

Zoning Board of Appeals  
City of Cortland  
April 12, 2010

A regular meeting of the Zoning Board of Appeals was held on Monday, April 12, 2010, at 5:00 p.m. in the Mayor's Conference Room at City Hall.

Present: Chair Dailey, Comm. Brown, Decker, Hickey and Wickman

Staff: Zoning Officer Bruce Weber and Cheryl Massmann, Deputy City Clerk

Item No. 1 – 73 Hamlin St. – (Dutcher)(R1) – Area Variance – Garage

Mr. Dutcher explained that his garage needs to be replaced. His present garage is on the property line now and he wants to keep the same location, but to set the new one back for better access. He noted that his property backs up to a Floral Avenue property. He stated that the north wall is a foot off of the property line now and will remain that way for the new building and he is planning a foot and half off of the rear line. Chair Dailey asked if he had spoken with his neighbor. Mr. Dutcher stated that he had not, but Mr. White, the neighbor from 75 Hamlin Street was present and in favor of the project. Comm. Wickman asked how big the new garage was going to be. Mr. Dutcher stated that the old one was twenty-two (22) feet by twenty-seven (27) feet and the new one would be twenty-four (24) feet by thirty-two (32) or thirty-six (36) feet.

There was no one further to speak, therefore the public hearing was closed.

On the motion of Comm. Wickman, seconded by Comm. Decker, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

**RESOLVED THAT THE AREA VARIANCE – 73 HAMLIN ST. – (DUTCHER)(R1) – AREA VARIANCE – GARAGE - BE PLACED ON THE TABLE FOR DELIBERATION.**

The criteria for an area variance were reviewed:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. Out of compliance on two (2) sides instead of just one (1).

2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. Rebuild on present site with a shorter garage.

3. Whether the requested area variance is substantial. Yes

4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. No

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. Yes

On the motion of Comm. Wickman, seconded by Comm. Decker, voted and approved the Area Variance with the added dimensions in the application of twenty-four (24) feet by thirty-six (36) feet.

**RESOLVED THAT THE AREA VARIANCE – 73 HAMLIN ST. – (DUTCHER)(R1) – AREA VARIANCE – GARAGE – BE APPROVED AS PRESENTED WITH THE ADDED DIMENSIONS AS IN THE APPLICATION OF TWENTY-FOUR (24) FEET BY THIRTY-SIX (36) FEET.**

Item No. 2 – 27 James St. – (White)(R1) – Area Variance – Steps

Mr. White stated that he has already built these steps to his backyard. His intent was to extend his deck to allow him to bring recyclables and other items up from the cellar without having to go through his house. He and his wife had fallen a few times trying to climb up the bank and that is why he decided to put in the steps. The steps are four (4) feet wide and are built of four by sixes and are concreted in. Mr. White stated that the steps are three (3) feet eight (8) inches from the property line and eight (8) feet from the base of the steps to the neighboring structure.

There was no one further to speak, therefore the public hearing was closed.

On the motion of Comm. Hickey, seconded by Comm. Decker, voted and carried.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

**RESOLVED THAT THE AREA VARIANCE – 27 JAMES ST. – (WHITE)(R1) – AREA VARIANCE – STEPS BE PLACED ON THE TABLE FOR DELIBERATION.**

The criteria for an area variance were reviewed.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance. No
2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance. Put the steps off of the back or the deck or walk around.
3. Whether the requested area variance is substantial. No
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. No
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance. Yes

On the motion of Comm. Hickey, seconded by Comm. Decker, voted and carried to approve the area variance for the construction of steps from the existing porch.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

**RESOLVED THAT THE AREA VARIANCE – 27 JAMES ST. – (WHITE)(R1) – AREA VARIANCE – STEPS – BE APPROVED AS PRESENTED.**

Item No. 3 – 19 W. Court St. – (DeVecchio Family LLC)(R4) – Application for Interpretation of Zoning Officer’s Decision

Most of the principals requesting the appeal were not present. Mr. Ardin DeVecchio was the only one present and asked that he be allowed to leave the Mayor’s Conference Room to get the principals. This request was granted. The Zoning Board of Appeals moved on with their agenda while awaiting the arrival of these applicants and their representatives.

Item No. 4 – 45 Tompkins St. – (Armideo)(R4) – Area Variance & Special Use Permit – Commercial Indoor Lodging or Sorority

James Baranello, Esq. was present to represent the applicant, Mr. Armideo. Mr. Baranello explained that the only change to the property would be some additional paving of the parking area. He noted that the lot was non-conforming for a change in use as it was only a half acre. He stated that a sorority had contacted them with interest, but had not made a firm commitment. Comm. Wickman asked how old the building was and what was its former use. Mr.

