

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
MARCH 16, 2009**

The Regular Meeting was called to order by Board Member Kristen Shaheen at 6:30 P.M. Board Members present were, John Montrose, Bob Schulman, and Fred Kiehm. Absent: Chairman Randy Bogar, Board Members Kimberly Carolan-Faga 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. Board Member Kristen Shaheen conducted the meeting in the Chairman's and Vice-chairman's absence; there is a quorum present; and she introduced the Board Members. Board Member Shaheen explained the procedures for tonight's meeting and stated that four (4) Board Members out of the regular Board of seven (7) are in attendance. She further explained the procedure involved if the applicant went ahead and did not get approval. Also, if they did proceed, the applicant would need approval of all four (4) members. Board Member Shaheen asked the applicant if he would like to postpone their application until the next meeting – they had a choice. The applicant and his contractor decided to proceed with the application.

The application of **Mr. Thor Markwood, 1351 Graffenburg Road, New Hartford, New York**, who is requesting a Use Variance to expand a non-conforming use by adding a two-stall garage – converting existing garage into living area and adding a mud room. Thus, the request for a Use Variance as Section 118.69A of the Zoning Law prohibits the expansion to a non-conforming use. Tax Map #341.005-2-22.2; Lot Size: approximately 6.47 Acres; Zoning: Low Density Residential. Legal Notice was published in the Observer Dispatch on March 6, 2009 and residents within 500' were notified. Mr. & Mrs. Markwood and their contractor, Mr. Micah Croyle, appeared before the Board.

Mr. Croyle presented the original set of plans for the Board's review which indicated the layout of the house. They have a guest house that was allowed on the property previously, however, zoning changed and it is now a non-conforming use, thus, the Use Variance request. They want to renovate the existing guest house, which is in need of repair. They are not changing the use of the building. However, they would like to increase the living area and add a garage to allow for additional storage. Mr. Croyle explained that the garage area now will become living space. The addition will include a garage and another room with closet area – it does not infringe on any property lines. The existing building upstairs will remain the same and convert to living area. This is for family use only – the family will live there when renovations are made to the existing

house. They will not rent the guest house, it is to be used for family members only when visiting.

The Board Members asked how long the renovations would take – Mr. Croyle said about three (3) months.

Mrs. Markwood stated that their parents have health issues, and need to use the first floor – they cannot climb stairs.

Reference was made as to whether this would become an in-law apartment. Mr. Booth stated that we have a specific law for an in-law apartment and if they wanted it as a permanent use, they would have to come back to this Board. Mr. Markwood said that their parents, if they decided to stay in this area (they live in Pennsylvania), would probably live in an assisted living facility.

Board Member Shaheen asked if they wanted to sell off that parcel, would they have to come back before the Town – Codes Enforcement Officer Booth said yes – they would need a variance because there isn't enough frontage. Codes Officer Booth would like it mentioned that this application is for residential purposes only; that this originally was approved as a guest house and the zoning changed which doesn't include this in the new zoning; in the event it is to be used as a permanent occupancy, they would have to come back before this Board again. Mr. Markwood said they have no intention of selling this.

Codes Enforcement Officer Booth asked how long they would have to occupy it – Mr. Croyle said about a year. Mr. Booth said he would have to issue a Certificate of Occupancy for both of these. Mr. Booth explained that once the house is complete, the object is not to have it as a rental income – Mr. Markwood understands this.

Board Member Shaheen asked if there was anyone present to address this application – there was no response. Secretary Dory Shaw said there were no calls received on this application. Oneida County Planning 239 and Oneida County 239K reviews were received and have been made a part of the file.

Mrs. Markwood said they had contacted some of their neighbors who have no objection, and she presented correspondence for the file.

The Public Hearing closed at 6:55 P.M.

The Board Members reviewed the material submitted and went through the criteria necessary for a Use Variance:

- Applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence – yes;
- The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood – yes;
- The requested variance, if granted, will not alter the essential character of the neighborhood – yes;
- The alleged hardship has not been self-created – yes.

Motion was made by Board Member Bob Schulman to approve the application as presented with provisions that the maximum occupancy period is going to occur when the Markwood's occupy the dwelling until such time their building is complete; after that, occupancy of the guest house not to exceed six (6) months per guest at one time – the only exception being the initial occupancy of the guest house by the Markwood's during the period in which the main home is being renovated; that this is for residential purposes only and in the event it will be occupied as a permanent residence, they would have to come back before this Board; and that a Building Permit be obtained within one (1) year of approval date; seconded by Board Member John Montrose. Vote taken:

Board Member Kristen Shaheen – yes
Board Member John Montrose – yes

Board Member Bob Schulman – yes
Board Member Fred Kiehm – yes

Motion **approved** by a vote of 4 – 0.

There being no further business, the meeting adjourned at 7:05 P.M.

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

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