

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
BUTLER MEMORIAL HALL  
OCTOBER 17, 2016**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Karen Stanislaus, Taras Tesak, and Fred Kiehm. Board Members absent: Byron Elias and Lenora Murad. Also in attendance were Town Attorney Herbert Cully, Codes Officer Joseph Booth, 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 stated that we are absent two Board Members tonight and it is up to the applicants whether to proceed.

Chairman Bogar addressed the Zoning Board members stating that correspondence was received from **Mr. Dean Zumpano** (regarding **6 Compton Road**) requesting to postpone his application until the November 21<sup>st</sup> meeting. Under proceedings set forth, he is entitled to one no show. The Board Members granted his request and Mr. Zumpano will be on the November 21<sup>st</sup> Zoning Board meeting agenda.

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The application of **Mr. Dennis Rattay of All Brite Sign & Service for Visions Hotels (Town Place Suites), 4760 Clinton Road (Middle Settlement), Whitesboro, New York (Town of New Hartford)**. The applicant would like to install two (2) freestanding signs. The applicant is seeking a quantity Area Variance to install one more freestanding sign than is allowed. Tax Map #316.016-6-64.2; Lot Size: Approximately 2 Acres; Zoning: C1 General Business. Mr. Dennis Rattay appeared before the Board.

He is requesting another sign to give more direction to the hotel property. One sign is by Route 840 and another one towards the hotel. He presented a site plan of the proposed monument style sign. There is a retirement home down the street and this proposed signage gives people better direction to the hotel. The proposed sign is #4 on the plan he presented.

Codes Officer Booth outlined where the signage will be placed. The other three signs are permissible.

The lighting will be tied in with the parking lot lights – dusk to down. Lighting cannot be offensive to adjoining neighbors. There are no individual residents on that road.

Board Member Tesak asked if there is something different, he could do to be in compliance and he referred to the Comprehensive Plan regarding signage – Mr. Rattay said no. Board Member Tesak asked for better clarification of the location of the sign.

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

-Mr. Patrick Mineo, Liberty Avenue. He wanted clarification as there was confusion regarding the height of the proposed sign. This variance is for a monument-type sign, 8' high. He mentioned that there is confusion where to turn into this development. He does not have any problems with this sign request.

-Ms. Gail Randazzo, property manager at New Hartford Senior Center. She was told the sign is going to be before the driveway as you are going into the building. She feels the marque sign would help because she keeps getting traffic and people going the wrong way. This will stop the hotel traffic from coming down any further into her development. She mentioned the road is private.

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

Chairman Bogar referred to the replies from NYSDOT and OCDPW no adverse comments were made.

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: no, all in agreement;
- 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 – difference of opinion.

Motion was made by Board Member John Montrose to approve the application, that is sign labeled #4 on the presentation; 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 Karen Stanislaus - yes

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

Motion was **approved** by a vote of 4 - 1.

Board Member Tesak felt we need to comply with the Code – he felt the quantity of signs is too much.

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The application of **Rapp Signs, Inc. for Xtramart, 8536 Seneca Turnpike, New Hartford, New York.** The applicant is located in a C2 zone, which limits pylon signs to 64 square feet. He is seeking a 9 ± square foot Area Variance. Additionally, the applicant is seeking a 110 ± square foot Area Variance to install signage on the canopy, which is not permitted. Tax Map #328.012-2-31; Zoning: C2 Commercial Retail Business. Mr. Patrick Doyle of Rapp Signs, Inc. appeared before the Board.

Mr. Doyle explained that Mirabito bought out XTRAMART convenience stores. They scaled the sign down to the existing width of the poles. They will be changing the existing manual price sign to an LED sign. He is requesting to replace the existing signs on the gas canopy, which had said Mobile. There were signs on both sides of the canopy and one on the left-hand corner.

Board Member Tesak asked if they could live with just changing the name on the existing signs and perhaps scale it down to comply with the Ordinance – they wouldn't be able to put their logo on. If they scale it down, it wouldn't be aesthetically pleasing. He also asked if there is any vision impairment by Dixon Road – no, the signs are at the same location. Board Member Tesak mentioned that is area is largely commercial.

Chairman Bogar asked if the kerosene sign would stay – Mr. Doyle is not sure. Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at 6:45 P.M. Chairman Bogar addressed letters from NYSDOT and OC Planning – no adverse comments.

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 Karen Stanislaus 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 Karen Stanislaus - yes

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

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

Board Member Stanislaus addressed the  $\pm$  as shown on the application. Mr. Doyle mentioned that he put the exact numbers on the application. Board Member Tesak asked Codes Officer Booth if there were any questions about total square footage on this – Mr. Booth said no.

