

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
JUNE 15, 2009**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present were Kristen Shaheen, John Montrose, Bob Schulman, Fred Kiehm, and Tim Tallman. Also in attendance were 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. (Note: Kimberly Carolyn-Faga has moved out of state and she is no longer on this Board).

The application of **Mr. Ronald Longo, 9714 Mallory Road, New Hartford, New York**, who is requesting to construct a 40' x 60' pole barn, 18' in average height, on his property and which will set back 700' from Mallory Road. Zoning in this area is Agricultural, which limits accessory structures to a maximum of 15' in height. Therefore, the applicant is seeking a 3' height Area Variance. Tax Map #350.000-2-77.1; Lot Size: 50.7 Acres; Zoning: Agricultural. Legal Notice was published in the Observer Dispatch on June 5, 2009 and residents within 500' were notified. Mr. Longo appeared before the Board with his contractor, Mr. John Rueger.

Mr. Longo explained that his property sets 700' back from the road. The reason why he needs the additional height is because he owns equipment with a boom and it won't clear a normal garage height (he presented a picture of this equipment) – he needs a 12' door. He also has numerous pieces of equipment that he wants to keep off the property and placed in this garage. He does not own a business, this is his personal equipment.

Chairman Bogar asked if there was anyone present to address this application – there was no response. However, Mr. Robert Galer, Jr., 9718 Mallory Road, sent a letter that he supports this application; Dr. Guy Wilcox, 9790 Mallory Road, called and stated he also has no objection. County Planning 239 was received with no recommendations and County 239K was received – both copies have been made a part of the file.

There being no further input, the Public Hearing closed at 6:10 P.M.

At this time, the Board Members went through 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 John Montrose to approve the application as presented as Mr. Longo has shown a need for this pole barn; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Kristen Shaheen; Vote taken:

Chairman Randy Bogar - yes	Board Member Tim Tallman - yes
Board Member Kristen Shaheen - yes	Board Member Bob Schulman - yes
Board Member John Montrose - yes	Board Member Fred Kiehm - yes

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

Mrs. Eileen Taylor, 3 Glendale Avenue, Whitesboro, New York (Town of New Hartford), is requesting to place a 12' X 12' shed on the left side of her property. Zoning in this area is Medium Density Residential, which requires a 5' side-yard setback, and there is a 140 square foot shed size limitation. Therefore, the applicant is seeking a 3' left side-yard setback Area Variance, and a 4 square foot shed size limitation Area Variance. Tax Map #316.016-3-79; Lot Size: 100' x 125'; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on June 5, 2009 and residents within 500' were notified. Mrs. Taylor appeared before the Board.

Mrs. Taylor explained that she has an existing slab with a shed that has been on site for over 20 years – it is dilapidated and needs to be replaced. She would like a bigger shed for her lawn equipment. She will utilize the same slab but the shed will have a wooden floor (4' won't have a cement slab under it. The old shed will be removed from her property. The new shed will not be any closer than where the old shed sets now. There is a maple tree near the shed and she doesn't want to cut it down.

Chairman Bogar asked if there was anyone present to address this application – there was no response - calls or letters received. The Public Hearing closed at 6:20 P.M.

At this time, the Board Members went through 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 Bob Schulman to approve the application as 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 Tim Tallman - yes
Board Member Kristen Shaheen - yes	Board Member Bob Schulman - yes
Board Member John Montrose - yes	Board Member Fred Kiehm - yes

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

Mr. Paul Way, 3 Concord Boulevard (corner of Concord Boulevard and Seneca Turnpike), Clinton, New York (Town of New Hartford). Mr. Way is requesting to place 197' of fencing in his front yard (161' will be 4 feet in height and 36' will be 3 feet in height). Section 118-59D 3 of the Town Code prohibits fences to be placed in a front yard. Therefore, the applicant is seeking a 197' front yard Area Variance for his fence. Tax Map #328.005-2-35; Lot Size: 298' x 112'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on June 5, 2009 and residents within 500' were notified. Mr. Way appeared before the Board.

