

**MINUTES OF THE REGULAR MEETING
ZONING BOARD OF APPEALS
BUTLER MEMORIAL HALL
SEPTEMBER 17, 2018**

The Regular Meeting was called to order at 6:00 P.M. by Board Member Byron Elias in Chairman Randy Bogar's absence. Board Members present were John Montrose, Lenora Murad, Karen Stanislaus; Taras Tesak and Fred Kiehm. Also in attendance were Town Attorney Herbert Cully; Councilman David Reynolds; Assessor Darlene Abbatecola, and Codes Officer Joseph Booth. Absent: Chairman Randy Bogar, and Dory Shaw, Secretary. Everyone in attendance recited the Pledge of Allegiance. Acting Chairman Elias introduced the Board Members and explained the procedures for tonight's meeting.

Draft minutes of the July 16, 2018 Zoning Board of Appeals were received by each Board Member. Minutes were approved as written.

The application of **Mrs. Maria Blais, 47 Arlington Terrace, Utica, New York (Town of New Hartford)**. The applicant is seeking a 2'± left side yard setback Area Variance and a 1'± rear yard setback Area Variance for the placement of a 10' x 8' shed. She lives in a Low Density Residential zone, which requires a 5' side yard setback and a 5' rear yard setback for an accessory structure. Thus, the request for an Area Variance. Tax Map #329.020-7-15; Lot Size: 82' x 130'; Zoning: Low Density Residential. Mrs. Blais appeared before the Board.

Zoning Board Member Lenora Murad cited a conflict and removed herself from the hearing, taking a seat in the audience, and did not vote on this application.

Mrs. Blais gave an overview of why and how the shed was removed without their permission after they signed a contract to purchase the house with a shed. Their new shed is in the same location as the previous shed. It was determined during discussion how the existing shed was removed. They would like to place their equipment in the shed to keep out of the yard. There is a 6' fence and row of trees in the back.

The Public Hearing was opened to the public:

-Mr. David Longieretta, Esq.: he represents Mr. & Mrs. Talerico, 11 Windsor Terrace, and they support this application (copy of letter in file)

-Mr. Ralph J. Giovinazzo, 10 Windsor Terrace: he supports this application (copy of letter in file)

-Mr. Greg Gorea, 50 Arlington Terrace: he supports this application (copy of letter in file).

-Ms. Christine Scalzo, 45 Arlington Terrace: opposed to variance (substantial and old shed is not there now).

Public Hearing closed.

At this time, the Board Members reviewed the criteria for 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 this application as presented; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Karen Stanislaus. Vote taken:

Board Member John Montrose – yes
Board Member Byron Elias - yes
Board Member Karen Stanislaus – yes

Board Member Fred Kiehm - yes
Board Member Taras Tesak – yes

Motion was **approved** by a vote of 5 – 0.

Board Member Lenora Murad returned for the balance of the meeting.

The application of **Mr. Stephen J. Mullin, 12 Thornwood Road, New Hartford, New York**. Mr. Mullin would like to add an accessory apartment to his residence. The existing home is non-conforming in that the house is only 8'± from the sideline. The applicant is seeking a 7'± side yard Area Variance. Additionally, the applicant is adding an accessory apartment that exceeds the maximum size allowed for an accessory apartment by 27'±. Mr. Mullin is also seeking a 27'± Area Variance. Tax Map #339.005-1-19; Lot Size: 100' x 259'; Zoning: Low Density Residential. Mr. Mullin appeared before the Board.

Mr. Mullin explained that he wants this addition for his parents to reside in and explained his property to the Board Members.

The Public Hearing was opened to the public:

-Mr. John Trela, 14 Thornwood Road: he supports this project. The Mullin's are model neighbors and this would add value to their home.

-Josh: he is concerned about flooding and also inquired about when this project would start and finish because of the noise.

Public Hearing closed.

At this time, the Board Members reviewed the criteria for 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 this application as presented; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Lenora Murad. Vote taken:

Board Member John Montrose - yes
Board Member Byron Elias - yes
Board Member Karen Stanislaus – yes

Board Member Fred Kiehm - yes
Board Member Taras Tesak – yes
Board Member Lenora Murad - yes

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

The application of **First Source Federal Credit Union, 4451 Commercial Drive, New Hartford, New York**. The applicant is seeking four (4) variances. 1) to decrease parking space from required 10'x18' to 9'x18'; 2) a variance to exceed the maximum 120% of required parking spaces to 160%; 3) a 10'± left side Area Variance to extend parking next to and on owner's neighboring property; 4) a 5'± Area Variance to place a driveway on and across to owner's adjacent property. Tax Map #328.007-1-1; Lot Size: 3.5 Acres; Zoning: C1 General Commercial. Mr. Stan Kocyba and Mr. Greg Sgromo, engineer for First Source, appeared before the Board.

Acting Chairman Byron Elias recused himself from this application and discussion, but still conducted the meeting.

The applicants explained why they needed the additional parking at these sites. They need these variances to be able to appear before the Planning Board for Site Plan Review.

The Public Hearing was opened to the public:

-Mr. Steve Sonne, Commercial Drive: he is not opposed to this application.

Public Hearing closed.

NYSDOT, Oneida County Planning and Oneida County DPW have no issues with this application.

At this time, the Board Members reviewed the criteria for 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 this application as presented; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Fred Kiehm.
Vote taken:

Board Member John Montrose
Board Member Taras Tesak – yes
Board Member Karen Stanislaus – yes

Board Member Fred Kiehm - yes
Board Member Lenora Murad - yes

Motion was **approved** by a vote of 5 – 0.

Acting Chairman Byron Elias resumed his position.

The application of **Mr. Paul Miscione, 1701 Sherman Drive, Utica, New York (Town of New Hartford)**. Mr. Miscione would like to erect a 6' residential fence to be placed 8'± forward of the home facing Pleasant Street. Therefore, the applicant is seeking an 8'± Area Variance. Tax Map #331.017-4-37; Lot Size: 195' x 120'; Zoning: Low Density Residential. Mr. Miscione appeared before the Board.

Mr. Miscione explained why he needed the fencing.

The Public Hearing was opened to the public:

-Mr. Anthony Palumbo, 1201 Sherman Drive: he is not opposed as long as the fence is nice looking.

-Mr. Vincent Rossi, 1 Bradford Lane: he is not in favor of the fence.

The Public Hearing closed.

The Board Members discussed options, i.e. bushes along the fence line.

At this time, the Board Members reviewed the criteria for 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; discussion ensued;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response; discussion ensued;
- The requested variance is substantial – response: discussion ensued;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: discussion ensued;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: discussion ensued.

Motion was made by Board Member Taras Tesak to approve this application but that stone be placed along the side of the fence and put 3' bushes in the middle of every section; and that a Building Permit be obtained within one year of approval date; seconded by Board Member John Montrose. Vote taken:

Board Member John Montrose
Board Member Byron Elias - yes
Board Member Karen Stanislaus – no

Board Member Fred Kiehm - yes
Board Member Taras Tesak – yes
Board Member Lenora Murad - yes

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

NOTE: These minutes were taped but also notes taken by Acting Chairman Byron Elias. There is a tape available for accuracy and can be requested by contacting Dory Shaw, Secretary/Zoning Board of Appeals or Town Clerk Gail Young.

Respectfully submitted,

Dolores Shaw, Secretary
Zoning Board of Appeals

dbS