

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
BUTLER MEMORIAL HALL  
MAY 21, 2018**

The Regular Meeting was called to order at 6:00 P.M. by Chairman Randy Bogar. Board Members present were John Montrose, Lenora Murad, Karen Stanislaus (arrived at approximately 6:20 P.M.); Byron Elias; Taras Tesak and Fred Kiehm. Also in attendance were Town Attorney Herbert Cully; Codes Officer Joseph Booth; Councilman David Reynolds; Assessor Darlene Abbatecola; and Secretary Dory Shaw. Absent: Highway Superintendent Richard Sherman. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting. He also stated that one Board Member is on her way.

Chairman Bogar explained that the application of the **American Legion Post #1376, 8616 Clinton Street, New Hartford, New York** has been withdrawn by the applicant.

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Draft minutes of the April 16, 2018 Zoning Board of Appeals were received by each Board Member. Motion was made by Board Member Byron Elias to approve these minutes as written; seconded by Chairman Randy Bogar. All in favor.

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The application of **Clifford Fuel Company, Inc., for property at 3931 Oneida Street, New Hartford, New York**. They are proposing a changeable copy sign to be added to 133  $\pm$  sf sign. Changeable copy signs are not permitted to be placed in a freestanding sign area greater than 64 sf. Therefore, the applicant is seeking a 69 sf  $\pm$  Area Variance. Tax Map #339.016-1-73; Lot Size: 1 Acre; Zoning: C2 Commercial Retail Business. Mr. John Lytwynec appeared before the Board for Clifford Fuel Co., Inc.

Mr. Lytwynec explained that they want to take the old style sign out with a new LED sign. It will be placed in exactly the same cabinet – no additional square footage. They are just replacing the face of the sign. This is a non-conforming sign.

Chairman Bogar asked if there was anyone in attendance to address this application: no response. The Public Hearing closed at approximately 6:10 P.M.

Oneida County Planning and Oneida County DPW responses were received with no significant impacts.

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:

Chairman Randy Bogar - yes  
Board Member Byron Elias – yes  
Board Member Lenora Murad - yes

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

Motion was **approved** by a vote of 6 – 0. Board Member Karen Stanislaus was not present at this time.

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The application of **Ms. Becky Alsheimer, 228 Winchester Drive, New Hartford, New York**. She is seeking to replace an existing garage in the same location and is requesting a 7'± right side yard setback Area Variance. The property is located in a Low Density Residential zone, which requires a 15' side yard setback. Tax Map #317.011-3-63; Lot Size: 80' x 155'; Zoning: Low Density Residential. Ms. Alsheimer and her husband appeared before the Board.

The existing garage is in terrible condition and they need to replace it – it will be placed in exactly the same footprint - it cannot be salvaged and there is no other area to place a garage. Pictures were presented of the existing garage. The new garage will match the siding of their home.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:15 P.M.

Ms. Heather Verminski, 226 Winchester Drive submitted a letter stating she has no problem with the rebuilding of their garage.

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 Taras Tesak. Vote taken:

Chairman Randy Bogar - yes  
Board Member Byron Elias – yes  
Board Member Lenora Murad - yes

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

Motion was **approved** by a vote of 6 -0. Board Member Karen Stanislaus was not present at this time.

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Board Member Karen Stanislaus arrived at approximately 6:20 P.M.

The application of **Mr. Michael Morrill, 8057 Seneca Turnpike, Clinton, New York (Town of New Hartford)**. The applicant is seeking a 9'± Area Variance to convert driveway to a commercial parking area. The parking lot is approximately 1.2'± from the right side property line, thus, the request for an Area Variance. Tax Map #328.000-2-9; Lot Size: 169' x 257'; Zoning: C2 Commercial Retail Business. Mr. Michael Morrill appeared before the Board.

Mr. Morrill explained he needs additional parking due to the growth of his business, therefore, he would like to expand his parking lot. He referred to a Parking Space Lease Agreement with his neighbor for additional spaces, which is a part of the file. Mr. Morrill has been at this location for almost 20 years. Most of his employees go to job sites – he has two people who are in the office.

Board Member Elias asked if there is parking in the rear – Mr. Morrill said no. There is a requirement for a turnaround and because of the shape of the property, there isn't room for it.

Chairman Bogar asked if there was anyone in attendance to address this application – no response. The Public Hearing closed at approximately 6:25 P.M.

-Ms. Nancy McQueen, 8063 Seneca Turnpike. She and her husband submitted a letter allowing Mr. Michael Morrill to pave the remaining corner of his driveway to be compliant with the Codes. (This letter has been made a part of the file).

Oneida County Planning and NYSDOT replied with no significant impacts.