Mr. Way stated that he has been working on this project for four (4) years. He presented a schematic of what he started previously. He wants a vinyl privacy fence to attach to the chicken wire fence there now. Mr. Way explained the difference between the 4' and 3' height and the location of the fence according to height. He also stated that there is no visibility problem at his site.

Board Member Kiehm asked why he needed the 6' – Mr. Way said for safety, curb appeal and uniformity. He would like to keep with the same theme. Board Member Montrose asked about the cedar trees behind the fence and if they would stay – Mr. Way

said yes and they would be maintained. Board Member Tallman asked if the fence is going where the metal fence is now – Mr. Way said yes. Board Member Shaheen asked if he met with Codes Officer Booth two (2) years ago – Mr. Way said yes as he wanted to make sure of specs, however, now things changed in terms of fence requirements. Codes Officer Booth said Mr. Way did start this project before any Building Permits were required, and the Ordinance was different two (2) years ago.

Chairman Bogar stated County Planning 239 was received with no recommendations and NYSDOT comments have been made a part of the file.

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

At this time, the Board Members went through 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 and that the applicant adhere to the comments of NYSDOT; that the existing trees remain and maintained; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar - yes	Board Member Tim Tallman - yes
Board Member Kristen Shaheen - yes	Board Member Bob Schulman - yes
Board Member John Montrose - yes	Board Member Fred Kiehm - yes

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

Mr. Dennis Violante, 3258 Oneida Street, Chadwicks, New York, who is requesting to construct a 12' x 43.5' addition onto his existing home. Zoning in this area is Medium

Density Residential, which requires a 10' side yard setback from the property line. Therefore, the applicant is seeking a 2.1' right side yard setback Area Variance. Tax Map #358.008-2-6; Lot Size: 60' x 437'; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on June 5, 2009 and residents within 500' were notified. Mr. Violante appeared before the Board.

Mr. Violante provided a rendering of what he is proposing. He has lived at this property for 18 years and needs the additional living space. For the last four or five years he has tried different concepts regarding an addition to his home. He wanted to come up with a functional plan. He will have a pitched roof and the new siding will match the existing house – he may reside the whole house in the future. Mr. Violante explained how the property lines are angled in this area. The existing bushes will remain and they are owned by Mr. Rex, the adjacent neighbor.

Board Member Shaheen asked if he had a plot plan – Mr. Violante said yes. The plot plan was verified against the survey (his neighbor, Mr. Rex, agreed with the plot plan/survey).

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

Mr. & Mrs. Kenneth Rex, 3254 Oneida Street: they support his application.

There were no calls or letters received. The Public Hearing closed at 6:40 P.M.

At this time, the Board Members went through 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 Kristen Shaheen to approve the application as presented in that Mr. Violante and his neighbor verified the information against the survey for the plot plan; 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 Kristen Shaheen - yes
Board Member John Montrose - yes

Board Member Tim Tallman - yes
Board Member Bob Schulman - yes
Board Member Fred Kiehm - yes

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

The application of **Mr. Chad Hull, 2 Gateshead Road, New Hartford, New York (corner of Gateshead Road and Oxford Road)**, who is requesting to place 87' of fencing, 6' high, on the front of his property. Mr. Hull is located in a High Density Residential zone, which does not permit fences in a front yard. Therefore, the applicant is seeking an Area Variance to place 87' of fencing in the front yard. Tax Map #339.011-2-61; Lot Size: 124' x 136' (corner lot); Zoning: High Density Residential. Legal Notice was published in the Observer Dispatch on June 5, 2009 and residents within 500' were notified. Mr. Hull appeared before the Board.

Mr. Hull explained that he has three children, ages from 15 months to 13 years old – there is a lot of traffic and people coming in and out of his development. He is especially concerned about safety. He doesn't want his children to leave the yard to get to the shed for their things. Mr. Hull presented a photo of the proposed white vinyl fence. The fence will not go directly in the front of his home – he is coming off the side of the garage and along the back side of the hedges – an L shape effect. The hedges will remain – it will be about 25' off the road and only visible from Gateshead Road. It won't be seen from Oxford Road. He plans to do nothing with the existing trees. He has a permit for the section of the fence that is up already, but needs a variance for the rest of the fence.

