

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
BUTLER MEMORIAL HALL
MARCH 21, 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, Taras Tesak and Karen Stanislaus. Also in attendance were Town Attorney Herbert Cully, Codes Officer Joseph Booth, Assessor Darlene Abbatecola, 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.

Mr. Andrew Goodelle, 16 Tibbitts Road, New Hartford, New York. Mr. Goodelle is requesting to add a 12' x 30' addition on the back of his home. The existing structure is non-conforming and is 9' from the right side property line. The applicant is seeking a 1' right side yard Area Variance to add onto a non-conforming building. Tax Map #339.015-1-6; Lot Size: 100' x 231'; Zoning: Medium Density Residential. Mr. Goodelle appeared before the Board.

Mr. Goodelle presented pictures of his home and a survey of his property. He explained where the addition would be placed. Materials will match the existing home. He only has two (2) bedrooms in this house and the home is 1000 square feet. He needs the additional living space for his children. He would like his daughter and son to have their own rooms. The addition is going on the left side of the house where he has more room.

Chairman Bogar asked if this can be accomplished by any other means – Mr. Goodelle said no, this is the most feasible area.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing ended at 6:15 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: 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 – 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 (1) year of approval date; seconded by Board Member Karen Stanislaus. 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
Board Member Taras Tesak - yes	

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

Board Member Tesak stated that Codes Officer Booth explained non-conforming structures well.

Mr. Dean Zumpano, 6 Compton Road, New Hartford, New York. Mr. Zumpano is proposing to demolish part of existing building, approximately 20' x 25', and adding a garage. Also, he plans to add a 10' x 12' connection to an addition. This property is non-conforming as it is only 5' from the right property line. The applicant is seeking a 10' right side yard Area Variance to add on to an existing, non-conforming structure. Tax Map #329.017-2-40; Lot Size: Approximately 1 Acre; Zoning: Low Density Residential. Mr. Dean Zumpano appeared before the Board.

Board Member Tesak asked Codes Officer Booth if this is a non-conforming use – Mr. Booth said yes.

Mr. Zumpano presented pictures of the existing structure. He wants to tear down the front part. The garage will be brand new and the addition will be next to the garage. The property line by the garage is 5' – he is not changing anything regarding property lines. All changes will follow the same property line as exists. The property line doesn't waiver. The variance is needed on the construction side. The front part of the house is falling apart and the back part is good enough to keep. He is building this for himself. No one is living there now.

Chairman Bogar asked if everything could be taken down and moved over. Also, will Mr. Zumpano be storing any construction equipment at this site as he is a contractor. Mr. Zumpano said no regarding moving the structure, a lot of the utilities are there and it would be very expensive to do so. He will not be storing equipment at this site.

Board Member Tesak asked what the additions would be and if this can be accomplished any other way: Mr. Zumpano stated this will have a two-stall garage and 3 bedrooms – about 2100-200 square feet. It will look better than what is there now. Also, he cannot do this any other way – he is doing it the best possible way.

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

-Mr. Paul Rayhill, 4 Compton Road. He is concerned about drainage as everything is directed to his home. The house there now is crumbling. He is concerned about the pitch line. If the house was 10-15' over he doesn't feel there would be a problem. He prefers the house come down and be moved over. He prefers the variance be denied.

Mr. Zumpano said he has owned the property for three (3) years and this is the first time he has heard this. He will be putting in drain tiles and gutters so it should help Mr. Rayhill's situation. Also, there is a lot of trees on that lot that will be removed which will enable the lot to dry. Mr. Zumpano will take the necessary steps to not have water flow to Mr. Rayhill's lot (he mentioned there is a Code that he can't pitch water to his neighbor's property).

Board Member Tesak asked if the garage is brought in 10' it would be in compliance. Mr. Zumpano said it would look aesthetically worse. There will be a vestibule that ties in. He can't make the garage smaller – that wouldn't be feasible.

Chairman Bogar asked if anyone else responded. Secretary Dory Shaw stated Dr. Kirschner called regarding this and spoke to Codes Officer Booth – he had no concerns. Ms. Tish Todd also called but did not give an opinion. Public Hearing closed at approximately 6:45 P.M.

Discussion ensued regarding a sub-terranean drain and gutter system, and also a berm between the two (2) properties.

Board Member Tesak to Town Attorney Cully: if he takes it down completely, does he have to become compliant. Codes Officer Booth said once it is down he would have to conform to the new Code. Board Member Tesak referred to the application as being non-conforming, but there is a neighbor who has a concern. He referred to how Mr. Zumpano could take care of this and incorporate it into an approval if granted.

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 for Elias, Stanislaus, Kiehm, Montrose, Murad; yes for Bogar and Tesak;
- 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 for Elias, Stanislaus, Kiehm, Montrose, Murad; yes for Bogar and Tesak;
- 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.

Board Member Murad stated she voted no due to feasible for applicant to pursue.

Motion was made by Board Member Byron Elias to approve the application with the stipulation that gutters are mandatory and drainage be designed by an engineer to take water away from the neighbor's house and for that engineer to decide whether a berm is necessary between the two (2) properties; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Taras Tesak. Vote taken:

Chairman Randy Bogar - yes

Board Member Fred Kiehm - yes

Town of New Hartford
Zoning Board of Appeals Members
March 21, 2016
Page 4

Board Member John Montrose - yes
Board Member Lenora Murad – yes
Board Member Taras Tesak - yes

Board Member Byron Elias – yes
Board Member Karen Stanislaus – yes

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

Mr. Zumpano wanted to note for the record that he doesn't know where the water is coming from and there is no proof that his lot is creating the water situation.

Draft minutes of the February 22, 2016 Zoning Board of Appeals meeting were approved by Board Member John Montrose; seconded by Board Member Karen Stanislaus. Board Member Tesak abstained from the vote as he was not in attendance at the February 22, 2016 meeting. All others in favor.

There being no further business, the meeting adjourned at 7:00 P.M.

Respectfully submitted,

Dolores Shaw, Secretary

dbS