

Zoning Board of Appeals
City of Cortland
August 9, 2010

A regular meeting of the Zoning Board of Appeals was held on Monday, August 9, 2010, at 5:00 p.m. in the Common Council Chambers at City Hall.

Present: Chair Dailey, Comm. Hickey, Decker and Haskell

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

Item No. 1 – 53 Lincoln Ave. – (Doerler)(R2) – Area Variance – Two Unit Conversion from a Single Family

Mr. Doerler was present. He explained that he would like to do a two family conversion as the house is very large and it has six (6) bedrooms. He would like to put in a three (3) bedroom unit down and a two (2) bedroom unit up. He would be decreasing the volume of the house by doing that. He noted that he also has the minimum required for parking and that he has not changed the greenspace since purchasing the property. He noted that he would do anything required with the landscaping, such as putting in a berm with evergreens. He noted that when he purchased the property that it had a CO for a three (3) family dwelling, but the bank said it wasn't worth the assessment for a three (3) family dwelling and asked to have it converted back to a single family house.

He stated that the Planning Commission denied his request because a neighbor was denied. He noted that he has had no complaints from neighbors and nothing filed with the police or the fire departments. He visits his properties a minimum of once a month and maintains them. He noted that he is an out of town landlord, but he controls his properties. He again noted that he would be decreasing the volume because he'll be losing a bedroom, which will be converted to a kitchen. He noted that it helps him to monitor things better with smaller groups and also stated that a two (2) family house is not a bad thing for a neighborhood. He noted that the house is not worth what it's assessed so it will be revalued if it stays a single family home. He stated that the area is an R2 district and this conversion is allowed in that district. He stated that he has been rehabbing both of his houses since 2005 by putting in new windows and doors, kitchen cabinets, etc. This is an investment for him.

Comm. Haskell noted that there is a common belief that there's a glut of student housing on Lincoln Avenue and the long range policy is saying no more conversions from single family to multi-family. Mr. Doerler noted that this house was a three (3) family and he is now only asking for two (2).

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

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

Chair Dailey	Aye	Comm. Decker	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

RESOLVED THAT THE AREA VARIANCE – 53 LINCOLN AVE. – (DOERLER)(R2) – AREA VARIANCE – TWO UNIT CONVERSION FROM A SINGLE FAMILY 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. Density increase
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. Remain a single family
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. Yes
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

A motion was made by Comm. Hickey, seconded by Comm. Haskell, voted and did not pass, to deny the area variance for 53 Lincoln Ave. – (Doerler)(R2) – Area Variance – Two unit conversion from a single family application be denied for the area variance for lot coverage primarily for the reason that the increase in the number of multiple family homes in that area is not consistent with the Master Plan.

Chair Dailey	Aye	Comm. Decker	Nay
Comm. Haskell	Aye	Comm. Hickey	Aye

THE RESOLUTION FOR THE AREA VARIANCE – 53 LINCOLN AVE. – (DOERLER)(R2) – AREA VARIANCE – TWO UNIT CONVERSION FROM A SINGLE FAMILY BE DENIED, DID NOT PASS.

Comm. Decker made a motion to approve this application, but the motion failed to receive a second.

THE AREA VARIANCE – 53 LINCOLN AVE. – (DOERLER)(R2) – AREA VARIANCE – TWO UNIT CONVERSION FROM A SINGLE FAMILY WAS NOT APPROVED.

Item No. 2 – 28 Pine St. – (Crapo)(R2) – Use Variance – Operating Business from a Residence

Mr. Crapo was present. He stated that he rents 28 Pine Street and that it comes with a lot at 30 Pine Street. He believes it has a variance to Kenny Cavanaugh to run a cab service out of there. Ken Cavanaugh owned Pine Street Construction and had a variance to run that business out of there.

Mary Guido lives at 18 Pine Street and she noticed the taxi service running out of that house two (2) years ago. She contacted the City Code Office and Mr. Crapo told the Code Office that he was operating out of Homer, not Pine Street. She stated that she has seen as many as one hundred (100) taxis going by her house every day until about two (2) weeks ago.

Amanda Funk noted that this was beyond the noise and traffic. She stated that this was a self created hardship, that this area is not zoned commercial, but is an R2. She stated that he wants both 28 and 30 Pine Street zoned commercial in an R2 and if this variance is allowed it'll creep into the residential neighborhood. She stated noted that the taxis come down the street at dangerous speeds, especially since there are always children playing on the street. She noted that there's quite a traffic jam at Pine and Cannone. Parking has become an issue between all of the taxis and the driver's personal vehicles. She also noted that Mr. Crapo does not meet the criteria for a use variance since he does not own the property.

Elaina Hingher stated that it is hard for her to come out of her driveway. She stated that the post office will not deliver down to her house and she has to walk up to her mailbox. She stated that she can barely get to her mailbox because of the mud caused by vehicles running over the grass in that area and trash. She noted that there are too many vehicles because of this business.

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

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

Chair Dailey	Aye	Comm. Decker	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

RESOLVED THAT THE USE VARIANCE - 28 PINE ST. – (CRAPO)(R2) – USE VARIANCE – OPERATING BUSINESS FROM A RESIDENCE BE PLACED ON THE TABLE FOR DELIBERATION.

A SEQR review was done.

A motion was made by Comm. Hickey, seconded by Comm. Decker, voted and approved to issue a finding of potentially significant adverse environmental impacts due in the area of traffic patterns, noise level, drainage problems, community and neighborhood character and the community's existing plan.

Chair Dailey	Aye	Comm. Decker	Aye
Comm. Haskell	Aye	Comm. Hickey	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. The applicant is not the owner of the property & the owner's return is rental & a reasonable return from a business isn't linked to a residence.
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). Not a hardship related to the property.
3. The requested use variance, if granted, will not alter the essential character of the neighborhood. Has altered the character of the neighborhood, i.e., half a dozen cars parked in that area and many people gathered on the porch.
4. The alleged hardship has not been self-created. No, it has been self-created.

