

Zoning Board of Appeals
City of Cortland
June 13, 2011

A regular meeting of the Zoning Board of Appeals was held on Monday, June 13, 2011, at 5:00 p.m. in the Mayor's Conference Room at City Hall.

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

Staff: Mayor Feiszli, Corporation Counsel Perfetti, Zoning Officer Bruce Weber, Asst. Fire Chief William Knickerbocker and Cheryl Massmann, Deputy City Clerk

Item No. 1 – 54 Church St. – (Milligan)(R1) – Area Variance – Fence

Jeremy Milligan was present. He described that he has cleaned out an area of his backyard and put up a five (5) foot high fence. He noted that there is an area that is between the residential area and the commercial area that has no buffer and his property line is adjacent to 39 Pt. Watson Street which has a rental unit and he would like to erect a forty-eight (48) foot length of eight (8) foot high fence back there to keep neighbors from trespassing. He is concerned for his family's safety and he would also like to block the view of the neighbor's trash dumpster and their garbage.

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

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

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

RESOLVED THAT THE AREA VARIANCE – 54 CHURCH ST. – AREA VARIANCE – (MILLIGAN)(R1) – 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. 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. No, it's an improvement

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. Not really, yes and no.

On the motion of Comm. McGinley, seconded by Comm. Brown, voted and approved the area variance for a forty-eight (48) foot section of fence to be at an eight (8) foot height.

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

RESOLVED THAT THE AREA VARIANCE – 54 CHURCH ST. – AREA VARIANCE – (MILLIGAN)(R1) – AREA VARIANCE FENCE BE APPROVED TO ALLOW FOR A FORTY-EIGHT (48) FOOT LONG SECTION OF FENCING TO BE AT AN EIGHT (8) FOOT HEIGHT.

Item No. 2 – 74 Pendleton St. – (Buchella)(GB) – Area Variance – Side Yard Setback - Shed

Jason Strauf and Ms. Buchella were present. Mr. Strauf stated that they recently did some work and had erected a fence in the backyard and they would like to install a prefab metal shed they purchased from Sears in the back corner of that fenced in area. The shed will be eighteen (18) inches from the fence and directly behind the garage. The fence is directly on the property line. They don't have much of a backyard.

Comm. Wickman noted that the proposed location of the shed would be pretty invisible. Comm. Brown noted that because of the fence, the shed roof would be the only thing that would be seen. Chair Hickey noted that this property is between commercial properties. Comm. Brown noted that drainage from the shed must fall on their property and inside his fence. Mr. Strauf stated that the run off from the shed roof does fall on his property. He also noted that he has contacted the neighbors regarding the shed and they supported the idea.

Zoning Officer Weber noted that the shed will be about three (3) feet from the property line. Comm. Brown noted that the variance requested is then less than a foot.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Dailey	Aye	Comm. McGinley	Aye

Comm. Wickman

Aye

RESOLVED THAT THE AREA VARIANCE – 74 PENDLETON ST. – (BUHELLA)(GB) – AREA VARIANCE – SIDE YARD SETBACK 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. No
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. Wickman, seconded by Comm. Dailey, voted and approved the side yard setback to build a shed no closer than two and a half (2 ½) feet to the property line.

Chair Hickey

Aye

Comm. Brown

Aye

Comm. Dailey

Aye

Comm. McGinley

Aye

Comm. Wickman

Aye

RESOLVED THAT THE AREA VARIANCE – 74 PENDLETON ST. – (BUHELLA)(GB) – AREA VARIANCE – SIDE YARD SETBACK BE APPROVED TO BUILD A SHED NO CLOSER THAN TWO AND A HALF (2 ½) FEET TO THE PROPERTY LINE.

Item No. 3 – 21 Stewart Pl. – (Loiacono)(R2) – Area Variance – Required 4 ft. Vegetative Strip

Francis Loiacono was present. He explained that his driveway is existing and he is planning to repave it. He would like to widen the driveway to nine (9) feet to better accommodate vehicular traffic so that he doesn't dig a rut in the dirt next to the driveway. He would like to increase the driveway width by an additional foot.

