

Zoning Board of Appeals  
City of Cortland  
July 12, 2010

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

Present: Vice Chair Hickey, Comm. Brown, Decker, Haskell, Wickman and Wilcox

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

Item No. 1 – 243 Pt. Watson St. – (Wilkinson)(GB) – Use Variance – Conversion of Commercial Building to Two Units (Public Hearing)

Comm. Wickman called the meeting to order. Mr. Wilkinson was present. He explained that he would like to do a conversion of this property from a commercial use to a two (2) unit. The building has two (2) kitchens, two (2) bathrooms and is suited to this use. Comm. Wickman asked him to discuss the buffer behind the garage and why he felt it might not be necessary. Vice Chair Hickey arrived to chair the meeting.

Mr. Wilkinson noted that there was an eight (8) foot high fence back there and a pool on the other side. Comm. Wickman asked if the garage had to be that far back. Mr. Wilkinson stated that the planned placement would allow the tenants to have more usable yard space. Comm. Brown asked how many parking spaces would be available and if they would be ten (10) feet wide. Mr. Wilkinson noted that there would be four (4) spaces and ten (10) foot wide was not a problem. Comm. Decker noted that this property made sense as a two (2) unit. Mr. Wilkinson also noted that he would not be putting in a hard pack driveway in front of the garage.

Vice Chair Hickey stated that when considering a Use Variance the applicant needed to show unnecessary hardship. Mr. Wilkinson stated that it was not viable to get a decent rent amount for a commercial property in this location. He has not tried to rent it again as commercial since the insurance company left, but he did speak with his realtor who was not sure it could be rented as commercial and noted it was not a good area for commercial. Comm. Wickman noted that it was mostly residential in that area. Mr. Wilkinson noted that the neighbors were supportive of this property being used as residential. Comm. Wickman noted that it was set up for a two (2) family residential and Mr. Wilkinson agreed. Comm. Haskell noted that before it was used as commercial that it had been used as residential.

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.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye
Comm. Wickman	Aye	Comm. Wilcox	Aye

**RESOLVED THAT THE USE VARIANCE – 243 PT. WATSON ST. – (WILKINSON)(GB) – USE VARIANCE - CONVERSION OF COMMERCIAL BUILDING TO TWO UNITS BE PLACED ON THE TABLE FOR DELIBERATION.**

A SEQR review was done.

A motion was made by Comm. Wickman, seconded by Comm. Haskell voted and carried to find no significant adverse environmental impact and to issue a negative declaration.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye
Comm. Wickman	Aye	Comm. Wilcox	Aye

The criteria for a use variance were reviewed.

1. The applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial. It's a house and does not readily lend itself to commercial use.
2. The alleged hardship relating to the property is unique. (The hardship may not apply to a substantial portion of the zoning district or neighborhood). The hardship is unique.
3. The requested use variance, if granted, will not alter the essential character of the neighborhood. Yes
4. The alleged hardship has not been self-created. Yes

A motion was made by Comm. Wilcox, seconded by Comm. Wickman, voted and carried to approve the use variance 243 Pt. Watson St. for conversion back to a two (2) family with a garage in the rear of the property and to allow the current buffer.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye
Comm. Wickman	Aye	Comm. Wilcox	Aye

**RESOLVED THAT THE USE VARIANCE – 243 PT. WATSON ST. – (WILKINSON)(GB) – USE VARIANCE – CONVERSION OF COMMERCIAL BUILDING TO TWO UNITS BE APPROVED WITH THE STIPULATION THAT THE GARAGE BE ALLOWED IN THE REAR OF THE PROPERTY WITH ITS CURRENT BUFFER.**

Item No. 2 – 128 Tompkins St. – (Seales)(R1) – Area Variance – To Allow for Lot Coverage Greater than Permitted.

Judd and Gary Seales were present. Gary Seales stated that the problem they were having was accessing their parking spots. He stated that they currently have nine (9) parking spots and they would like to shift three (3) of those spots forward to the west so their tenants can come in, turn around and park on the diagonal and be able to drive out on to Tompkins Street, rather than back out. Mr. Seales noted that this problem occurred after the neighboring parking lot was purchased by the dentist and was blocked. Mr. Seales noted that there was also the issue of the garage in the back. Mr. Seales stated that they use it for parts storage for their property maintenance supplies. Judd Seales noted that they don't allow tenants to park in garages because of the liability. He also noted that the area in front of the garage provides the access to the rear houses and if the garage was used for tenant parking the tenants using the garage would be backing into a traffic lane. Gary Seales noted that this has been student housing since the 1980's. He stated that this was a three (3) unit house.

