

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
NEW HARTFORD PUBLIC LIBRARY  
OCTOBER 24, 2011**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were Fred Kiehm, Tim Tallman, John Montrose, Taras Tesak, and Karen Stanislaus. Board Member absent: Lenora Murad. 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 also mentioned there is one (1) Board Member absent and it was up to the applicant whether they would like to proceed.

Draft minutes of the September 19, 2011 were received by each Board Member and approved by motion of Board Member Lenora Murad; seconded by Board Member Tim Tallman. All in favor.

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The application of **Callahan Sign Company, Inc. for Berkshire Bank, 8491 Seneca Turnpike, New Hartford, New York**. The applicant is applying for additional signage on the building and the free standing sign. They are seeking two (2) Area Variances: 1) is for an approximate 37 square foot Area Variance for the building mounted sign; and 2) a 21 square foot Area Variance for additional signage on the existing pylon sign. Tax Map #328.012-1-2.1; Zoning: Retail Business 1. Legal Notice was published in the Observer Dispatch on October 14, 2011 and property owners within 500' were notified. Mr. Mick Callahan, Callahan Sign Company, appeared before the Board.

Mr. Callahan explained what Berkshire Bank has requested for signage (formerly Rome Savings Bank). He feels they have submitted all information needed for their request, and passed out colored photos of the proposed signs. They are replacing the front of the building sign and will put a non-illuminated sign, but illuminated by an exterior light fixture. They will be removing the time sign located on top of the building. He feels their request wouldn't change the character of the area as it is heavy retail; he doesn't feel this is self-created – they need visibility.

Mr. Callahan referred to the pylon sign. This is a unique sign that has multiple sides on it. He feels the change would enhance the area and give them more visibility. The application is significantly smaller than a number of the other signs in this area.

Chairman Bogar asked if there was anyone present to address this application – no response.

Replies were received from NYSDOT, and OC Planning with no comments. The Public Hearing closed at 6:15 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 met the criteria necessary for the granting of an Area Variance; and a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Karen Stanislaus. Vote taken:

Chairman Randy Bogar - yes  
Board Member John Montrose - yes  
Board Member Fred Kiehm – yes

Board Member Tim Tallman - yes  
Board Member Karen Stanislaus – yes  
Board Member Lenora Murad - yes

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

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The application of **SES – Mr. J. Charley Schalliol for Atlantic Refining & Market Company (Sunoco Gas Station), 9272 Kellogg Road, New Hartford, New York**. The applicant is requesting a modification to an existing sign to allow for an LED sign at this location. Zoning in this area is Retail Business 2, which does not permit LED signs. Therefore, applicant is seeking an exception to the Zoning Law which only permits LED signs in a Retail Business 1 zone. Legal Notice was published in the Observer Dispatch on October 14, 2011 and property owners within 500' were notified. Mr. Mike DeMeulenaere appeared before the Board.

Mr. DeMeulenaere explained that he would like to replace the changeable copy sign with an LED sign as aesthetically it blends with the corridor (Walgreens has an LED also). A current sign has to be changed manually and weather damages the panels which makes it hard to read. He stated it is important to have a clearly visible sign and he feels it will not affect the surrounding area. The PLUS will be taken off the new sign and only two (2) prices shown on it.

Chairman Bogar asked if they plan on having any lit/scrolling messages on the LED sign. Mr. DeMeulenaere said no to any kind of advertising – just prices.

Chairman Bogar asked if there was anyone in attendance – there was no response. Oneida County Planning, NYSDOT and Oneida County DPW 239K had no comments. The Public Hearing closed at 6:25 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 as it met the criteria necessary for the granting of an Area Variance; and a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Lenora Murad. Vote taken:

Chairman Randy Bogar - yes  
Board Member John Montrose - yes  
Board Member Fred Kiehm – yes

Board Member Tim Tallman - yes  
Board Member Karen Stanislaus – yes  
Board Member Lenora Murad – yes

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

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**Ms. Robin Rosenthal, 7 Kellogg Road, New Hartford, New York.** Ms. Rosenthal is requesting to construct a roof over an existing porch. Zoning in this area is Medium Density Residential which requires a 30' front yard setback. Applicant is seeking a 13' front yard setback Area Variance. Tax Map #339.011-2-47; Lot Size: 60' x 150'; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on October 14, 2011 and property owners within 500' were notified. Ms. Rosenthal's daughter, Samatha O'hern, appeared before the Board with her contractor, Mr. Mark McGauley.