A motion was made by Comm. Decker, seconded by Comm. Haskell, voted and carried to deny the use variance for 28 Pine Street to operate a business from a residence.

Chair Dailey	Aye	Comm. Decker	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

RESOLVED THAT THE USE VARIANCE - 28 PINE ST. – (CRAPO)(R2) – USE VARIANCE – OPERATING BUSINESS FROM A RESIDENCE BE DENIED.

Item No. 3 – 112 Groton Ave./5 Woodruff – (Reeners)(GB/R2) – Area Variance – Additional Parking Spaces & Lot Coverage

Mr. Reeners was present to explain his request. He purchased three (3) adjoining parcels on Groton Avenue and one (1) at 5 Woodruff. The three (3) Groton Avenue parcels were zoned General Business, but the 5 Woodruff Street

parcel was zoned R2. He has joined all of the parcels in to 112 Groton Avenue, but the portion of that parcel which once was 5 Woodruff Street is still zoned R2. He noted that ancillary parking is allowed in an R2 district. He explained that he will be demolishing the building at 5 Woodruff. He had planned on using it for student housing in the rear unit and a caretaker. He explained that he had put a new roof on the building, put in new windows, doors and a porch to make it look better. Once they went inside a year later and gutted the building for renovation, he discovered that several load bearing walls had been removed. Once he saw that, he has decided to remove the house. He explained that he won't be adding more students to this location, but would like to get closer to one hundred (100) percent parking for the students who are already there. This additional parking will give him a total of twenty-nine (29) parking spaces for thirty (30) tenants. He will lose two (2) parking spaces in one (1) area, but will be gaining a total of five (5) spaces.

He noted that the proposed lot is sixty-six (66) feet by sixty-six (66) foot lot, so it was non-conforming to begin with and falls under stricter lot coverage percentages than a conforming lot. He believes that only forty-five (45) percent of this lot can have impervious surface. He has made the lot as small as possible, added another exit and traffic will be only one way, but this proposal covers three hundred (300) more square feet than can.

Zoning Officer Weber noted that the area variance should be taken care of first and then the special use permit request. The special use permit is dependent upon the area variance being granted.

Mr. Reeners noted that he also has made the proposed lot as small as he could and plans a larger landscaped area than what's there already. He also noted that he is also asking for smaller parking spaces.

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

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

Chair Dailey	Aye	Comm. Decker	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

RESOLVED THAT THE AREA VARIANCE – 112 GROTON AVE./5 WOODRUFF ST. – (REENERS)(GB/R2) – AREA VARIANCE – ADDITIONAL PARKING SPACES & LOT COVERAGE 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. None 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. Rebuild the house
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. None demonstrated
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.

Chair Dailey	Aye	Comm. Decker	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

RESOLVED THAT THE AREA VARIANCE – 112 GROTON AVE./5 WOODRUFF – (REENERS)(GB/R2) – AREA VARIANCE – ADDITIONAL PARKING SPACES & LOT COVERAGE BE APPROVED TO ALLOW FOR FIVE (5) EIGHT AND A HALF (8 ½) FOOT BY EIGHTEEN (18) FOOT PARKING SPACES AND INCREASE THE LOT COVERAGE TO FIFTY-FOUR (54) PERCENT WITH THE STIPULATIONS THAT THE SHRUBS IN THE AREAS REQUIRED BY THE CODE BE PLANTED CONSISTENT WITH THE RECOMMENDATIONS FROM THE SITE PLAN REVIEW AND THAT THE ADDITIONAL PARKING SPACES DO NOT CONSTITUTE A REASON TO INCREASE THE NUMBER OF DWELLING UNITS OR TENANTS.

Item No. 4 – 112 Groton Ave./5 Woodruff – (Reeners)(GB/R2) – Special Use Permit – Ancillary Parking

Mr. Reeners noted that this was a two (2) phase project. They would be taking the house down, infilling the foundation and then it will sit over the winter and into the spring. He noted that they will not be paving this area and finishing the landscaping until next summer. The project will be done within a year.

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.

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

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

Chair Dailey	Aye	Comm. Decker	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

RESOLVED THAT THE AREA VARIANCE – 72 MAPLE AVE. – (DAVIS)(R2) – AREA VARIANCE – FRONT YARD SETBACK FRONT STAIRS REPLACEMENT BE PLACED ON THE TABLE FOR DELIBERATION.

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. No
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. None demonstrated.
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.

Chair Dailey	Aye	Comm. Decker	Aye
Comm. Haskell	Aye	Comm. Hickey	Aye

RESOLVED THAT THE AREA VARIANCE – 72 MAPLE AVE. – (DAVIS)(R2) – AREA VARIANCE – FRONT YARD SETBACK FRONT STAIRS REPLACEMENT BE APPROVED TO ALLOW FOR REPLACEMENT OF THE FRONT STAIRS TO ALLOW THE NEW STAIRS TO EXTEND TWENTY-TWO (22) INCHES BEYOND THE EXISTING STAIRS IN TO THE REQUIRED FRONT YARD.

New Business

Chair Dailey noted that he will be at the September meeting.

It was decided to wait until the September meeting to set the October meeting date so that more members of the Board could be present.

The July 12, 2010 minutes could not be voted on because not enough members of the Board who were at the July meeting were present at this evenings' meeting.

Adjournment

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

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 MEETING OF THE ZONING BOARD OF APPEALS OF THE CITY OF CORTLAND, HELD ON THE 9TH DAY OF AUGUST 2010.

BRIAN DAILEY, CHAIRPERSON