Vice Chair Hickey asked what size the parking spaces were. Gary Seales stated that they were ten (10) feet by eighteen (18) feet. Judd Seales noted that the Planning Commission had asked if the area was going to be paved. He noted that they would rather not pave if they didn't have to. Comm. Brown asked if there was a green front yard at this property. Judd Seales replied that there was. Comm. Brown noted that to the right of the property driveway, there is a large parking lot. Judd Seales noted that the new owner of the parking lot is concerned regarding liability and won't rent or sell even four (4) or five (5) feet of the parking lot. Comms. Wickman, Wilcox and Decker all expressed concerns regarding tenants backing out onto Tompkins Street. Comm. Brown noted that there would be a loss of some green space, but it would be safer for the tenants. Gary Seales asked about the garage use and whether he needs to apply for a variance. Comm. Wilcox noted that Mr. Seales was not doing business out of the garage. Gary Seales agreed with that observation. Zoning Officer Weber noted that since the garage is not incidental use to the residence that a use variance would be required. Vice Chair Hickey noted that the Zoning Board would not be able to act on this today because it had not been advertised, so today all that is being discussed is lot coverage.

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

On the motion of Comm. Haskell, seconded by Comm. Brown, voted and carried.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye
Comm. Wickman	Aye	Comm. Wilcox	Aye

**RESOLVED THAT THE AREA VARIANCE - 128 TOMPKINS ST. – (SEALES)(R1) – AREA VARIANCE – TO ALLOW FOR LOT COVERAGE GREATER THAN PERMITTED 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. Neighboring property is a paved parking lot for a commercial operation.
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. No, tried to buy more property, but another option is to have only six (6) parking spots.
3. Whether the requested area variance is substantial. No, but it is a 15% lot coverage increase
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. Wilcox, seconded by Comm. Decker, voted and carried.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye
Comm. Wickman	Aye	Comm. Wilcox	Aye

**RESOLVED THAT THE AREA VARIANCE - 128 TOMPKINS ST. – (SEALES)(R1) – AREA VARIANCE – TO ALLOW FOR LOT COVERAGE GREATER THAN PERMITTED BE APPROVED.**

Item No. 3 – Area Variance – 9 Owego St. – (Seales)(R2) – Area Variance – To Allow for Lot Coverage Greater than Permitted and to Allow for 8 ½ Foot Wide Parking Spaces.

Gary Seales noted that this was a situation with similar circumstances. The property had little parking. William Brown’s tenants park in the deeded right of way and this is not a problem. Mr. Seales wants a reduced width of his parking spaces to be eight and a half (8 ½) feet wide. Vice Chair Hickey noted that there were two (2) dwelling units at 9 Owego and Mr. Seales owned a single dwelling unit at 11 Owego, so there are three (3) altogether. Mr. Seales noted that he had an eleven thousand nine hundred (11,900) square foot yard, but it is non-conforming because it’s sixty-eight (68) feet wide instead or the required seventy-five feet wide. He noted that the lot is a large one. Mr. Brown

has no problems with this request, he just asks Mr. Seales to clean up the greenspace. This will allow one (1) more space behind 9 Owego.

No one else was present to speak, therefore the public hearing was closed.

On the motion of Comm. Wilcox, seconded by Comm. Haskell, voted and carried.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye
Comm. Wickman	Aye	Comm. Wilcox	Aye

**AREA VARIANCE – 9 OWEGO ST. – (SEALES)(R2) – AREA VARIANCE – TO ALLOW FOR LOT COVERAGE GREATER THAN PERMITTED AND TO ALLOW FOR EIGHT AND A HALF (8 ½) FOOT WIDE PARKING SPACES 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. Nothing demonstrated
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. No
3. Whether the requested area variance is substantial. No but it is an increase of 15% in lot coverage
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

The Zoning Board and Zoning Officer Weber noted concerns regarding the number of dwelling units will remain the same.

On the motion of Comm. Brown, seconded by Comm. Wilcox, voted and approved the area variance to create a parking space of fifty-two (52) feet by thirty-one (31) feet with the stipulation that there will be a continuation of only two (2) units in the front house at 9 Owego Street and the rear house will remain a single family dwelling with parking spaces of eight and a half (8 ½) feet wide by eighteen (18) feet long.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye

