

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
MARCH 21, 2011**

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: Julius Fuks, Jr. Also in attendance was Town Attorney Herbert Cully, Codes Enforcement Officer Joseph Booth, and Dory Shaw, Recording Secretary. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting. He explained to the applicants that one (1) Board Member was absent and it was their decision whether to continue or wait for a full board. Minutes of February 28, 2011 meeting were approved by Board Member Karen Stanislaus; seconded by Board Member John Montrose. All in favor.

The application of **Mr. Steven Pye, 229 Fairway Drive, New Hartford, New York**. Mr. Pye is requesting to expand the existing kitchen, bedroom and bathroom with a 10' x 34' addition to the rear of the existing home. This property is zoned Low Density Residential which requires a 15' side yard setback. The existing home is non-conforming and the proposed addition is 10' from the left side property line. Therefore, the applicant is seeking a 5' left side yard setback Area Variance. Tax Map #317.011-3-10; Lot Size: 65' x 222'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on March 11, 2011 and property owners within 500' were notified. Mr. Pye appeared before the Board.

Mr. Pye stated that the house was conforming when built years ago. He presented drawings of the existing home and what is proposed. Mr. Pye explained that he would like to make the existing home more accessible on the main floor as he is getting older and this addition would make life easier. He is building straight back – not changing or infringing on either side property line. He also presented a plot plan by LaBella Land Surveying, P.C., dated March 3, 2011.

Mr. Pye will match the back side of the roof as the front is new - he will reside the entire home.

Chairman Bogar asked if this addition can be accomplished by any other way – Mr. Pye said no. Chairman Bogar asked if there was anyone present to address this application – there was no response. However, calls were received from residents at 229 and 231 Fairway Drive both not in opposition. The Public Hearing closed at 6:10 P.M.

At this time, 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 – 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 as presented as it has met the criteria; 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 Fred Kiehm – yes
Board Member Bob Schulman – yes

Board Member Tim Tallman – yes
Board Member John Montrose – yes
Board Member Karen Stanislaus - yes

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

The application of **Mr. Kevin Kingsley, 4046 Oneida Street, New Hartford, New York**. Mr. Kingsley is proposing to remove an existing detached garage and build a new one slightly bigger (26' x 30'). This property is zoned Low Density Residential which limits the height of an accessory structure to 15' and also requires a 10' side yard setback. Applicant is seeking a 2.5' Area Variance for height and a 5' right side yard setback Area Variance. Tax Map #339.012-1-11; Lot Size: 58' x 372'; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on March 11, 2011 and property owners within 500' were notified. Mr. Dean Tibbitts, contractor, appeared before the Board as Mr. Kingsley was out of town.

Mr. Tibbitts presented a sketch of the property and mentioned that Mr. Kingsley owns several parcels around his home. He spoke to the neighbor, Mrs. Arnold, who is not in opposition to this request. The existing garage sets close to the property at this time but will be torn down. The new garage will be 5' from the side property line.

Discussion ensued regarding the properties owned by Mr. Kingsley. Board Member Tallman referred to the sketch Codes Officer Booth said the lot is 372' overall. Mr. Tibbitts was asked if Mr. Kingsley was going to do anything with the lot on Danberry – Mr. Tibbitts did not know. He was also asked about the height of the proposed garage – Mr. Tibbitts said Mr. Kingsley put vehicles in the garage with storage above – there is no business being run at this site.

The Board Members addressed the closeness to the property line. Mr. Tibbitts said when the existing garage is torn down, the new one will be 5' from the side property line. Mr. Tibbitts recommended that a survey be done by the property owner to clarify any setback issues.

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

-Ms. Katherine Kunz, 2 Danberry Road. Curious about location of garage.

There being no further input, the Public Hearing closed at 6:20 P.M.

At this time, 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 – 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 approve the application as presented; that a survey be done on the property to show that the new garage will be at least 5' from the side property line; 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 Fred Kiehm – yes
Board Member Bob Schulman – yes

Board Member Tim Tallman – yes
Board Member John Montrose – yes
Board Member Karen Stanislaus - yes

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

The application of **Jay-K Lumber Corporation, 8448 Seneca Turnpike, New Hartford, New York**. The applicant is seeking a quantity Area Variance for the placement of a freestanding sign in addition to the two free standing signs on the property. Additionally, applicant is seeking a quantity Area Variance to place two additional signs on the building. Applicant is seeking a 4 foot Area Variance to place the freestanding sign 1 foot off the front property line. Also, applicant is seeking a 3.25 inch and a 5 inch Area Variance on sign projection. Tax Map #328.011-1-20.1; Lot Size: 150' x 394'; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on March 15, 2011 and properties within 500' were notified. Mr. Pat Agen of Prudential Real Estate and Mr. Dean Kelly appeared before the Board.

Mr. Agen explained they want to take down one of the existing freestanding signs of which there is three (3). It will be changed from Jay-K to Aldi's. The sign will be moved off the State right-of-way and move it in 10' to get it off the right-of-way. Mr. Agen referred to the Aldi's sketch. Two (2) sides of the building face the street. This is the sign package they propose – two (2) signs per side for (total of four (4)). The signs on the building will be lit. Food Mart sign as shown will be lit also. Comparing square footage of the old sign to the new – it is smaller. Signs on the building are also smaller but deeper – there is no other way for signage on the building.

Chairman Bogar asked if there was anyone present to address this application – there was no response. The Public Hearing closed at 6:35 P.M. Chairman Bogar referred to the responses from NYSDOT, Oneida County 239 Planning; Oneida County 239K (DPW) – no negative impacts stated on each (letters have been made a part of the file).

At this time, 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 – 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 as presented as he felt the need is there for the type of signage requested; 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 Bob Schulman – yes

Board Member Tim Tallman – yes
Board Member John Montrose – yes
Board Member Karen Stanislaus - yes

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

Draft minutes of the February 28, 2011 Zoning Board of Appeals were approved by motion of Board Member Karen Stanislaus; seconded by Board Member John Montrose. All in favor.

The Board Members discussed the April meeting. It was the consensus of the Board Members to reschedule the meeting to Monday, April 25, 2011.

There being no further business, the meeting adjourned at 6:40 P.M.

Respectfully submitted,

Dolores Shaw
dbs