Mr. McGauley explained that he will be placing a roof over an existing porch. He will tie it in and will make the house look more appealing. There will be no sides or walls – just a roof. There are other homes on the street with similar construction. The ceiling and railing system will be wood or vinyl. This will keep the snow off of the stairs. The stairs will be under the roof. The size of the porch will not change.

Chairman Bogar asked if there was anyone present to address this application – no response.

Oneida County Planning 239 and Oneida County DPW 239K were received with no comments. The Public Hearing closed at 6:32 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 Lenora Murad to approve the application as presented as it met the criteria necessary for the granting of an Area Variance; and a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar - yes  
Board Member John Montrose - yes  
Board Member Fred Kiehm – yes

Board Member Tim Tallman - yes  
Board Member Karen Stanislaus – yes  
Board Member Lenora Murad - yes

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

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**Mr. Scott Kelley and Mrs. Mary Jo Kelley, 21 Christopher Circle, New Hartford, New York.** The Kelley's are proposing to place a storage shed on their property. Zoning in this area is Low Density Residential which requires a 30' front yard setback. The applicant is seeking a 13' front yard setback Area Variance. Tax Map #340.010-1-15; Lot Size: 323' x 95'; Zoning: Low Density Residential. Legal Notice was in the Observer Dispatch on October 14, 2011 and property owners within 500' were notified. Mr. & Mrs. Kelley appeared before the Board.

Mrs. Kelley explained that they have an unusual lot configuration with no side yard and further explained the measurements of the lot and how they arrived at the 30'. They would like the shed to store their patio furniture. She stated the problems with leaving the furniture out, having it rust and leaving marks on the concrete. They will take out the existing garden boxes and place the shed in that area – it will be 3' from the house. Codes Officer Booth said normally it is 6' from the house with a one-hour rating from the structure.

The shed will be white vinyl and it would face the road. Their back yard is finished with a pool and fenced with white vinyl. They don't have room to put the shed in the back yard – the patio is too narrow, and she presented pictures. Mrs. Kelly referred to the water problem that exists and they have had some construction on their pool. It wasn't graded the way they wanted it. They will fix it next year.

Mrs. Kelley stated she has a basement and part of it is finished for their children, and the other area is for an office. They have a two-stall garage that houses two (2) cars. The other detached garage is used also. They temporarily owned a small boat but sold it.

Board Member Kiehm asked Codes Officer Booth: with the 6' requirement from the house, does it change the application of the variance. Mr. Booth said it would be more severe.

At this time, Chairman Bogar referred the previous Area Variance granted to the Kelley's in 2005. The Board Members read from those minutes, reviewed that file and the motion made for storage and a workshop only. Discussion ensued.

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

-Mrs. Kelley presented a letter from Marlena Bosco, 24 Christopher Circle, who supports her application.

-Mr. John Kalil, 22 Christopher Circle. He has lived in this neighborhood for 35 years and across from the applicant. He was at the last variance hearing. He questioned whether they had a boat and also the construction that took place back in 2005. He feels a storage shed is not aesthetically pleasing at this site and in the neighborhood. This would be placed on the front lawn 13' from the right-of-way. Normally people place sheds to the back or side of their property. He doesn't want to look at it, and feels it does not enhance the look of the neighborhood. He feels the shed is being put up strictly for convenience sake and not a hardship. He is opposed to this application.

Reference was again made to the previous application in 2005 with the construction of the garage.

-Mr. Charles Sandwith, 17 Christopher Circle. Chairman Bogar read Mr. Sandwith's letter to the Board. He is opposed to the application. This letter has been made a part of the file.

-Mr. David Peroni, 14 Christopher Circle. He mentioned that the Kelley's have taken good care of their property. He remembers the Kelley's having a boat in their driveway that he had to look at. He lives on the opposite side of where the shed will be placed – he is not in support of this application.

-Mr. Paul Hickey, 10 Christopher Circle. He has two (2) young children and is concerned about visibility with the shed at the proposed location. He doesn't know how close it would be to the road. There are no street lights and this neighborhood has a lot of children. He is worried about their safety. Mr. Hickey is opposed to this application.

-Mr. Nick Kattato, 9 Christopher Circle. He is also concerned about safety. There is a blind spot coming around the corner. Additionally, they received a variance before and why can't they find the room in the garages to store their furniture. He feels it will damage the integrity of the neighborhood. He is concerned about setting a precedent.

Chairman Bogar explained that this Board reviews each case individually.

-Mr. John Kalil, 22 Christopher Circle. He referred to deed restrictions. He also referred to his boat which is stored off premises.