Comm. Wickman

Aye

Comm. Wilcox

Aye

**RESOLVED THAT THE AREA VARIANCE – 9 OWEGO ST. – (SEALES)(R2) – AREA VARIANCE – TO ALLOW FOR LOT COVERAGE GREATER THAN PERMITTED AND TO ALLOW FOR EIGHT AND A HALF (8 ½) FOOT WIDE PARKING SPACES TO CREATE A PARKING SPACE OF FIFTY-TWO (52) FEET BY THIRTY-ONE (31) FEET WITH THE STIPULATION THAT THERE WILL BE A CONTINUATION OF ONLY TWO (2) UNITS IN THE FRONT HOUSE AT 9 OWEGO STREET AND THE REAR HOUSE WILL REMAIN A SINGLE FAMILY DWELLING WITH PARKING SPACES OF EIGHT AND A HALF (8 ½) FEET WIDE BY EIGHTEEN (18) FEET LONG.**

Item No. 4 – Area Variance – 8 Kinney La. – (Simpson)(R1) – Area Variance – To Allow Placement of a Mobile Home, Garage and Driveway

Gary and Sherylyn Pallassino were present Sherylyn was representing her parents, Rev. and Mrs. Simpson. Mrs. Simpson is ill and Mr. Simpson is her caretaker and they need to move to Cortland from Norwich to be closer to their daughter for assistance in caring for Mrs. Simpson. They want to install a three (3) bedroom modular home that is handicapped accessible due to Mrs. Simpson’s illness. Mrs. Pallassino noted that there is no neighbor on one side. She stated that it is a double wide modular home that will be permanently installed on a slab. Zoning Officer Weber noted that there is no City law prohibiting manufactured homes. Comm. Brown asked if a block foundation was needed. Zoning Officer Weber noted that none was required as long as the modular was installed per manufacturer’s requirements. Mrs. Pallassino noted that the house looks like a ranch house and it will look just like the house next door. She noted that it is important to her parents to have a neat yard and home and be in a neat neighborhood. Comm. Wilcox noted that all that is required is a one (1) foot variance in the side yard on the non-driveway side. Some ZBA Commissioners were surprised that mobile homes were allowed in the City, but Comm. Decker noted that there were already some manufactured home installations on Fox Hollow.

No one else was present to speak, therefore the public hearing was closed.

On a motion of Comm. Wickman, seconded by Comm. Wilcox, voted and carried.

Vice Chair Hickey

Aye

Comm. Brown

Aye

Comm. Decker

Aye

Comm. Haskell

Aye

Comm. Wickman

Aye

Comm. Wilcox

Aye

**RESOLVED TO PLACE THE AREA VARIANCE - 8 KINNEY LA. – (SIMPSON)(R1) – AREA VARIANCE – TO ALLOW PLACEMENT OF A MOBILE HOME, GARAGE AND DRIVEWAY 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. Smaller house or a bigger lot or put the house sideways on the lot, but it wouldn't match the neighboring house
3. Whether the requested area variance is substantial. No, only a foot
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 a motion of Comm. Haskell, seconded by Comm. Decker voted and approved to allow placement of a manufactured home, garage and driveway within six (6) feet of the east side property line at 8 Kinney Lane.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye
Comm. Wickman	Aye	Comm. Wilcox	Aye

**RESOLVED THAT THE AREA VARIANCE - 8 KINNEY LA. – (SIMPSON)(R1) – AREA VARIANCE – TO ALLOW PLACEMENT OF A MOBILE HOME, GARAGE AND DRIVEWAY BE APPROVED FOR PLACEMENT WITHIN SIX (6) FEET OF THE EAST SIDE PROPERTY LINE.**

Item No. 5 – 53 Lincoln Ave. – (Doerler)(R2) – Two Unit Conversion from a Single Family – Tabled

New Business

Zoning Officer Weber approached the Zoning Board for permission to do a small change in the application referral process to lessen confusion and all agreed.

The Zoning Board also discussed their concerns regarding variance applications being received requesting that smaller parking spaces than what is in the City Code be allowed, noting that they were being received from landlords of student housing.

Item No. 6 – Minutes – June 14, 2010

On the motion of Comm. Wilcox, seconded by Comm. Haskell, voted and carried as amended.

Vice Chair Hickey	Aye	Comm. Brown	Aye
Comm. Decker	Aye	Comm. Haskell	Aye
Comm. Wickman	Aye	Comm. Wilcox	Aye

**RESOLVED THAT THE MINUTES OF THE JUNE 14, 2010 ZONING BOARD OF APPEALS MEETING BE APPROVED AS AMENDED.**

Adjournment

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

**I, MARY KAY HICKEY, VICE CHAIRPERSON OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NEW YORK, DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETING OF THE ZONING BOARD OF APPEALS OF THE CITY OF CORTLAND, HELD ON THE 12<sup>TH</sup> DAY OF JULY 2010.**

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**MARY KAY HICKEY, VICE CHAIRPERSON**