

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
BUTLER MEMORIAL HALL
FEBRUARY 22, 2016**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were Byron Elias, John Montrose, Lenora Murad, Fred Kiehm, and Karen Stanislaus. Board Member absent: Taras Tesak. Also in attendance were Town Attorney Herbert Cully, Assessor Darlene Abbatecola, Councilman David Reynolds, and Secretary Dory Shaw. Codes Officer Joseph Booth was absent. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting. He also stated that one Board Member is absent this evening and it is up to the applicants whether to proceed.

The application of **Mr. Frank Giotto, 3823 Mohawk Street, New Hartford, New York**. The existing barn is 26' from the property line. Mr. Giotto wishes to place the barn on an adjacent parcel thereby changing the barn from an accessory structure to a principal structure. The Code, Section 118-69B requires that any building housing livestock be 50' from any property line. Therefore, the applicant is seeking a 24' right side yard Area Variance. Tax Map #340.000-4-12.6; Lot Size: Approximately 13 Acres; Zoning: RA (Residential/Agricultural). Mrs. Kristine Giotto appeared before the Board.

Mrs. Giotto presented a signed letter from George and Mary Zegibe stating they have no objection to this request. Mrs. Giotto referred to their property where their home is located and take away some of the land and barn and put it behind their initial property. A home and a small two-acre parcel and the barn will be with the other eleven acres and will go with the 72-acre parcel behind them. They are seeking an Agricultural zone within a few years. The barn and property will go with the farm use. Their hop farm was started last year. They want to use the barn for drying the hops. The edge of the barn is the issue.

Town Attorney Cully said the barn is already there – nothing is changing. Under our Ordinance what happens is as long as this barn was an accessory structure, they didn't have to meet the setback. Now it has to meet a 50' setback. This will be an accessory structure.

Board Member Murad asked why they need the variance now. Town Attorney Cully explained the back portion is going to be used as Agricultural – the barn will be on the Agricultural portion and not on the residential lot. They want to get it off the residential property. Mrs. Giotto said they have right of first refusal on the Zegibe property and they will purchase it. Also, it affects their taxes.

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

-Mr. Anthony Furino, Mohawk Street. He lives next door and he has no objections.

The Public Hearing closed at approximately 6:15 P.M.

County Planning 239 was received with no recommendation, as well as OCDPW.

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 – possibly/difference of opinion.

Motion was made by Board Member Byron Elias to approve the application as presented; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar - yes	Board Member Fred Kiehm - yes
Board Member John Montrose - yes	Board Member Byron Elias – yes
Board Member Lenora Murad – yes	Board Member Karen Stanislaus – yes

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

INTERPRETATION: The application of Mr. Robert Frazee, Love-Frazee Associates, LLC (Cazenovia Equipment), 8186 Seneca Turnpike, Clinton, New York (Town of New Hartford). Mr. Frazee is seeking an Interpretation of the Town of New Hartford Code, Section 118-82E3, and specifically whether or not a staging area for farm equipment should be considered a parking area in a C2 Commercial Retail Business zone with regard to paving. Tax Map #328.000-2-24; Zoning: C2 Commercial Retail Business. Mr. Rod Ives of Napierala Consulting and Mr. Robert Frazee appeared before the Board.

Mr. Ives stated that they were in the process of applying to the Planning Board for the construction of a storm water management system to mitigate impacts to runoff from a constructed Ag equipment storage yard. In the meantime, in talking with Codes Officer Joseph Booth about what the intended use was, they stated it is for farm equipment and not passenger vehicles and they might have a staging area and not a parking lot. Mr. Booth suggested they apply to the Zoning Board of Appeals for an Interpretation as to whether or not a staging area for farm equipment should be construed as a parking area in a C2 zone.

Mr. Frazee said no customers will be going to the far back of the property. Their displays are in the front area and the parking is all paved. Employee area is not paved. This does not affect existing parking. The driveway to the back of the parking lot is somewhat paved. The only traffic is delivery trucks. They intend to stage more equipment on the property they just purchased – it is a grassed area. It is an inconvenience to put equipment on grass. The staging is existing and the piece they just purchased is top soiled and seeded. They may extend a fence just to avoid any thefts.

Chairman Bogar asked what percentage of the staging area is used – Mr. Frazee said about 20%. They will eventually put in a retention pond.

Mr. Frazee stated that if they get a favorable Interpretation tonight, they may or may not have to go to the Planning Board regarding storm water. They will discuss this further with Codes Officer Booth.

Board Member Montrose asked Town Attorney Cully if a restriction could be placed on the new area that it can never become a driveway unless it is paved. Attorney read from our Code regarding this. Mr. Frazee is agreeable.

This application is whether this is a staging area to store vehicles or a parking lot. If a parking lot, it needs to be paved.

The public portion of this meeting closed at 6:30 P.M.

The Board Members felt this is a staging area. Motion was made by Board Member Byron Elias to approve this Interpretation **as a staging area** and not a parking area per Section 118-82E3; seconded by Board Member Lenora Murad.

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 Karen Stanislaus – yes

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

Draft minutes of the November 16, 2015 Zoning Board of Appeals meeting were received by each Board Member. Motion was made by Board Member John Montrose to accept these minutes; seconded by Board Member Karen Stanislaus. All in favor.

There being no further business, the meeting adjourned at 6:45 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

dbS