Board Member Murad asked if there could be a problem with a lease – does it affect the same of the property in the future – Town Attorney Cully said no – we are not involved.

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 Lenora Murad. Vote taken:

Chairman Randy Bogar - yes  
Board Member Byron Elias – yes  
Board Member Karen Stanislaus – yes  
Board Member John Montrose - yes

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

Motion was **approved** by a vote of 7 – 0.

Mr. Morrill thanked Codes Officer Joseph Booth for his help with this process.

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The application of **Sign Vision Company, Inc. for Goodrich Management Corporation, Big Lots, 4645 Commercial Drive, New Hartford, New York**. The applicant is seeking a 90 sf± Area Variance to install a 190 sf ± wall sign. This area is zoned C1 General Commercial, which allows 100 sf of wall signage, thus, the request for an Area Variance. Tax Map #328.008-1-3; Lot Size: Total Acreage: 19.1; Zoning: C1 General Commercial. Mr. Corey Hall of Rome Signs appeared before the Board.

Mr. Hall presented a picture of the storefront – the sign will be going on the edge of the building. It will be an LED sign illuminated. A question arose as to whether the lights need to be on all night. He did not know the store hours for Big Lots as he is not affiliated with them. Mr. Hall said timers could be placed on the sign.

Board Member Tesak asked Codes Officer Booth if there were any other stores going in on that site – Mr. Booth said no. Codes Officer Booth said generally Big Lots is open from 9 AM to 9 PM.

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

Oneida County Planning, Oneida County DPW and NYSDOT responded with no significant impacts.

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 Taras Tesak to approve this application as presented; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Byron Elias. Vote taken:

Chairman Randy Bogar - yes  
Board Member Byron Elias – yes  
Board Member Karen Stanislaus – yes  
Board Member John Montrose - yes

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

Motion was **approved** by a vote of 7 – 0.

Board Member Tesak noted that he would have liked someone here to address the size of the sign, whether it is okay to have that particular type of sign; is there a special brand of Big Lots; size, etc. Codes Officer Booth explained they are asking for a variance because of the limited square footage.

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The application of **Mr. Paul Miscione, 18 Juniper Lane, New Hartford, New York**. The applicant is seeking a 12'± right side yard Area Variance to construct a one stall attached garage. Mr. Miscione is located in a Low Density Residential zone, which requires a 15' side yard setback, thus, necessitating the Area Variance request. Tax Map #340.001-2-58; Lot Size: 100' x 167'; Zoning: Low Density Residential. Mr. Paul Miscione appeared before the Board.

Mr. Miscione explained that he cannot fit his truck and plow in the existing garage. He wants to do the same construction/look like his neighbor across the street, which has a three-stall garage. He will also take care of an ongoing water issue with his neighbor. By doing this construction, he will put in drainage/piping to take care of the water problem. His neighbor next door is in favor, especially because he will take care of the drainage issue. Mr. Miscione stated the fence is causing an issue – there is a massive wind issue. The whole fence in the front will go away also. The side and front fence will be down. The back of the fence will connect to the back of the house. The garage will go where the blacktop is. The new roof will connect right in. The water from the roof goes to his neighbor's but that will be corrected. The new stall will be inside the fence line where the carport is.

Board Member Tesak asked if there was any other way to stay within the Code. Mr. Miscione said no – it wouldn't look right. He is doing the same as his neighbor. He will be getting rid of the pavement and stone and make it better and more appealing. The new garage will match the existing house. It will be in the same footprint and look uniform. The door will be slightly higher in the front.

Discussion ensued regarding the water and drainage situation. The storm drain the Town will put in on Town property. That was promised many years ago but never done.

Chairman Bogar asked if there was anyone present to address this application – no response. The Public Hearing closed at approximately 6:40 P.M.

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 Taras Tesak to approve this application as presented and that proper drainage put in to alleviate the water problem with Mr. Miscione and his neighbor before he places any type of structure, i.e. gutters and drainage; and that a Building Permit be obtained within one year of approval date; seconded by Board Member Fred Kiehm. Vote taken:

Chairman Randy Bogar - yes  
Board Member Byron Elias – yes  
Board Member Karen Stanislaus – yes  
Board Member John Montrose - yes

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

Motion was **approved** by a vote of 7 – 0.

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Minutes of the April 16, 2018 Zoning Board of Appeals were approved by motion of Board Member Byron Elias; seconded by Chairman Randy Bogar. All in favor.

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There being no further business, the meeting adjourned at approximately 6:45 P.M.

Respectfully submitted,

Dolores Shaw  
Secretary/Zoning Board of Appeals  
dbs