

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
MAY 20, 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 was Town Supervisor Paul Miscione; Councilmen David Reynolds and Richard Lenart; Town Attorney Herbert Cully; Code Officer Lary Gell; 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 Randy Bogar mentioned that **Mr. William Yount**, 12 Mayberry Place, New Hartford, cancelled his appearance before the Board this evening.

The application of **Ms. Sarah Dudajek-Bush, 216 Higby Road, Utica, New York (Town of New Hartford)**. The applicant is seeking a 30'± front yard Area Variance to erect a 4' tall open rail fence forward of the home. The applicant is located in a Low Density Residential zone, which prohibits fences from front yards. Tax Map #329.020-8-35; Lot Size: approximately 100' x 169' (corner lot); Zoning: Low Density Residential. Ms. Dudajek-Bush appeared before the Board.

Ms. Dudajek-Bush explained where she lives, which is a corner lot, and the area has become very busy. She is concerned about her three children playing in the yard and not having a fence at this busy intersection. The black aluminum fence will be placed behind existing bushes (she has two fences to choose from both open-type fences). She presented pictures of other fences in the area and she also addressed Codes in general. Also, how the public is notified. Ms. Dudajek-Bush presented a petition signed by her neighbors in favor of her application.

Board Member Tesak asked if she could do this any other way without seeking a variance – she stated no. Board Member Montrose referred to snow accumulation on the fence – she stated the fence is far from the corner.

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

-Judy Jerome, 16 Benton Circle. She questioned the notification process and why some Codes are so restrictive. Homeowners should be free to do what they want on their property. Nothing is being jeopardized. She is in favor of this application.

-Joyce Trievel, 4 Benton Circle. She supports this application and agrees with Ms. Jerome.

-Town Supervisor Paul Miscione, he is in favor of this application and the applicant is trying to keep her children safe.

-A letter was received from Ms. Jill Breckel, 15 Bradley Road, in support of this application.

There being no further input, the Public Hearing closed at approximately 6:25 P.M. Oneida County Planning 239 and Oneida County DPW have no issues.

Board Member Tesak explained the process for how Codes and regulations are processed. If anyone has any questions, they can always contact department heads or the Town Board.

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 Lenora Murad to approve the application of Ms. Dudajek-Bush as submitted with the open rail fence; seconded by Board Member John Montrose; 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.

The application of **Mr. Frank Margot, 3385 Oneida Street, Chadwicks, New York**. The applicant would like to utilize an existing pole, which is 5'± from the side property line, for his sign. He is located in a C2 Commercial Retail Business zone, which requires that a free standing sign be 20' from the side property line. Therefore, he is seeking a 15' right side yard setback Area Variance. Tax Map #349.020-1-69; Lot Size: approximately 3 Acres; Zoning: C2 Commercial Retail Business. Mr. Margot appeared before the Board.

Mr. Margot explained that his building sets 110' back from the road. He needs a sign for his business to be recognized. The sign won't obstruct visibility. The sign is 9' at the bottom and 5' high and will not be lit. It is blue and white, the size is 5' x 5' (both sides). There are multiple signs in this area.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:40 P.M. A phone call was received by Ms. Phyllis Latreille, 3396 Oneida Street, Chadwicks, who is opposed.

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 of Mr. Margot as submitted with the stipulation that this sign is for his business only; 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.

The application of **Mr. Kenneth Hoch, 131 Clinton Road, New Hartford, New York**. The applicant is seeking a 10'± Area Variance to erect a 16'± x 16'± covered deck onto the back of his home. He is located in a C2 Commercial Retail Business zone, which requires a 25' rear yard setback. Additionally, the home is non-conforming as to setbacks and is considered a legal, non-conforming structure. Tax Map #328.000-4-3; Lot Size: approximately 1 acre. Tax Map #328.000-4-3; Lot Size: approximately 1 acre Mr. Hoch appeared before the Board.

Mr. Hoch presented pictures of what he would like to build, a deck with a covered roof. He may put screens in, but it won't be enclosed. There is nothing behind him to cause any visibility problems.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:45 P.M. Oneida County Planning 239 and NYSDOT was 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 Karen Stanislaus to approve the application of Mr. Hoch as submitted; seconded by Board Member Byron Elias; 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.

The application of **Mr. Richard Tehan/Tehan’s Catalog Showrooms, Inc., 4619 Commercial Drive, New Hartford, New York**. Mr. Tehan is seeking an 83± sf sign Area Variance, a height Area Variance of 11’± and quantity Area Variance of one additional sign. This area is zoned C1 General Commercial, which allows one multiple use freestanding sign of 128 sf, a height limitation of 25’, and one freestanding sign per site. Tax Map #328.008-1-26; Lot Size: approximately 10 acres; Zoning: C1 General Commercial. Mr. Richard Tehan and Mr. Joe Burke appeared before the Board.

Mr. Tehan explained that he wants to upgrade his complex and especially the signage. He will be reducing the size of the sign at this location. He presented pictures of what is existing and what he is proposing. He explained the size of the panels for the signs, i.e. for Hannaford, Hobby Lobby and other. Columns will stay the same. The new sign will be LED panels front and back. They are on a 24-7 hour timeframe but they will be discussing this with their tenants. Mr. Tehan said aesthetically this will be better for the area. The structure will not be moved – he is not sure if it is in the NYS right-of-way, but they won’t be doing anything to it. Mr. Tehan was advised that this Board has no control over NYSDOT.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing ended at approximately 6:55 P.M. Oneida County Planning 239 and NYSDOT had 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 (more in line with the Ordinance);
- 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 of Tehan’s 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.

The revised application of the **Yahundasis Country Club, 8639 Seneca Turnpike, New Hartford, New York**. The applicant is located in a PR Parks and Recreation zone, which limits the height of an accessory structure to 15’ and prohibits the placement of said structure in a front yard (proposed structure is 60’± x 96’±. The applicant is seeking a 7’± Area Variance on height and a 39’± front yard Area Variance to place the structure in the front yard. Tax Map #329.009-1-1; Zoning: PR Parks & Recreation. Mr. Daryl Ricci of Ricci Farm Supply appeared before the Board.

Mr. Ricci stated that this application has changed from the previous one submitted in October 2018. The applicants wanted to move the building back and make it more conducive to their needs. The building will have concrete under every pole. He presented the prints for the Board’s review and which will be made a part of the file. This will be a 12’ high building. He explained the materials used in this construction. It is a day-time building – no lighting is necessary but they will have some lighting – LEDs, low voltage. This building is for the electric carts. It will serve many functions also. This will not change the character of the neighborhood. They cannot build this structure any other way.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 7:10 P.M. Oneida County Planning 239 and NYSDOT had no adverse comments.

- 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 of the Yahnundasis as submitted; seconded by Chairman Randy Bogar; 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 electricity – everything is there that is needed.

Draft minutes of the April 15, 2019 Zoning Board of Appeals meeting were approved by motion of Board Member Byron Elias; seconded by Board Member Karen Stanislaus. All in favor.

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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