

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
BUTLER MEMORIAL HALL
JANUARY 23, 2017**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Lenora Murad, Byron Elias, Taras Tesak, 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. He mentioned that one Board Member was not in attendance and it is up to the applicant whether to proceed without a full Board.

Chairman Bogar also explained that the application of Langan Engineering for Mr. Joseph Parisi, 4752 & 4754 Commercial Drive, has been postponed until the February 27, 2017 Zoning Board of Appeals meeting.

The application of **Mr. Brian Coupe, 8894 Tibbitts Road, New Hartford, New York**. Mr. Coupe's property is located in a Low Density Residential zone, which requires a 15' side yard setback. The applicant is seeking a 1.5'± left side yard Area Variance for an addition onto his existing home. Tax Map #339.000-2-12; Lot Size: 100' x 200'; Zoning: Low Density Residential. Mr. Coupe appeared before the Board with his contractor, Mr. Michael Bonacci.

Mr. Coupe explained that he purchased his home in 2015. Last October there was a fire. The house had structural damage. He presented a picture of what the house looked like and what he plans to do to modernize it and make it conform to the other homes in the area. He also presented a schematic of the home, floor plan, etc.

Board Member Tesak asked if this could be accomplished any other way to be in compliance with the Zoning Law. Mr. Coupe said no as he is going parallel front to back. The distance between his house and the neighbor's is 17'.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at 6:10 P.M. County Planning 239 was received with no recommendation and Oneida County DPW responded. Both responses have been made a part of the file. There were no telephone calls or letters submitted.

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 it has met the criteria; and obtain a Building Permit within one year of approval date; seconded by Board Member Fred Kiehm. 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 Taras Tesak – yes

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

The application of **Mr. Dominick Crocilla, Carcuzzi, 9017 Chapman Road, New Hartford, New York**. Mr. Crocilla is requesting to add a fourth bay onto his car wash. This area is zoned C2, which requires a 20' side yard setback. The applicant is seeking a 9.5' ± right side yard setback Area Variance. Tax Map #339.016-1-48.2; Zoning: C2 Commercial Retail. Mr. Crocilla appeared before the Board with Mr. Peter Bolos, Mr. Rob Clark, and Mr. Tony Cristiano.

Mr. Bolos approached the Board stating that he and Mr. Crocilla have worked together on several projects in and out of the Town of New Hartford – they are a team. He stated that this car wash is kept neat and clean and does a fairly steady business, but economically it doesn't turn a healthy profit. The fourth bay is needed, which will eliminate the stacking issue also. There will still be 1 10' right-of-way. Emergency vehicles will still be able to get into the site. There is nothing they are adding to the pavement so no run off issues. Pictures were shown of what the site would look like.

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

-Mr. Rob Clark, McDonald's, Washington Mills. He owns the property next to the car wash and he doesn't have any problems with the application. He feels there is no significant difference.

-Mr. Tony Cristiano. He owns the adjacent parcels (Post Office and DoJang plaza) and he doesn't have a problem with this request.

Board Member Tesak asked if this could be accomplished by any other means. Mr. Crocilla said the third bay isn't finished yet, but he can't put the fourth bay on the other side as he wouldn't be able to make the turn. Board Member Tesak asked how this would impact any adjoining residential properties. Mr. Crocilla doesn't feel it would have any impact as they aren't changing anything and runoff isn't a problem and the nearest house is about 50 yards away. Mr. Bolos said the neighbors don't have any

issues. Aesthetically the building looks good. 99% of traffic using vacuums already have their car washed first. Hours of operation were 24-7 365 days a year but they aren't really open 24-7 any longer.

Mr. Crocilla stated he will have tanks located in a mechanical room above ground to capture rain water. They do not reclaim the water now. The only reclaimed water is through the runoff. There will not be any additional signage.

The Public Hearing was closed at 6:25 P.M. County Planning 239 was received with no recommendation and Oneida County DPW responded. Both responses have been made a part of the file. There were no telephone calls or letters submitted.

Board Member Tesak asked to reopen the Public Hearing at 6:27 P.M. He asked about the third bay and whether that needed a variance – answer: no. The Public Hearing closed again at 6:28 P.M.

