

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
BUTLER MEMORIAL HALL
MARCH 20, 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, Karen Stanislaus, Byron Elias, Taras Tesak, and Fred Kiehm. Also in attendance were Town Attorney Herbert Cully, Codes Officer Joseph Booth, Councilman David Reynolds, Councilman Jim Messa, Assessor Darlene Abbatecola, 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 explained that the application of Langan Engineering & Environmental Services, Inc. for **Mr. Joseph Parisi, 4752-2754 Commercial Drive, New Hartford**, has been totally withdrawn.

Correspondence: Beacon Communities Development LLC (New York) has requested a Building Permit extension regarding approval that was granted to The Meadows, 4310 Middle Settlement Road, New Hartford on July 20, 2015. There was a delay in project financing (see letter in file) and that is why they need the extension. After a review of the request and there being no legal issues, motion was made by Board Member Fred Kiehm to grant The Meadows a twelve month extension (from today's date); seconded by Board Member Karen Stanislaus. All in favor.

The application of **Mrs. Melissa Kulik, 6 Kensington Court, New Hartford, New York**. The applicant is seeking to extend a fence approximately 23' into the front yard. Codes prohibits fences in a front yard. Therefore, the applicant is seeking an approximate 23' front yard Area Variance. Tax Map #340.014-1-24; Lot Size: 75' x 130'; Zoning: Low Density Residential. Mr. & Mrs. Kulik appeared before the Board.

Mr. Kulik displayed a copy of a proposed white fence. He feels this fence is better than trees or shrubs as they take a long time to mature. He also has a dog that he would like to keep in his yard, and a deer problem. He mentioned that there was a property line issue and his neighbor had hired LaBella to do a survey. When Mr. Kulik bought the house, it was understood where the property line was. Mr. Kulik did not obtain a survey. He stated that the write up on the application is true. Chairman Bogar asked if this is a regular occurrence – Mr. Kulik said the prior owners had a problem. Mrs. Kulik said she reported it to the Police at least once. Chairman Bogar asked if the Police were called for the rocks or other matter – Mrs. Kulik said both.

Discussion ensued regarding the trees that were previously there and cut down, and the existing berm.

Board Member Tesak referred to the angle of the property and whether there is an alternative way to accomplish this. He asked if the proposed fence would change the character of the neighborhood - Mr. Kulik said no and the fence can be on the property line or on their side. There are other fences in the neighborhood.

Chairman Bogar asked Codes Officer Booth – from the front of the house it is 23’ forward – Mr. Booth said yes. Chairman Bogar asked if there was anyone present to address this application:

-Mr. Ronald Woodward, 8 Kensington Court. He is in favor of the application and he brought the survey for the Board to review as he would like to help the Kulik’s. He explained the layout of the land. His concern is visibility in the neighborhood and worries about a blind spot.

Discussion ensued regarding how far the fence would be back from the road. It was determined to be about 32-33’ from the setback from the pins. Codes Officer Booth said it will be set off the front property line about 23’-24’.

There being no further comments, the Public Hearing closed at approximately 6:30 P.M.

Chairman Bogar stated that three calls came in supporting the application: Mr. Mark Turnbull, 28 Kensington Court; Mr. Jeff Badgley, 10 Kensington Court; and Ms. Maureen Campou, 16 Kensington Court.

The Board Members discussed this application and some realized that this is only a certain portion of the application – others felt this could be accomplished some other 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: 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 – 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 Lenora Murad. Vote taken:

Chairman Randy Bogar - no	Board Member Fred Kiehm - yes
Board Member John Montrose - yes	Board Member Byron Elias – no
Board Member Taras Tesak – yes	Board Member Karen Stanislaus – yes
Board Member Lenora Murad - yes	

Motion was **approved** by a vote of 5 – 2.

The application of **Mr. Keith Scranton, 14 Westwood Lane, New Hartford, New York**. The applicant is located in a Low Density Residential zone, which requires a minimum front yard setback of 30’. Mr. Scranton is seeking a 7.5’ ± front yard Area Variance to add four bedrooms and living space onto his

existing home. Tax Map #340.008-1-25; Lot Size: 232' x 150'; Zoning: Low Density Residential. Mr. Scranton appeared before the Board with Mr. Craig Blask of Boulder Consultants.

Mr. Scranton stated that he has four children (ages 10, 8, 3 and 2) and they need additional living space. His children are all in one location in the house. They love the neighborhood and want to stay in this area. Mr. Blask presented a sketch of the application and referred to the survey. He feels this concept blends in with the neighborhood. If they tried to do this another way, they would still need a variance. The back would become a grading issue. There is a sanitary main in the back. Mr. Scranton said the structural integrity of the garage is at stake also. He is worried about it and it will be corrected with this new construction. He will also put a new roof on the structure. Mr. Scranton said he will address any drainage issue and fix it.

Board Member Murad asked if he thought he would have to come back before this Board for a driveway – Mr. Scranton said probably but he would check with Codes first. Board Member Kiehm asked of any other lots were there for someone to build – Mr. Scranton said no.

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

-Mr. Jalonack, 15 Westwood Lane. He lives across the street and his issue is he feels this will alter his view. He referred to a deed stating no will be erected more than one story in height. He took a picture of the view he has from his home.

Town Attorney Cully referred to this as a private deed restriction and it is enforced by anyone in the subdivision – it does not affect this Board's decision – it is a consideration. Board Member Montrose referred to other homes in the area that are two-story. It was mentioned that they are on the other side of the street.

Mr. Blask referred to the trees behind the Scranton home, which get very tall when in bloom.

-Mr. Tom Carcone, 12 Westwood Lane. He feels the Scranton's need the additional living space. He would hate to see them leave the neighborhood. They are good neighbors who help others. If there is an exception to be made he would like to see it granted to them. The addition will look beautiful.

There being no further input, the Public Hearing closed at 6:55 P.M. Chairman Bogar said two people called in favor of this application: Mr. Tom Carcone, 12 Westwood Lane; Ms. Linda Hart, 17 Westwood Lane.

Discussion ensued regarding the deed restriction – it is not an issue for this Board. He doesn't have a problem with this request. Board Member Murad is concerned about the deed restriction comments.

The Public Hearing opened again at approximately 7:00 P.M. Board Member Murad asked what they could do in lieu of a second story. Mr. Blask said it is difficult to do it any other way. The house is only 22' wide. The Public Hearing closed again at 7:05 P.M.

Discussion ensued regarding this application some stating it would add to the neighborhood others that it would change. Some felt the pluses outweigh the minuses. Board Member Montrose is glad to see Mr. Scranton will address any drainage issues.

Chairman Bogar referred to the letter submitted by Boulder Consultants referring to an office. Mrs. Scranton said it is not an office but a playroom.

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: difference of opinion;
- 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.

Board Member Murad feels the application should be informed that if granted, there may be a legal issue. Town Attorney Cully felt the applicant is aware that restrictions can be enforced by anyone in the subdivision.

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 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 Taras Tesak – yes	Board Member Karen Stanislaus – yes
Board Member Lenora Murad - yes	

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

Draft minutes of the February 27, 2017 Zoning Board were received by each Board Member. Motion was made by Board Member Byron Elias to approve these minutes as written; seconded by Board Member Karen Stanislaus. All in favor.

Secretary Dory Shaw reminded the Board Members that the next Zoning Board meeting is scheduled for the last Monday in April – **April 24th**.

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

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

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