

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
TOWN OF NEW HARTFORD MUNICIPAL BUILDING
FEBRUARY 24, 2020**

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, Lenora Murad and Fred Kiehm. Board Member absent: Karen Stanislaus. Also in attendance were Town Supervisor Paul Miscione; Highway Superintendent Richard Sherman; Councilmen David Reynolds and Richard Lenart; Town Attorney Herbert Cully; 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 also stated that one Board Member is not in attendance and it is up to the applicant whether to proceed.

The application of **Mr. John D'Amore, 4067 State Route 12, New Hartford, New York**. Mr. D'Amore is seeking a quantity Area Variance to erect a 24' x 50' accessory structure on his property. This structure will be the 6th on the property, therefore, necessitating a quantity Area Variance. Also, the applicant is seeking a height Area Variance of 7'± to erect a 22'± tall building. Tax Map #338/000-3-33.2; Lot size: approximately 19.64 Acres; Zoning: Low Density Residential. Mr. D'Amore appeared before the Board. (This is a continuation from last month).

Mr. D'Amore explained that the height of the structure is for aesthetics as it would look better on the property. He presented a picture. He needs this additional storage for snowmobiles, 4-wheelers, etc. and to bring them in from outside – it will make the property look better. No business will be run – strictly cold storage – no heat. Mr. D'Amore has almost 20 acres and there is no neighbor close by. He is also at least a half mile in from the road.

Board Member Tesak asked if there was any other way to accomplish this – Mr. D'Amore said no. This is the most efficient and attractive for the lot.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing ended at approximately 6:10 P.M. Reports from Oneida County Planning 239 and NYSDOT were received no negative 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 grant this application as requested/submitted; 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 Byron Elias – 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.

Board Member Tesak asked when the sign ordinance was last reviewed – Attorney Cully said 2014.

The application of **Mr. Paul Serianni/Serianni Signs, for a sign at Mitsuba Restaurant, Consumer Square, 4759 Commercial Drive, New Hartford, New York**. The applicant is located in a C1 zoning district, which allows for a 41 square foot sign. They are seeking two Area Variances. 1) a 28± sf Area Variance for signage at the front of the building. Total square footage of the sign on the front of the building will be 69± square feet. 2) a 22± square foot Area Variance for signage for the back of the building facing the main driveway in and out of Consumer Square. Total square footage of the driveway sign will be 63± square feet. Mr. Paul Serianni appeared before the Board. (This is a continuation from last month).

Mr. Serianni presented two pictures of the proposed signage for Mitsuba Restaurant. The design of the sign makes it extend out – the sign will be lit on both sides and on a timer. This restaurant is not a chain. There are five other restaurants with the same logo. Comparisons were made to the existing Jersey Mike's and Blaze Pizza signs.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:20 P.M. Reports from Oneida County Planning 239 and NYSDOT were received no negative 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 Fred Kiehm to grant this application as requested/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 John Montrose – yes
Board Member Byron Elias – 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 the **Town of New Hartford, 8635 Clinton Street, New Hartford, New York** for proposed building signage. This property is located in a C1 General Business zone which requires maximum signage to be 200 square feet. The applicant is requesting to add additional wall signs for a total of 120± square feet (existing signage is 186± square feet). Therefore, this will necessitate an Area Variance of 106± square feet over the maximum allowed signage. Tax Map #316.020-1-11.1; Zoning: C1 Commercial Business. Mr. Richard Sherman appeared before the Board.

Town Attorney Cully stated that the Town is exempt but as a courtesy, municipalities have come in for review and that is why they are here.

Mr. Sherman indicated that the former Gander Mountain sign will be taken down and now it will say Town of New Hartford. He explained the logos and the placement of these (pictures have been made a part of the file). Three logos and the Town of New Hartford will be lit.