Baranello stated that it had been a single family home at one time, but had more recently been a group home. It was noted that this application was for a referral to both the Planning Commission and the Historic and/or Architectural Review Board.

On a motion by Comm. Hickey, seconded by Comm. Wickman, voted and carried to refer these applications to County Planning, City Planning and the Historic and/or Architectural Review Board.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

**RESOLVED TO REFER THESE APPLICATIONS TO COUNTY PLANNING, CITY PLANNING AND THE HISTORIC AND/OR ARCH. REVIEW BOARD.**

Minutes – February 8, 2010

On the motion of Comm. Hickey, seconded by Comm. Decker, voted and carried as amended.

Chair Dailey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Hickey	Aye
Comm. Wickman	Aye		

**RESOLVED THAT THE MINUTES OF FEBRUARY 8, 2010 BE APPROVED AS AMENDED.**

Item No. 3 – 19 W. Court St. – (DeVecchio Family LLC)(R4) – Application for Interpretation of Zoning Officer’s Decision

City Zoning Officer Bruce Weber stated that Mr. DeVecchio had made an application for a Certificate of Zoning Occupancy for this property and that the request included the addition of two (2) apartments in the basement over what was previously approved by the Planning Commission and was also part of the application that he had made to the Zoning Board of Appeals that there would be four (4) units in the back and three (3) units in the front. He went on to state that having received that application and as it was not in compliance with the approvals that were granted, Mr. Weber stated that he denied the Certificate of Zoning Occupancy. Additionally, in viewing the minutes of the Zoning Board of Appeals meeting of February 9, 2009 when the ZBA approved the application of Mr. DeVecchio to reduce the size of the parking spaces, there were a couple of things that stood out in your review. One was whether requested Area Variance was substantial and the ZBA indicated “Yes” and whether the proposed Area Variance would have an adverse affect or impact on the physical environmental conditions in the neighborhood or district and it was noted “that there could be

traffic flow issues". In that the application is different than what had been supplied to either of the two (2) Boards, the Zoning Board of Appeals has the right to re-hear the application if they so desire. He noted that it is also his interpretation that this is contrary to the information that had been supplied to ZBA originally and that your decision may or may not have been different had the Board known that there were going to be two (2) additional units there with potentially six (6) more people living in there or more. This could be students or it could be a whole family and then the number of people would only be limited by the size of the rooms and the building code.

So given those circumstances Mr. Weber stated that he denied the application. Mr. Weber explained that Mr. DelVecchio submitted a request for the Zoning Board of Appeals to overturn that interpretation. Mr. Weber stated he then contacted Mr. DelVecchio and where it says reason for appeal on the application, he put "Zoning Officer's decision is erroneous on both the law and the facts". Mr. Weber stated that he asked Mr. DelVecchio to expand on that and to be specific on what was erroneous on both the law and the facts. He was then directed by Mr. DelVecchio to speak with Mr. Chatfield (Mr. DelVecchio's attorney). He spoke with Mr. Chatfield and he asked Mr. Chatfield for some clarification. Mr. Chatfield stated that it was his decision at that time that he would not give Mr. Weber that information.

Mr. Weber stated that since it is up to the Zoning Board of Appeals to determine whether the application is complete, he then told Mr. Chatfield that he would send the application to the Zoning Board of Appeals. He went on to explain to the Zoning Board that it was now up to them to determine if the application is complete, look at his interpretation and then decide what you want to do.

Mr. Chatfield, attorney for Mr. DelVecchio, thanked the Zoning Board of Appeals. He then made his presentation to the Zoning Board of Appeals on behalf of his client, DelVecchio Family LLC, for an appeal of the Zoning Board of Appeals decision made for 19 West Court Street, Cortland and Mr. Weber's subsequent interpretation of that decision and his denial of Mr. DelVecchio's application for a Certificate of Zoning Occupancy.

A verbatim transcript done by a court stenographer and supplied by Mr. Chatfield of Mr. Chatfield's presentation is on file in the Zoning Board of Appeals Minute Book of 2010 under the meeting of April 12, 2010.

**I, BRIAN DAILEY, CHAIRPERSON OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NEW YORK, DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETIGN OF THE ZONING BOARD OF APPEALS OF THE CITY OF CORTLAND, HELD ON THE 12<sup>TH</sup> DAY OF APRIL, 2010.**

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**BRIAN DAILEY, CHAIRPERSON**