

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
APRIL 15, 2019**

The Regular Meeting was called to order at approximately 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Fred Kiehm, Karen Stanislaus; Byron Elias, Taras Tesak and Lenora Murad. Also in attendance were Councilmen David Reynolds, Richard Lenart and Richard Woodland; Town Attorney Herbert Cully; Code 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.

The application of **Metropolitan Signs, Inc. for 4535 Commercial Drive, New Hartford, New York.** The applicant is seeking a 282± square foot sign Area Variance to place a 382± sign on the front of the building formerly known as Toys R Us. Zoning is C1 and only allows 100 square feet of signage. Tax Map #328.007-1-6.61; Zoning: C1 General Business. Mr. David Razzante of Metropolitan Signs, Mr. John Hrinda, Division President-NY of Planet Fitness, and Mr. Jeff MacKey, Regional Manager/Central New York Planet Fitness, appeared before the Board.

Mr. Razzante displayed the panel letters and logo for Planet Fitness. The requested variance of 382 sf is a reduction from what existed previously (includes open space in the square footage). He displayed the size of the sign (LED panels) in accordance with the Code, which is too small. It is a standard logo and they will maintain the sign. This is one of their largest clubs and they expect to hire at least seven additional personnel. This building is approximately 400 feet from the road. Where the former Babies R Us location is has nothing to do with Planet Fitness. There is no other way they can place a sign other than what is requested.

Chairman Bogar asked is there is anyone present to address this application – no response. The Public Hearing closed at approximately 6:21 P.M. Oneida County Planning 239 and NYSDOT responses were received with 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 – response: no, all in agreement.

Motion was made by Board Member John Montrose to **approve** the application as submitted; seconded by Board Member Lenora Murad; and that a Building Permit be obtained within one year of approval date. Vote taken:

Chairman Randy Bogar - yes
Board Member Fred Kiehm - yes
Board Member Karen Stanislaus – yes
Board Member Taras Tesak - yes

Board Member Byron Elias - yes
Board Member John Montrose - yes
Board Member Lenora Murad – yes

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

Reference was made to the existing freestanding sign.

The application of **APD Engineering & Architecture, PLLC for Mud Creek Family Limited Partnership, Seneca Turnpike, New Hartford, New York (Aldi's site)**. The applicant is requesting a 1-foot Area Variance on the width of new parking spaces, which will equal the predominant sized parking spaces within the parking lot. The applicant is located in a C1 General Business zone. Tax Map #328.011-1-20.3. Mr. Sudath Alvis, Senior Civil Engineer of APD Engineering appeared before the Board.

Mr. Alvis explained what Aldi's has planned, i.e. refurbishing the building, etc. He further explained the expansion, which brings the building over some of the existing parking spaces. They are restriping the rest of the parking spaces the same way it is right now, not making any changes. However, where the expansion is taking place, they are making some changes to keep six parking spaces – shifting of driveways. They are requesting to be able to maintain the existing parking width to 9' but the new Code is for 10'. The lease agreement gives them access to 20 additional parking spaces across from the driveway. Total spaces available prior to now is 89 spaces. After this expansion it will go down to 86, which is too much of a loss for Aldi's. There is no change to the entrance of this property – just the driveway.

It was mentioned that they are moving the driveway for parking spaces and that is why they need the variance.

Discussion ensued regarding requirements according to the Code, and whether additional parking can be secured through Jay-K. Board Member Tesak asked, if this goes to 10' width by this application, does it do anything to the existing 9' spaces – Town Attorney Cully said they are grandfathered in with the 9' spaces.

Chairman Bogar asked if there was anyone present to address this application – there was no response. The Public Hearing closed at approximately 6:32 P.M. Oneida County Planning 239 and NYSDOT responses were received with 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 – response: no, all in agreement.

Motion was made by Board Member Taras Tesak to approve the application as submitted and this is a high volume traffic area and also because they have the 9' already; seconded by Board Member Fred Kiehm; and that a Building Permit be obtained within one year of approval date. Vote taken:

Chairman Randy Bogar - yes
Board Member Fred Kiehm - yes
Board Member Lenora Murad - yes
Board Member Karen Stanislaus - yes

Board Member Byron Elias - yes
Board Member John Montrose – yes
Board Member Taras Tesak - yes

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

The application of **Mr. Christopher Zalewski, 43 Root Street, New Hartford, New York**. The applicant is proposing to place an addition on the rear of a non-conforming structure. This property is zoned Medium Density Residential which requires a 10' side yard setback. He is seeking a 5'± right side yard setback Area Variance. Tax Map #339.006-2-3; Lot Size: 66' x 137'; Zoning: Medium Density Residential. Mr. Zalewski appeared before the Board.

Mr. Zalewski explained he would like to expand the living area of his home, as he needs the additional space. The house is already non-conforming. He will match this addition exactly with the home. There will be no obstruction to neighbors.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:38 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 – response: no, all in agreement.

Motion was made by Board Member Byron Elias to approve the application as submitted; seconded by Board Member Fred Kiehm; and that a Building Permit be obtained within one year of approval date.

Vote taken:

Chairman Randy Bogar - yes
Board Member Fred Kiehm - yes
Board Member Karen Stanislaus – yes
Board Member Taras Tesak - yes

Board Member Byron Elias - yes
Board Member John Montrose - yes
Board Member Lenora Murad – yes

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

Draft minutes of the March 18, 2019 Zoning Board of Appeals meeting were approved by Board Member Byron Elias; seconded by Board Member Fred Kiehm. All in favor.

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

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

dbS