Board Member Tesak referred to lighting. Mr. Sherman explained that the Police Department is also housed in this building and explained why lighting is important.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing ended at approximately 6:25 P.M. Reports from Oneida County Planning 239, Oneida County DPW and NYSDOT were received no negative 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 grant this application as requested/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 John Montrose – yes
Board Member Byron Elias – 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 **Mr. Paul Serianni/Serianni Signs, for a sign at Jiaozi 88 (eatery) located at Hannaford Plaza, 50 Kellogg Road, New Hartford, New York.** Hannaford Plaza is located in a C2 zone which allows wall signage to be 29 square feet. The applicant is requesting a 41± square foot sign. Therefore, this requires an Area Variance of 12± square feet. Mr. Paul Serianni appeared before the Board.

Mr. Serianni explained that this is a new business in the Hannaford Plaza in the location of the former Wasabi Wok. It sets back at the end of the plaza and they need the sign for exposure. This will be a lit sign but only in the front – nothing in the back of the plaza.

Town Attorney Cully mentioned the other work that is being done in this Plaza. This sign will be a benefit to divert traffic from the drive up that Hannaford is proposing.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:35 P.M. Reports from Oneida County Planning 239 and NYSDOT were received no negative 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 Chairman Randy Bogar to grant this application as requested/submitted; 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 Byron Elias – 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 **Ms. Judy Gorea, 9 Waterford Lane, Utica, New York (Town of New Hartford)**. Ms. Gorea is proposing to construct a 24'± x 34' attached garage. She is located in a Low Density Residential zone, which requires a 15' side yard setback. She is seeking a 14'± side yard Area Variance to construct this garage. Tax Map #330.012-8-64; Lot Size: 100' x 200'; Zoning: Low Density Residential. Mr. Andy Morgan appeared before the Board for Ms. Gorea.

Note: Ms. Gorea had received approval from the Zoning Board of Appeals for a garage on September 16, 2013. Construction did not materialize at this time and due to the sunset clause placed on the approval, the time had expired for her to obtain a Building Permit. However, she is ready to proceed at this time. The application is basically the same for a 24'± x 35'± garage.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:40 P.M. The Board Members did not have any concerns regarding this request.

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 grant this application as requested/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 John Montrose – yes
Board Member Byron Elias – 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 **Mr. David Razzante of Metropolitan Signs, Inc. for All Seasons Outfitters located at 4505 Commercial Drive, New Hartford, New York (formerly Kids ‘R Us building)**. Applicant is located in a C1 Zone, which allows for 114 sf of signage. The applicant is seeking a 40± square foot Area Variance for signage on the front of the building. Total square footage of the new sign will be 154± square feet. Tax Map #328.007-1-6.61; Zoning: C1 General Business. Mr. David Razzante and Mr. Guy Viti (owner) appeared before the Board.

Mr. Razzante explained that they need this sign because the property sets back from the road, and part of the building is hidden. They feel this sign is in keeping with the character of the area. They made numerous renovations inside the building. Mr. Viti presented pictures of what is being done at this site.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:50 P.M. Reports from Oneida County Planning 239 and NYSDOT were received no negative 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 Byron Elias to grant this application as requested/submitted; 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 Byron Elias – 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 **J.M. Lord, Maple Rock LLC for Hannaford Brothers Company, Inc., 50 Kellogg Road, New Hartford, New York**. Hannaford is located in a C2 zone which requires that the maximum signage area is 200 sf. Applicant is requesting replacement of the three existing wall signs and will

require an Area Variance of 83± square feet (which is a reduction from the existing signs). Tax Map #339.015-2-2; Zoning: C2 Commercial Retail Business. Mr. J. Merrill Lord appeared before the Board.

