

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
JUNE 17, 2019**

The Regular Meeting was called to order at approximately 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Taras Tesak, Lenora Murad, Karen Stanislaus and Fred Kiehm. Board Member absent: Byron Elias. Also in attendance were Councilman Richard Lenart; Town Attorney Herbert Cully; Code Officer Lary Gell; 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 further explained we are absent one Board Member and it is up to the applicant whether to proceed.

The application of **Mr. Jon-Paul Kidwell, 716 Pleasant Street, Utica, New York (Town of New Hartford)** corner of Pleasant Street and Waterford Lane. Mr. Kidwell is seeking a 2'7"± front yard Area Variance to construct a 272± square foot in-law apartment from the Waterford Lane front yard. Zoning in this area is Low Density Residential, which requires a 50' front yard setback, thus, necessitating the Area Variance request. Tax Map #330.012-8-68; Zoning: Low Density Residential. Mr. Kidwell appeared before the Board.

Mr. Kidwell presented pictures of the proposed project. His house was there before the development occurred. His lot is crooked. He explained what the proposed project would look like after construction – it would all blend together and have one roofline. He cannot do this any other way. The variance is for the back corner of the lot. He also submitted a petition of people who support his application (this is part of the file).

Chairman Bogar asked if there was anyone present to address this application: no response. The Public Hearing closed at approximately 6:10 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 Fred Kiehm to approve the application of Mr. Kidwell as submitted with the stipulation that it will not be a rental unit in the future and if it changes, the applicant needs to reappear before the Zoning Board; 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 John Montrose – yes
Board Member Karen Stanislaus – yes

Board Member Fred Kiehm - yes
Board Member Taras Tesak - yes
Board Member Lenora Murad – yes

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

The application of **Special Metals Federal Credit Union, 4340 Middle Settlement Road, New Hartford, New York**. The applicant is seeking a 10'± side yard Area Variance to add parking adjacent to the neighbor's property line. Additionally, the applicant is seeking a variance to locate parking spaces in the stream corridor within 35' of the high water mark where no vegetation is to be removed. Tax Map #328.000-2-63; Lot Size: approximately 1.36 Acres; Zoning: Institutional. Mr. Mark Linsberg of Alesia & Crewell Architects appeared before the Board.

Town Attorney Cully referred to Article VI Natural Resource Overlay Zones. He explained how this application is affected by this Code. He referred to the 100-year flood plain and the areas within 50' of the centerline, overlay district, etc. Whatever this applicant does, they would need to go through the Planning Board but they have to come before the Zoning Board first. He further referred to Land Use Activities 118-30A1 referring to paving and parking and Overlay Zone Prohibited Activities – vegetation removal, etc. (this Article has been made a part of the file). If approved, then it is referred to the Planning Board for final approval, but all they are talking about is the 10' side yard setback and the 35' of the high water mark. This would also apply to the second application tonight, Middle Settlement Realty, LLC. NYSDEC approval is needed also, but this would be handled through the Planning Board.

Mr. Linsberg represents both applications, Special Metals and Middle Settlement Realty, LLC. He referred to the drawings submitted. Both applicants have overcrowding and need the additional parking spaces. The purpose is to connect the two parking lots so people coming into these parcels have enough parking and better traffic flow. Both owners are working on a legal agreement that takes care of the shared property for the parking. Special Metals is adding five spots and Middle Settlement is adding four spots. They are replacing the whole parking lot. 70 square feet is what is encroached. To address the non-disturbance, he explained what is being done by the NYSDEC. The vegetation is already being removed. Instead of putting back the vegetation in the 70' or so, they will be paving it. Mr. Linsberg said there is no other way to improve this situation – this is the best outcome.

Board Member Tesak asked about traffic and parking patterns. The layout is to make the traffic flow safer and easier to get in and out. There is no drive thru teller at the Special Metals facility. Special Metals has an order from NYSDEC to make sure things get back to the same grades they are now and any improvements to the stream to curtail erosion.

Mr. Linsberg addressed the question of Credit Union members – 900 enrollees, but about 300 are local.

Mr. Gary Miller, Credit Union President, explained why they need the additional parking and how this works well with their adjacent neighbor. Hours are 7:30 AM – 4:30 PM, M-T-W and until 5:00 PM on Th-Fri. They do not have direct deposit. They feel if approved it would alleviate any parking on the side road and Middle Settlement.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing ended at approximately 6:45 P.M. OC DPW and OC Planning 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;
- 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 – good for the area;
- 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 Special Metals as submitted and solely with the responsibility of the NYSDEC and Planning Board that this variance is granted; and due to the hours of operation. He feels it would improve the parking problem; 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 John Montrose - yes
Board Member Lenora Murad – yes

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

The application of **Middle Settlement Realty, LLC, 4350 Middle Settlement Road, New Hartford, New York**. The applicant is seeking a 10'± side yard Area Variance to add parking adjacent to the neighbor's property. Additionally, the applicant is seeking a variance to locate the parking spaces within the stream corridor and within 35' of the high water mark where no vegetation shall be removed. This property is zoned I Institutional. Tax Map #328.000-2-62.3; Lot Size: approximately 4.5 Acres; Zoning: Institutional. Mr. Mark Linsberg of Alesia & Crewell Architects appeared before the Board.

Mr. Linsberg explained that this is basically the same as Special Metals application. They have agreed with Special Metals about traffic to move through their property – there is a one-way exit. They are working with a legal agreement for this. They are encroaching on the creek also.

Attorney William Borrill addressed the Board for this application. He explained what transpired when Special Metals approached them about parking. It is a good way for the two neighbors to put it together. Reference was made to the businesses on this property. This is the right thing to do at the right time. It will definitely be a safer area. The access road through the property is only one way.

Town Attorney Cully explained that when they come to the Planning Board they will have the cross easements.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:55 P.M. OC Planning and OC DPW 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;
- 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 – this improves the area;
- 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: 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 John Montrose to approve the application of Middle Settlement Realty LLC as submitted and solely with the responsibility of the NYSDEC and Planning Board that this variance is granted and it would improve the parking problem; 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 John Montrose - yes
Board Member Lenora Murad – yes

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

Draft Minutes of the May 20, 2019 Zoning Board meeting were approved by motion of Board Member Fred Kiehm and seconded by Board Member Karen Stanislaus. All in favor.

There being no further business, the meeting adjourned at approximately 7:00 P.M.

Respectfully submitted,

Dolores Shaw, Secretary/Zoning Board of Appeals