-Mr. Charles Sandwith, 17 Christopher Circle. He doesn't know of any variance granted that infringes on a 30' setback in this neighborhood.

Mrs. Kelley again referred to the nature of the shape of the lot, and she would have no problem with obeying the rules, but her lot is unique.

Board Member Murad asked if there was a place in the pool area where this shed can be placed. Mrs. Kelley said the pumps are there and also a hot tub.

Board Member Tallman referred to the size of the pool house. Mrs. Kelley said there is a kitchen area and a bathroom.

-Mr. John Kalil, 22 Christopher Circle. He has pool furniture that he stores in the garage or basement. He feels this will deter from the neighborhood.

-Mr. Mark Thomas, 25 Christopher Circle. He sent an email in opposition to this application. It has been made a part of the file.

There being no further comments, the Public Hearing closed at 7:10 P.M.

The Board Members reviewed the current file, previous file with correspondence/motion, possible relocation of this shed; integrity of the neighborhood, etc.

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: yes, 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: yes, all in agreement;
- The requested variance is substantial – response: yes, 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: yes, 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 John Montrose to deny the application as presented as it did not meet the criteria necessary for the granting of an Area Variance; seconded by Board Member Tim Tallman. Vote taken:

Chairman Randy Bogar - yes  
Board Member John Montrose - yes  
Board Member Fred Kiehm – yes

Board Member Tim Tallman – yes  
Board Member Karen Stanislaus – yes  
Board Member Lenora Murad – yes

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

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**Mr. Rasim Bosnic, 21 Sycamore Drive West, New Hartford, New York**, who is requesting to add a 7' x 7' enclosed porch onto the front of his home. Zoning in this area is Medium Density Residential which requires a 30' front yard setback. The applicant is seeking a 7' front yard Setback Area Variance. Tax Map #328.015-4-33; Lot Size: 74' 162'; Zoning: Medium Density Residential. Legal Notice was published in the Observer Dispatch on October 14, 2011 and property owners within 500' were notified. Mr. Bosnic appeared before the Board.

Mr. Bosnic stated he would like to improve his home. There is a living room at the front door and he would like to have the porch to keep the snow from coming into the house. He put new windows in the house and if he gets approval tonight, he plans on siding the whole house.

Chairman Bogar asked if there was anyone present to address this application – no one was present but two (2) letters were received which have been made a part of the file:

- Ms. Joni Mogle, 23 Sycamore Drive W. – no opposition
- Mr. Donald Scholl, 19 Sycamore Drive W – no opposition

There being no further comments, the Public Hearing closed at 7:15 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 Karen Stanislaus to approve the application as presented as it met the criteria necessary for the granting of an Area Variance; and a Building Permit be obtained within one (1) year of approval date; seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar - yes  
Board Member John Montrose - yes  
Board Member Fred Kiehm – yes

Board Member Tim Tallman - yes  
Board Member Karen Stanislaus – yes  
Board Member Lenora Murad - yes

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

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**Mr. Charles Taurisano, 15 Old Orchard Road, Utica, New York (Town of New Hartford)**, who wishes to enclose his yard and add fencing that matches existing fencing on his property. Zoning in this area is Low Density Residential which requires fences to be installed with the structured side facing in or toward the fence owner’s property. Applicant is seeking an Area Variance to face the structural side out toward the neighbor. Tax Map #329.020-8-45; Lot Size: 106’ x 243’; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on October 14, 2011 and property owners within 500’ were notified. Mr. Charles Taurisano appeared before the Board.

Mr. Taurisano presented a survey of the property, and explained the dimensions of the left and right side of his property regarding fencing. He also presented pictures of his property for the Board Members to review. The new fence will match as close as possible to the existing fencing. It is his intention to place a metal fence for the winter and in the spring install the new fence. Mr. Taurisano plans on hiring Butler Fence for the installation.

Chairman Bogar asked if there was anyone present to address this application – no response, but two (2) letters were presented in favor of the application which have been made a part of the file:

-Mr. Henry Butler, 17 Old Orchard Road  
-Mr. Robert Matt, 13 Old Orchard Road

There being no further comments, the Public Hearing ended at 7:25 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.

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Motion was made by Board Member John Montrose to approve the application as presented as it met the criteria necessary for the granting of an Area Variance; and 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 John Montrose - yes  
Board Member Fred Kiehm – yes

Board Member Tim Tallman - yes  
Board Member Karen Stanislaus – yes  
Board Member Lenora Murad - yes

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

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There being no further business, the meeting ended at 7:30 P.M.

Respectfully submitted,

Dolores Shaw  
Recording Secretary

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