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

-Mr. Joseph Garcia, 16 Gateshead Road: he has no problem with the request but wanted to see for himself what the variance is about;

-Mr. Michael Brady, 3 Harrogate Road: he is not opposed;

-Mr. Jim Greer, 6 Gateshead Road: not opposed

-Mr. Jack Brunner asked why he needs the 6' in height. It was explained to him that the road is about 3' – 4' higher than the property – 6' already is on the other side and it would provide him with the privacy and safety he needs. Mr. Brunner is not opposed.

County Planning 239 was received with no recommendations, and County 239K was received – which have been made a part of the file.

There were no calls or letters received. The Public Hearing closed at 6:50 P.M.

At this time, the Board Members went through 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; that the shrubs remain and be maintained and to replace any shrubs when needed; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member John Montrose. Vote taken:

Chairman Randy Bogar – yes
Board Member Kristen Shaheen - yes
Board Member John Montrose - yes

Board Member Tim Tallman - yes
Board Member Bob Schulman - yes
Board Member Fred Kiehm - yes

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

The application of **Mr. James Schaefer, 37 Oakwood Drive, New Hartford, New York**, who is requesting the placement of a 10' x 14' shed on his adjacent (vacant) lot. Accessory structures shall only be permitted on the same lot as the principal structure. Therefore, the applicant is seeking an Area Variance to place a shed on his vacant lot. Tax Map #339.009-2-10; Lot Size: 102' x 300'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on June 5, 2009 and residents within 500' were notified. Mr. Schaefer appeared before the Board.

Mr. Schaefer presented photos of the proposed shed and also of his property. He bought the lot next to his home, and it is a separate parcel. He said as long as he lives there, he won't sell the lot. The shed will not be seen from the road most of the time – it will be located to the right of the property, placed behind the growth that exists. This shed will

be used for storage only. He needs the additional space for his lawn equipment, etc.

Chairman Bogar asked if there was anyone present to address this application – there was no response. There were no calls or letters received. The Public Hearing ended at 7:00 P.M.

At this time, the Board Members went through 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 Bob Schulman to approve the application as presented as he has met the criteria; 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 Kristen Shaheen - yes

Board Member John Montrose - yes

Board Member Tim Tallman - yes

Board Member Bob Schulman - yes

Board Member Fred Kiehm - yes

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

The application of **Mr. Thomas Bashant, 265 Higby Road, New Hartford, New York (corner of Higby Road and Stonebridge Road)**, who is requesting to install a 6' high fence on his property along Stonebridge Road. Zoning in this area is Low Density Residential, which does not allow a 6' high fence in a front yard. Therefore, Mr. Bashant is seeking a 6' height Area Variance for approximately 120' of fencing. Tax Map #340.005-1-18; Lot Size: 138' x 141'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on June 5, 2009 and residents within 500' were notified. Mr. Bashant appeared before the Board.

Mr. Bashant explained that he has a three year old daughter, and is concerned for her safety, and he would like some privacy also. He wants to put a white vinyl fence in the back corner of his home along Stonebridge Road. There are a number of trees there that are dying – he would like to cut those down and put in shrubs.

Board Member Shaheen asked Mr. Bashant when he bought the property and if he noticed the type of development he was moving into – he bought the property three years ago, but before he had his three year old daughter, now he is concerned about her safety.

The Board Members and public reviewed the sketch and application. Mr. Bashant explained that he has not purchased any fencing yet, but wanted to get through this process first. It is his understanding that if he put a smaller height fence in a few months ago, he wouldn't need a permit. His other alternative was to put in 6' hedges and it is his opinion that a fence would look better.