For the record: Board Member Elias stated he did a lease with Mr. Crocilla recently which didn't involve any payment and he does not have a relationship with them – just a piece of land they owned and he did it on behalf of a third party. He feels he doesn't have a conflict.

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 as recycled water will be used, maintaining the safety and eliminating stacking;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: possibly, but majority no.

Motion was made by Board Member Lenora Murad to approve the application as it has met the criteria; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Byron Elias. 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 Taras Tesak – yes

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

The application of **Mr. Anthony DePerno/Victory Signs, for 8360 Seneca Turnpike LLC (Daniele's Banquet Specialists), 8360 Seneca Turnpike, New Hartford, New York.** This area is zoned C2 which allows up to 128 square feet of signage for a free standing sign. The applicant already has 242 square feet

of grandfathered signage and is proposing to remove 48 square feet and add back 32 square feet of changeable copy signage. Therefore, the applicant is seeking a 98 ± square foot Area Variance. Tax Map #328.011-1-1.2; Zoning: C2 Commercial Retail Business. Mr. Anthony DePerno of Victory Signs and Mr. Jeff Daniels, owner of Daniele's, appeared before the Board.

Board Member Tesak asked Town Attorney Cully: because this is an existing sign and grandfathered in and taking a portion down, does that mean he loses the grandfather clause – he is making it smaller. Answer: he will lose what he is giving up. He needs a variance once he dismantles and he loses the non-conforming use only on the portion he is removing.

Mr. DePerno stated this is an old-fashioned sign. He would like to convert this 32 square feet to LED (both sides of the sign). He is not changing the upper portion of the sign. He presented pictures of what the sign would look like. The black border stays the way it is – just a black border. The posts will remain the same. Mr. DePerno explained how LED's operate and how the brightness is affected.

Board Member Tesak asked if this would distract the traffic flow on Seneca Turnpike. Mr. DePerno said no. He said NYSDOT did a study and it was zero affect. How will this affect neighbors. He explained the concept of LEDs. Board Member Tesak referred to Town Attorney Cully and Codes Officer Booth about advertising on this sign. Mr. Booth explained there is no off site advertising allowed on any sign in New Hartford. Mr. Daniels is now aware of this as he owns several properties. He understands.

Board Member Montrose asked Codes Officer Booth, if Mr. Daniels wants to change this, does he have to come back. Answer: yes, with another variance.

Chairman Bogar asked if this could be made smaller. Mr. DePerno said yes, but there are four lanes of traffic and they want it to be effective.

Discussion ensued regarding keeping the sign lit all night. The applicant would like to do so, but could possibly work with the Board on this. There is a dimmer switch on it. If it is overcast, it will start dimming the light automatically – it is self-regulated.

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

-Dory Shaw, 8320 Seneca Turnpike excused herself from the meeting and mentioned that it was a nice sign, that Mr. Daniels runs a good business, and inquired about whether it would be lit all the time.

Mrs. Shaw came back to the meeting. Mr. Daniels said he wasn't sure if he would run it all night, it has a timer. Discussion ensued regarding the lighting and Mr. DePerno again explained the concept. He feels Mr. Daniels will address any situation that may arise. He doesn't feel it is an issue. LEDs are the future.

The Public Hearing closed at 6:50 P.M. County Planning 239 had no recommendation and NYSDOT did not have any objection but that all signage be located on private property and not on their right-of-way.

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, it is being made smaller; 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, it is being made smaller; 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: possibly;
- 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 Byron Elias to approve the application as presented as it met the criteria; 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 Fred Kiehm - yes
Board Member John Montrose - yes	Board Member Byron Elias – yes
Board Member Lenora Murad – yes	Board Member Taras Tesak – yes

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

Draft minutes of the December 19, 2016 Zoning Board of Appeals were discussed. There is a correction on Page 6: replace Mr. Peter Karl to show Mr. Vincent Karl. Motion to approve these minutes was made by Board Member John Montrose; seconded by Board Member Byron Elias. All in favor.

HOWEVER, after a discussion, this motion was rescinded to not approve these minutes at this time by motion of Board Member Byron Elias; seconded by Board Member John Montrose. All in favor.

There being no further business, the meeting adjourned at 7:30 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

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