

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
SEPTEMBER 16, 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, Byron Elias, and Fred Kiehm. Board Members absent: Lenora Murad and Karen Stanislaus. Also in attendance were Councilman 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. He further stated we are down two (2) Board Members and it was up to the applicants whether to proceed.

The application of **Mr. Scott Luscomb, 9577 Mallory Road, New Hartford, New York**. The applicant is seeking a quantity Area Variance to erect an accessory structure. This structure will be the third on the property, therefore, necessitates a quantity Area Variance of 1. Additionally, the applicant is seeking a height Area Variance of 5'± to erect a 20'± tall building. Tax Map #340.000-4-11.2; Zoning: Residential/Agricultural. Mr. Luscomb appeared before the Board.

Mr. Luscomb explained what had been on his property at one time, and what exists there now. He has three buildings on the lot. The purpose of the new building is to keep things from being outside – just storage. There is no commercial use or business at this site, and he will not rent any building out. He further explained the layout of the structure on the property. Mr. Luscomb has a number of cars that he wants to house also. He mentioned that he needs the additional height to be able to construct this type of structure. Also, he approached his neighbors and they have no problem with this application.

Chairman Bogar asked if there was anyone in attendance to address this application – no response. The Public Hearing ended at approximately 6:15 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; 1 yes, 3 no;
- 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: yes, all in agreement.

Motion was made by Board Member Byron Elias to grant this application as submitted with the stipulation that there is no commercial of any type or retail business; 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 John Montrose – yes
Board Member Byron Elias - yes

Board Member Fred Kiehm - yes
Board Member Taras Tesak - yes

Motion was **approved** by a vote of 5 – 0.

The application of Mr. Paul Serianni, **Serianni Signs, for First Source Federal Credit Union, 4451 Commercial Drive, New Hartford, New York**. The applicant is seeking an 88 sf± Area Variance to replace signage on building. Also, he is seeking an Interpretation as to whether or not an LED message board can be added to existing freestanding sign. The existing sign is approximately 150 sf if measured in its entirety. The Code prohibits message board signs together with any other sign to exceed 65 square feet. Tax Map #328.007-1-1; Zoning: C1 General Commercial. Mr. Paul Serianni appeared before the Board with Ms. Kristy Nole of First Source.

Board Member Byron Elias abstained from this application.

The applicant was advised that he would need a total of four (4) votes for approval. Mr. Serianni explained there is no size increase in any of these signs. The message board would be in compliance with the message sign. Their logo is aged and they want to be uniform with current advertising. They want to get their message across and keep up with the times and on their property. Their signs are non-conforming now.

Town Attorney Cully explained the LED component and requirements. Mr. Serianni is aware of the requirements for scrolling, graphics, etc. They are proposing to keep the sign on and lit for 24 hours. There will be no off site advertising.

Board Member Tesak asked if there was any other way to do the advertising – no. Ms. Nole does use other media types but they need onsite advertising to keep the public well-informed.

Reference was made to the changes on this property and surrounding properties.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:30 P.M.

Chairman Bogar stated that there were no adverse comments from Oneida County Planning, Oneida County DPW and NYSDOT.

Board Member Tesak asked to open the meeting again. He referred to proposed sidewalks in that area and if they are aware of this.

At this time, the Board Members reviewed the criteria for an Area Variance for the 88 sf±:

- 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 grant the application for the 88 sf± as submitted without prejudice; seconded by Board Member Taras Tesak; 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 Fred Kiehm - yes
Board Member Taras Tesak - yes

Motion was **approved** by a vote of 4 – 0. Board Member Byron Elias abstained.

The Board Members addressed the Interpretation. Town Attorney Cully informed the Board that if the LED message board is permissible, they have to comply with the manufactured recommendations regarding illumination and times, and provide the Codes Department with the details for standards.

Board Member Tesak referred to the time. He doesn't want to see if all day/night. Discussion ensued. It was determined that the sign be lit and working from 6:00 AM to midnight.

At this time, the Board Members reviewed the criteria and addressed the Interpretation:

- 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/yes.

Motion was made by Board Member Taras Tesak to grant the application without prejudice and as presented and that the landlord conform to the time limit of 6:00 AM to midnight and to allow the LED as it relates to Federal standards on the condition it not be illuminated between midnight and 6:00 AM and conform with the manufacturer's guidelines as it relates to the delay time and provide the Codes Department with the details for standards.

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Chairman Randy Bogar - yes
Board Member John Montrose – yes

Board Member Fred Kiehm - yes
Board Member Taras Tesak - yes

Motion was **approved** by a vote of 4 – 0. Board Member Byron Elias abstained.

Minutes of the August 19, 2019 Zoning Board of Appeals meeting were approved by motion of Board Member Byron Elias; seconded by Board Member John Montrose. All in favor.

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

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

dbb