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

-Mr. Fred Carville, 1 & 3 Stonebridge Road brought his deed which does not allow fences – Mr. Carville was told that the Town does not address deed restrictions – it is between the neighbors and the homeowners association. He submitted letters from neighbors in the area who are opposed to this application:

Zaida Morrell, 107 Stonebridge Court; Liz DuRoss, 22 Stonebridge Road; Deborah Lee, 9 Stonebridge Road; Lance Winnicki, 28 Stonebridge Road; Robert Byrnes, 6 Stonebridge Road; Sperling's, 14 Stonebridge Road; Mohammad Omar, 205 Stonegate Road; Kenneth Kelly, 23 Stonebridge Road; Deepak Buch, 104 Stonebridge Court Diana Lister, 102 Stonebridge Court;

Jesse Verna, 12 Stonebridge – she would like to see some alternatives.

Zain Haider, Higby Road – he wanted to know what determines a front yard. Codes Officer Booth explained this to him. Mr. Haider is non-committal.

County Planning 239 was received with no recommendations and County 239K was received - these have been made a part of the file. There were no calls received on this application.

Board Member Shaheen is concerned about this fence. This application is different than the last property this Board granted – that property was screened completely so the 6' fence would not be visible from Oxford Road. She feels we have to look at all the

Criteria, one being aesthetics. From what she has heard, the neighborhood does not want to see this fence, especially at the entrance. The houses are wide open properties and feels the character of the neighborhood would be affected, and a fence would completely detract from that entrance appearance. No one has come forward to support the application. Stonebridge is the only way in and out of this neighborhood. She feels the 6' fence is substantial. Shrubs won't detract from the white fence. We must balance the criteria as directed by the law.

Board Member Montrose feels many people who are opposed live far away from this property. Board Member Kiehm feels this fence would have a negative impact on the neighborhood.

Discussion ensued regarding revising the application. Board Member Shaheen asked the applicant if he would be willing to have a 4' picket fence with shrubs, and placed around the whole property-not close to the house. Codes Officer Booth explained the location of a fence in relation to needing a variance or not and what are acceptable fences.

Mr. Bashant said he is agreeable to a compromise/amendment top his application.. Discussion ensued regarding the placement of a fence from the front property line – 4' in rather than 2'.

The residents in attendance were in agreement also and thanked the Board Members for the time they took trying to secure a compromise with this application.

There being no further input, the Public Hearing closed at 7:20 P.M.

At this time, the Board Members went through the criteria necessary for the granting of an Area Variance with this amended application:

- 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 Kristen Shaheen to approve the amended application in that this variance would permit the applicant to construct a 4' open picket fence, 4' in from the property line of Stonebridge Road with shrubs planted in front of the

fence for aesthetics, and the rear of the property line shall be constructed with the same fence style as proposed; in addition, the continuation of the fence shall be consistent with the 4' open picket; 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 Tim Tallman - yes
Board Member Kristen Shaheen - yes	Board Member Bob Schulman - yes
Board Member John Montrose - yes	Board Member Fred Kiehm - nay

Motion was **approved** by a vote of 5 - 1.

The application of **Mr. Thomas Horn, 200 Sanger Avenue, New Hartford, New York (corner of Sanger Avenue and Gilbert Road)**, who is requesting to construct a detached garage on his property. Zoning in this area is Low Density Residential, which limits the average height of an accessory building to 15'. Therefore, the applicant is seeking a 2' average height Area Variance. Tax Map #339.005-1-36; Lot Size: 1.4 Acres; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on June 5, 2009 and residents within 500' were notified. Mr. Tom Horn appeared before the Board.

Mr. Horn presented pictures of the proposed garage and explained the reasons why he needs it, i.e., additional storage space. The garage materials will match the existing home – he brought a sample of the materials that will be used. He also presented photos of nearby garages and how they relate to his construction also (these photos have been made a part of the file).

Mr. Horn was complimented on the work he is doing on his property.

Chairman Bogar asked if there was anyone present to address this application – there was no response. There were no calls or letters received. The Public Hearing ended at 7:55 P.M.

At this time, the Board Members went through 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 John Montrose to approve the application as 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 Kristen Shaheen - yes

Board Member John Montrose - yes

Board Member Tim Tallman - yes

Board Member Bob Schulman - yes

Board Member Fred Kiehm - yes

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

There being no further business, the meeting adjourned at approximately 8:00 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

dbs