

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
BUTLER MEMORIAL HALL
FEBRUARY 27, 2017**

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

The Board Members addressed the draft minutes of the December 19, 2016 Zoning Board of Appeals and motion was made by Board Member Byron Elias to approve these minutes as written; seconded by Board Member John Montrose. All Board Members in attendance were in favor.

Also, the Board Members addressed the draft minutes of the January 23, 2017 Zoning Board of Appeals and motion was made by Board Member Byron Elias to approve these minutes as written; seconded by Board Member Fred Kiehm. All Board Members in attendance were in favor except member Karen Stanislaus who abstained as she was not in attendance at this meeting.

The application of Mr. Mark Domenico for **Nick and Juleen Qandah, 29 Juniper Lane, New Hartford, New York**. The applicant is located in a Low Density Residential zone, which requires a 15' side yard setback. The applicant is seeking 5' ± left side yard Area Variance to build a third garage stall and second floor bedroom/bathroom. Tax Map #340.001-2-51; Lot Size: 81' x 150'; Zoning: Low Density Residential. Mr. Domenico and Drs. Nick and Juleen Qandah appeared before the Board.

Mr. Domenico displayed a site plan of the proposed project and stated that a survey was done on this property. They would like to build a third stall onto the existing house and a second floor master bedroom, which would give them a second means of egress. The house is only served by one means of egress at this time (they would not have to exit through the garage). He showed two setbacks: one which was shown in the deed description, and the Town setback line. There is a side entrance garage and it is difficult to utilize the car property. This new concept will work for them and be cost effective. He mentioned a bit of encroachment onto their neighbor's property, which will be eliminated. He does not have a picture of what the changes would look like but it will match the existing home.

Dr. Nick Qandah appeared before the Board. He stated that they love the neighborhood and want to stay there. The location of the home gives them easy access to the hospitals where they work and it is a great neighborhood for the children. They are expecting another child and need the additional living space. Further, safety is an issue. Just the left side is affected. Also, a fire truck will be able to get through.

Chairman Bogar stated that it looks like the addition being put on just about meets the setback, but in the back on the corner is where he needs the variance.

Board Member Tesak asked if they can accomplish this by any other means to stay within the Zoning laws and does he feel this will change the aesthetics of the neighborhood – Dr. Qandah said no and that is why he hired Mr. Domenico who is an architect to come up with what is best.

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

-Mr. Paul Miscione, 18 Juniper Lane. He lives across from this project. He thinks it is a good project and enhances curb appeal. He mentioned that neighbors didn't have any problem with this request.

-Mr. Leslie Schenk, 4 Juniper Lane. He inquired about what the house would look like and asked if they had some type of architectural drawing. Dr. Juleen Qandah stated the change wouldn't look like an addition – it would blend in with the existing home.

-Mr. Paul Miscione, 18 Juniper Lane. He is confident the job they are going to do on this will look beautiful when it is done. He referred to other things they have done on their property, and he mentioned a matter at 109 Viburnum Lane.

There being no further comments, the Public Hearing closed at approximately 6:20 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 – minimal, 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 that a Building Permit to 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 Taras Tesak – 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.

The application of **Victory Sign, Inc., for Judd Road Group II, LLC, 4626 Commercial Drive, New Hartford, New York (Aspen Dental complex)**. The applicant is located in a C1 zone which only permits one sign per face of building. The applicant is seeking a quantity Area Variance to place two signs on the front elevation and two signs on the side elevation. Tax Map #328.008-1-8.1; Lot Size: 1.36 Acres; Zoning: C1 General Commercial. Mr. Anthony DePerno of Victory Sign and Mr. Edward Welsh of AAA appeared before the Board.

Mr. DePerno explained that he feels the signs are actually two meaning the AAA insignia isn't attached to the actual sign. However, the Codes Officer stated that it is four signs by his estimation. The square footage meets the Code. The former tenant had signs on this building. The space is vacant at this time. They are asking for the same signage as what was there. The sign will be lit during business hours.

Mr. Welsh stated this is a second location. Their store on Court Street will be relocated to a nearby building which was purchased. Eight people will be at this location and they are hiring additional people. Their goal is to aware construction soon and done by March. He isn't the owner of the building, but the owner gave their consent (see letter in file).

Chairman Bogar asked if there was anyone present to address this application – there was no response. The Public Hearing ended at approximately 6:30 P.M. Responses were received from NYSDOT and Oneida County Planning with no comments. A letter was received from Judd Road Group stating they had no opposition to this request.

Board Member Tesak asked about lighting. Codes Officer Booth stated that illumination is to be directed so it doesn't interfere with traffic.

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 Fred Kiehm to approve the application as presented; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Karen Stanislaus. Vote taken:

Chairman Randy Bogar - yes
Board Member John Montrose - yes
Board Member Taras Tesak – 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.

The application of **Mr. Justin DeLong, 30 Tennyson Road, New Hartford, New York**. The applicant is seeking to add an additional 6' x 12' (\pm) addition that received a 4' \pm left side yard Area Variance in August 2016. The applicant is requesting a 4' \pm Area Variance to expand a non-conforming structure. Tax Map #329.013-3-39; Lot Size: 100' x 376'; Zoning: Low Density Residential. Mr. DeLong appeared before the Board.

Mr. DeLong explained that they started this project and realized it wouldn't fit their needs – they didn't realize the measurements would make it smaller and not even fit their bed. They stopped this project, hired a new contractor, and they are reapproaching the Zoning Board with their revised application. They want to push toward the front 6' going left. They are no closer to the road just moving it 6' towards the front door. It is not going closer to the neighbor. Mr. DeLong stated that aesthetically it would look more professional.

Town Attorney Cully referred to the application which states 13.5' but Mr. DeLong shows 11.5' on the application. If this Board grants the application, it needs to be clear and state in line with the existing structure. This is an expansion of a non-conforming structure. He is not building any closer to the side – more toward the middle – that is why he needs the variance. He is not doing anything more than what he got approved for previously.

Mr. DeLong said he will redo the roof and add siding to match.

Board Member Tesak asked if there was any other way to accomplish this and stay within the Zoning law – Mr. DeLong said no – it wouldn't look right adding to the back, and his contractor stated it wouldn't work.

Mr. DeLong stated he was told they need an egress window (he bought 5).

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:45 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 – yes, all in agreement.

Town of New Hartford
Zoning Board of Appeals
February 27, 2017
Page 5

Motion was made by Board Member John Montrose to approve the application as presented, and that a revised Building Permit be obtained within one year of approval date; seconded by Board Member Karen Stanislaus. Vote taken:

Chairman Randy Bogar - yes
Board Member John Montrose - yes
Board Member Taras Tesak – 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.

There being no further business, the meeting adjourned at 6:50 P.M.

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

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