Mr. Lord explained that Hannaford is going through changes in difference locations. He presented a large scale of what the sign would look like and the size. The welcome sign logo is not lit, but the big sign is. They are actually downsizing. The new sign includes the welcome sign and also a small Hannaford To Go sign (Hannaford has an application and there is discussion before the Planning Board for this Hannaford To Go on Kellogg Road but no approval yet). If the Hannaford To Go isn't approved, they will not be using this logo.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 7:00 P.M. Reports from Oneida County Planning 239 and NYSDOT were received no negative 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 Byron Elias to grant this application as requested/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 John Montrose – yes
Board Member Byron Elias – 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 **Site Enhancement Services for Olive Garden Restaurant, 4636 Commercial Drive, New Hartford, New York**. The applicant is located in a C1 General Business zone which requires maximum signage area of 200 square feet. They are requesting a 221± square foot replacement of five existing 205± square feet of wall signage and free standing signage. This will necessitate an Area Variance of 21± square feet. Tax Map #328.008-1-12.4; Zoning: C1 General Commercial. Mr. Landon White appeared before the Board.

Mr. White explained that this is a national rebrand of all their sites. They are refacing their signs in at least 350 locations. The proposed signage is similar in size to the existing sign. He explained the installation process of this sign.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 7:10 P.M. Reports from Oneida County Planning 239 and NYSDOT were received no negative 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 Lenora Murad to grant this application as requested/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 John Montrose – yes
Board Member Byron Elias – 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 **Mr. Albert & Mrs. Deborah DiNitto, 8845 Grange Hill Road, Sauquoit, New York**. The applicants are seeking 1) a height Area Variance of 9'+ to erect a 24'+ tall garage/storage building; and 2) quantity Area Variance for one additional structure as this will be the third building on the property. Tax Map #358.000-2-1.2; Lot Size: approximately 2.4 acres; Zoning: Agricultural. Mr. & Mrs. DiNitto appeared before the Board.

Mr. DiNitto presented some pictures of his property and explained he wants this building to store equipment, i.e., collector cars, lawn equipment, etc. – all storage only – no chemicals. No business will be run from this site. There is some equipment stored outside and he wants to bring them in. Mr. DiNitto was handed a letter the Board received from his neighbor opposing this structure and referring to water issues at this site. He was given a chance to review it. Mr. DiNitto also explained that he lives in an Agricultural zone. He uses his tractor to maintain his property across the street. He leases this land to a

farmer – he is not doing any agricultural uses but he does maintain the property. He does not grow crops or cultivate the land – maintenance only. The only money he receives is for the rent. He wanted to make sure the Zoning Board knew this.

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

Mr. Smith, 3278 Neals Gulf Road, submitted a letter in support of this application.

Mr. Philip Sacco, 8899 Grange Hill Road appeared. He stated that Mr. DiNitto is a good neighbor, but he is in opposition of this application. He explained in detail the water issues at this site now and in the past (this letter has been made a part of the file which addresses multiple issues). Additionally, he feels this structure will let water more drain onto his property. He addressed extensively issues the Town corrected with water, problems on Grange Hill Road, the existing ravine, swales, etc. Discussion ensued regarding the distance from Mr. DiNitto's house to Mr. Sacco's residence – this structure vs. drainage.

Mr. DiNitto does not feel this structure will affect Mr. Sacco's property. He has never had any standing water problems – he feels the problem is in the roadway.

Town Attorney Cully addressed the participants asking if they had ever contacted Highway Superintendent Rick Sherman about any issues. He also referred to two Town Board members here this evening. He suggested they talk with them and/or their councilman (Jim Messa) regarding storm water issues as the Town Board is addressing this issue. The Board Members would like Mr. Messa and Mr. Sherman to come to the March 16, 2020 Zoning Board meeting to discuss this application.

Motion was made by Board Member Taras Tesak to table this application until the next Zoning Board meeting, which is March 16, 2020, at which time the water issues will be discussed; seconded by Board Member Byron Elias. All in favor.

Draft Minutes of the January 27, 2020 Zoning Board meeting were approved by Board Member John Montrose; seconded by Board Member Byron Elias. All in favor.

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

dbS