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The application of **Rapp Signs, Inc. for Xtramart, 3413 Oneida Street, Chadwicks, New York**. The applicant is seeking a  $67 \pm$  square foot Area Variance to install signage on a canopy, which is not permitted. Tax Map #349.016-1-23; Zoning: C2 Commercial Retail Business. Mr. Patrick Doyle of Rapp Signs, Inc. appeared before the Board.

Mr. Doyle explained that Mirabito bought out XTRAMART convenience stores. The Mobile sign on the canopy was removed and it was converted to a non-illuminated sign.

Codes Officer Booth said our Ordinance has changed as signs aren't permitted on canopies any longer. They are allowed to put the name on the building.

Board Member Tesak feels there is over signage at this location and there is a residential street nearby. He would like to limit the amount of signs on the canopy and he explained why.

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

-Mr. Bill Todd, 8 Compton Road. He feels granting this sets a precedent for anyone else who wants to put up signs.

Chairman Bogar explained that each application is addressed individually.

There being no further comments, the Public Hearing ended at 6:55 P.M.

Discussion ensued regarding the removal of some of the signs on the canopy.

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: no, all in agreement;
- 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 – difference of opinion.

Board Member Tesak doesn't have a problem if we permit one of three sides. He would leave that up to the Mirabito people to decide.

Board Member Tesak addressed his motion for the application presented. He feels the application submitted is overbearing for this particular area because it is adjacent to a residential area. Therefore, he would like to make a motion to grant one of the Mirabito signs and leave it up to the sign maker or whoever to decide which one side is best; and that 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 Taras Tesak – yes

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

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The application of **Mr. Charles Marshall (Stewart's Shops), 4756 Middle Settlement Road, New Hartford, New York**. The applicant has installed a pylon sign approximately 10' from the right side property line. Code requires a 20' right side yard setback. Thus, the applicant is seeking an approximate 10' right side yard Area Variance. Tax Map #316.016-6-65; Lot Size: 2.4 Acres; Zoning: C1 General Business. Mr. Marcus Andrews of Stewart's Shops appeared before the Board.

Mr. Andrews stated the sign is already up at the site and it was placed by the contractor who misinterpreted the Town Code. They were informed a permit was needed and this is when they found out it didn't meet the side setback. The grade change is an issue. The hotel put up their water closet at the same location. It blocks the view of the price portion of the sign as you come off Route 840. If they move the sign back another 10', it can't be seen. You would lose the ability to advertise the gas prices. They can place the sign 5' higher to get it above the grade but then they'd need a height Area Variance. They can't move that sign to the opposite side of the property because of the power lines. Any change in location would be very costly.

Codes Officer Booth stated the frontage owned by the hotel adjacent to Stewart's is almost unusable due to its size. Additionally, Stewart's complied with the new Code with regard to signage, which greatly limits signage on the site. Also, they complied with the Code except for the 10' side line. They are limited on signage – no canopies.

Town Attorney Cully referred to NYSDOT restrictions. Chairman Bogar mentioned that we received a reply from NYSDOT who had no concerns.

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

-Mr. Patrick Mineo, Liberty Avenue. He would like to see the sign stay exactly where it is. Moving and raising it would be a problem for people on Liberty Avenue. Right now it doesn't bother anyone.

Mr. Mineo was advised that if Stewart's wanted to raise the sign, they would have to seek a height Area Variance and come back before this Board.

-Ms. Gail Randazzo, property manager at New Hartford Senior Center: she is satisfied with the sign.

There being no further comments, the Public Hearing ended at 7:25 P.M.

Board Member Tesak asked Mr. Andrews if he was thinking of applying to leave the side yard where it is and raising it 5' – Mr. Andrews said yes but that is not what is before us tonight. The 5' would raise the sign above the water closet but still be in the same spot. They may look into this in the future.

Codes Officer Booth was asked if the applicant needed to come back for the 5' height and readvertise – he answered yes. A question arose about granting a variance and then grant another on the same fixture. Town Attorney Cully said it would be a modification. He has to come back because now (if granted) it is a non-conforming sign and they want to change it because of the elevation.

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: 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 – difference of opinion.

Motion was made by Board Member Fred Kiehm to grant the 10' side yard setback Area Variance with a condition to limit the height of the sign to its existing dimensions; seconded by Chairman Randy Bogar.  
Vote taken:

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

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

Motion was **approved** by a vote of 4– 1. .

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Draft minutes of the September 19, 2016 Zoning Board of Appeals meeting were received by each Board Member. Motion was made by Board Member Fred Kiehm to approve these minutes as written; seconded by Board Member Karen Stanislaus. All in favor.

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There being no further business, the meeting adjourned at approximately 7:50 P.M. .

Respectfully submitted,

Dolores Shaw, Secretary  
Zoning Board of Appeals

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