Comm. Wickman asked if he planned to resurface the entire length of the driveway.

Mr. Loiacono indicated that was the plan. He further explained that he only would like permission to widen the driveway only for a length of twenty-four point two feet from the front of the house to the road. He noted that his car made a dirt track along the side of the current driveway. Chair Hickey asked if he planned to widen the existing curb cut. Mr. Loiacono indicated that it would remain at the current width. Chair Hickey noted that the driveway between the two (2) houses was already out of compliance.

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

On the motion of Comm. Dailey, seconded by Comm. Brown, voted and approved.

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

RESOLVED THAT THE AREA VARIANCE – 21 STEWART PL. – (LOIACONO)(R2) – AREA VARIANCE – REQUIRED 4 FT. VEGETATIVE STRIP 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 seen.
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. 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. Brown, seconded by Comm. Wickman, voted and approved for a length of twenty-four point two (24.2) feet from the sidewalk to the front of the house to allow a nine (9) foot driveway width.

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

RESOLVED THAT THE AREA VARIANCE – 21 STEWART PL. – (LOIACONO)(R2) – AREA VARIANCE – REQUIRED 4 FT. VEGETATIVE STRIP BE APPROVED FOR A LENGTH OF TWENTY-FOUR POINT TWO (24.2) FEET FROM THE SIDEWALK TO THE FRONT OF THE HOUSE TO ALLOW FOR A NINE (9) FOOT DRIVEWAY WIDTH.

Item No. 4 – 162 Tompkins St. – (ExpressMart)(SD) – Revision to Approved Special Use Permit & Area Variance – Fence (Refer to City Planning Commission for Review & Recommendation)

Chair Hickey noted that this was not a public hearing and there was no one was present to represent the application.

On the motion of Comm. Dailey, seconded by Comm. Wickman, voted and approved.

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

RESOLVED THAT THE REVISION TO THE APPROVED SPECIAL USE PERMIT & AREA VARIANCE – 162 TOMPKINS ST. – (EXPRESSMART)(SD) BE REFERRED TO CITY PLANNING FOR REVIEW AND RECOMMENDATION.

Item No. 5 – 21 Tompkins St. – (Cortland Habitats)(R4) – Special Use Permit & Area Variance – Fraternity/Sorority – (Refer to City Planning Commission for Review & Recommendation)

Chair Hickey noted that this was not a public hearing. Atty. Chris Fischer was present to represent the application.

On the motion of Comm. Dailey, seconded by Comm. Wickman, voted and approved.

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

RESOLVED THAT THE SPECIAL USE PERMIT & AREA VARIANCE – 21 TOMPKINS ST. – (CORTLAND HABITATS)(R4) – BE REFERRED TO CITY PLANNING FOR REVIEW AND RECOMMENDATION.

Item No. 6 – Minutes – May 9, 2011

Chair Hickey noted two (2) changes.

On the motion of Comm. Wickman, seconded by Comm. McGinley, voted and approved as amended.

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

RESOLVED THAT THE MINUTES OF MAY 9, 2011 BE APPROVED AS AMENDED.

New Business

Chair Hickey stated that correspondence has been received requesting a special meeting to review an application for an area variance for 5 Monroe Heights. Mr. Calabro and his attorney had met her at the door this evening in regard to this special meeting request. She explained that the owner had been issued a stop work order after receiving a valid building permit and his concern is that he won't be able to rent apartments for the fall semester. The Zoning Board also wants Zoning Officer Weber to contact Corporation Counsel Perfetti and ask him to attend the special meeting. It was discussed as to which Commissioners will be able to attend a meeting next week. Two dates were decided upon. First choice is Thursday, June 23, 2011 and the second choice is Wednesday, June 22, 2011. Deputy City Clerk Massmann will work on organizing that meeting tomorrow morning.

Adjournment

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

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

I, MARY KAY HICKEY, 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 13TH DAY OF JUNE 2011.

MARY KAY HICKEY, CHAIRPERSON