

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
APRIL 26, 2010**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present were Tim Tallman, John Montrose, Bob Schulman, Fred Kiehm and Karen Stanislaus. Board Member absent: George Koury. Also in attendance was Town Attorney Herbert Cully, Councilman David Reynolds, Codes Enforcement 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, and explained that one (1) Board Member is absent and the applicants could either postpone their application or proceed.

The application of **Mrs. Maria Broccoli, 9 Taber Lane, Utica, New York 13501 (Town of New Hartford)**, who is proposing to erect a fence in the front yard of her home (64' of six foot fencing and 258' of four foot fencing). Fences are not permitted in a front yard per Section 118-59D3. It was determined that the applicant needs a 298' front yard Area Variance to erect the proposed fence. Tax Map # Map #341.005-1-22; Lot Size: 1.9 Acres; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on Wednesday, April 14, 2010 and residents within 500' were notified. Mr. & Mrs. Broccoli appeared before the Board.

Mrs. Broccoli presented photos of the layout of her property and explained why the fence is needed. There is a significant safety issue for her children and she also wants to keep the fencing as aesthetically pleasing as possible for the neighborhood. At this time she is proposing to have a wooden fence on the side of the property and metal, chain link or tubular fencing (color to be brown, black or tan) in the front – possibly wrought iron.

Board Member Schulman felt this is a unique situation and can understand the safety issue. He feels the fencing will have very little to no visual impact to the neighbors. He mentioned that if wrought iron fencing is used, not to put the spear spikes on the top – Mrs. Broccoli said she understands.

Board Members Kiehm and Montrose felt the fencing is needed and it wouldn't be intrusive to any property.

Board Member Stanislaus referred to the chain link fencing and also the wrought iron. She doesn't know if the wrought iron would be sturdy enough – this will be looked into by the applicants.

Board Member Tallman mentioned tapering the wooden fence on the corner as he thought it would look better, however, it is not a requirement.

Chairman Bogar explained to the applicant that he felt this Board needs to know the type of fencing specifically requested to properly address the application. The applicant decided to go with wood fencing on the side and chain link, metal or tubular in the front.

Chairman Bogar asked if there was anyone present from the public to address this application – there was no response. The Public Hearing ended at 6:20 P.M.

The Board Members reviewed the file and went thru the criteria necessary for the granting of 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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – no;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – no;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – no.

Motion was made by Board Member Fred Kiehm to approve the application as presented as the applicant has met the criteria for the fencing; the fencing to be wood on the side of the property and metal, chain link or tubular fencing (black, brown or tan) in the front of the property; and *that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Bob Schulman. Vote taken:

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

Board Member Tim Tallman – yes
Board Member John Montrose - yes
Board Member Bob Schulman - yes

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

*Codes Enforcement Officer Booth stated to the applicant that a Building Permit and survey is needed.

The application of **Mr. Kenneth Budlong, 9313 Mallory Road, New Hartford, New York 13413**, who is requesting to construct a carport onto his home. Zoning in this area is RA1 which requires a 15' side-yard setback. The carport will set 1' from the property line, therefore, the applicant is seeking a 14' left side-yard setback Area Variance. Tax Map #339.020-1-10; Lot Size: 75' x 272'; Zoning: Residential/Agricultural 1. Legal Notice was published in the Observer Dispatch on April 14, 2010 and residents within 500' were notified. Mr. Kenneth Budlong appeared before the Board.

Mr. Budlong explained that he previously received approval of an Area Variance of 11' on January 19, 1989 for a carport but it was never built. The proposed prefabricated carport is constructed of wood; it will have shingles/siding and match the house. There is no intention of closing the carport in as he needs accessibility.

Board Member Schulman asked if he had a recent survey of the property as there have been discrepancies with regard to property lines in the past with other applications. If, with a survey, it is determined that Mr. Budlong has more side yard property, he would like to see the proposed carport size remain the same. The other Board Members were not of the same opinion regarding size of the carport.

Board Member Montrose asked about water runoff – water is directed towards the back.

Chairman Bogar asked if there was anyone present from the public to address this application – there was no response. Mr. Budlong presented a letter from his neighbor, Judith Crowe, who supports his application. The Public Hearing was closed at 6:35 P.M.

The Board Members reviewed the file and went thru the criteria necessary for the granting of 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 – no;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – no;
- The requested variance is substantial – no;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – no;
- The alleged difficulty was self created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – no.

Board Member Montrose asked about any overhang. Codes Officer Booth explained that the setback distance is measured from the foundation or post. The overhang is considered an ordinary projection.

Motion was made by Board Member Bob Schulman to approve the application as presented as the applicant has met the criteria for the carport and that the structure has to be a minimum of 1' from the property line; that a survey of the property be presented; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Tim Tallman. Vote taken:

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

Board Member Tim Tallman – yes
Board Member John Montrose - yes
Board Member Bob Schulman - yes

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

Town of New Hartford
Zoning Board of Appeals Minutes
April 26, 2010
Page 4

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

Respectfully submitted,

Dolores Shaw
Secretary/Zoning Board of Appeals

db