said he could.

Discussion ensued regarding the type of fence.

Chairman Bogar asked if there was anyone present to address this application – no comments. The Public Hearing was closed.

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: yes – 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: 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 Fred Kiehm. Vote taken:

Chairman Randy Bogar - yes  
Board Member John Montrose - yes

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

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Board Member Lenora Murad – yes

Board Member Taras Tesak – yes

Motion **passed** by a vote of 6 – 0.

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Minutes of the August 17, 2015 meeting were approved.

There being no further business, the meeting adjourned at approximately 8:00 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary

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Minutes taken by Chairman Randy Bogar and Board Member Lenora Murad in Mrs. Shaw's absence.