

Zoning Board of Appeals
City of Cortland
August 23, 2011

A special meeting of the Zoning Board of Appeals was held on Tuesday, August 23, 2011, at 5:00 p.m. in the Mayor's Conference Room at City Hall.

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

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

Item No. 1 – 111-113 Pendleton St. – (Truman)(GI) – Interpretation of Zoning Officer

Atty. Patrick Snyder was present representing Jerry Truman and Fritz Brown, the owner of the property. He explained that Mr. Brown has rented the property to Jerry Truman. Mr. Truman is storing a few trailers and some equipment behind the building at 111 Pendleton Street. He noted that if they need to get site plan approval and pave the rear area, according to Zoning Officer Weber's interpretation, that is more than Mr. Truman can afford to do. He noted that the lease on the property will expire in a few months and there is no way Mr. Truman will be able to pave that area. He noted that if the determination is that site plan approval is required and the area must be paved, Mr. Truman will move his equipment and vehicles up to the paved or hard area along the side and front of the building which according to Mr. Weber's interpretation is fine and will not need site plan approval. Mr. Snyder asked the ZBA members to take a look at Section 300-132C of the City Code which describes actions that require site plan approval. He read that section. He noted that there is no vehicular movement or parking within the sense of this zoning law. He stated that in his experience when site plan approval is required is when physical alterations are done to a property, but not typically required when someone is not moving equipment or vehicles and no physical alterations are being done.

Comm. Brown asked what he meant by trailers. Atty. Snyder stated that there were three (3) or four (4) tractor trailers that are used for equipment storage and they might leave once a month or so.

Chair Hickey asked what that came under with regards to the use of a property.

Zoning Officer Weber read from Section 300-77A of the Code regarding impervious surfaces. He further explained that the applicant is parking in an area not previously used that area would need to be an impervious surface. He read from Section 300-132B noting that when a building or structure including an improved impervious parking surface is altered.....so the addition of parking is considered a structure that is being altered and that is where the requirement for site plan review comes in. He noted that in regards to Mr. Snyder comments about the vehicles being moved to a different

location on the property, we would need to look at where that location is and whether that area was previously used for parking to insure compliance with Code.

Atty. Snyder noted that Zoning Officer Weber had interpreted that the area along the side of the building that is shown to be used as a driveway is grandfathered. Zoning Office Weber wanted to make it clear that a plan would still have to be presented as to where things were going to be parked and that it's not just a general area. It will need to be in the areas where vehicles were previously stored. Chair Hickey asked where vehicles had previously been stored. Zoning Officer Weber indicated that some had been stored in the driveway and there may have been some in the front of the building as well. He will have to look at the 2006 aerial photos. Atty. Snyder indicated that they should consider the long standing history of that property going back to industrial use.

Zoning Officer Weber explained to the ZBA that an interpretation is not to a singular property. An interpretation is enforced across the board, so the question that is being asked is does the parking area for the trailers need to be concrete or asphalt as required by Code Section 300-77 and if Mr. Snyder is saying if that area was paved it would not require site plan review, he wanted them to refer to Code Section 300-132B. Atty. Snyder denied that he was saying that, noting that if it has to be paved there was no doubt it would have to go for site plan review.

Comm. Haskell noted that Mr. Truman's lease was about to expire. Atty. Snyder stated that it expired in November and he'll not renew it.

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.

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT THE INTERPRETATION OF ZONING OFFICER DECISION – 111-113 PENDLETON ST. – (TRUMAN/SNYDER)(GI) – INTERPRETRATON OF ZONING OFFICER DECISION BE PLACED ON THE TABLE FOR DELIBERATION.

Comm. Wickman noted that site plan review will require referral to Planning Commission. Zoning Officer Weber stated that what is occurring is that if the ZBA interpretation is that the area for the parking of the trailers would need to be concrete or asphalt that would then kick in the requirement for site plan review by the Planning Commission and the area in the rear is not grandfathered in. Requirement is that if there's parking, it must be paved. He noted that this interpretation covers everything and if it's determined that the parking of trailers didn't require an impervious surface that would affect all industrial facilities that have parking for trailers. He noted that this is not a variance request, it's an interpretation.

Atty. Snyder noted that the ZBA could determine that if this fell under Section 300-132C, it would not require site plan review.

Zoning Officer Weber noted that the question was does the area need to be concrete or asphalt and that's what the interpretation is.

Chair Hickey asked Zoning Officer if the ZBA agreed with the interpretation did the applicant have the ability to come back and apply for an area variance. Zoning Officer Weber indicated yes. Atty. Snyder indicated that the applicant planned to come back and ask for an area variance if that was the next step.

On the motion of Comm. Dailey, seconded by Comm. Haskell, voted and carried, to uphold the interpretation of the City Code made by the Zoning Officer.

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT THE INTERPRETATION OF ZONING OFFICER DECISION – 111-113 PENDLETON ST. – (TRUMAN/SNYDER)(GI) – INTERPRETRATON OF ZONING OFFICER DECISION BE UPHELD.

Item No. 2 – 4 Pine St. – (Quackenbush)(R2) – Area Variance – Side yard Setback – Porch

Bonnie Quackenbush has two (2) parts to her project. She would like to build a small balcony on the second floor so that she might be able to paint the eaves of her house as there is no room to lean a ladder up against her house. The second part of the project is to put roof over her Bilco doors so that the snow does fall on it and it's unable to be opened in the winter. She needs a variance because this projects in the five (5) foot area.

Comm. Wickman asked if any of her neighbors were concerned about the project. Ms. Quackenbush didn't contact the neighbor. She noted that the neighbor's house is far forward on his property and her house is far back on her property and neither project will affect the neighbor. She noted that the balcony is a second story one and will be quite small and decorative and she can reach her eaves from there.

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.

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT THE AREA VARIANCE - 4 PINE ST. – (QUACKENBUSH)(R2) – AREA VARIANCE – SIDE YARD SETBACK – PORCH 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. None demonstrated
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 by installing Bilco Door & fence

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

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT THE AREA VARIANCE - 4 PINE ST. – (QUACKENBUSH)(R2) – AREA VARIANCE – SIDE YARD SETBACK – PORCH BE APPROVED REGARDING THE ROOF AND THE ONE (1) FOOT BALCONY ON THE WEST SIDE.

Item No. 3 – 5 Chestnut St. – (Sanderson)(R1) – Area Variance – Lot Coverage - Deck

James Sanderson was present. He stated that he plans to put a deck out back and to raise the door to deck height. He explained that there was an ugly foundation façade and the grass would not grow in that area and they decided to put up a deck. He has spoken with all of his neighbors and they have all expressed support for this project.

Comm. Brown noted that this will be taking up more yard space in the back and that it looked to be about one hundred eighty-two (182) square feet of lot coverage.

Zoning Officer Weber explained that that this was just a lot coverage issue as this was already a non-conforming lot.

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.

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT THE AREA VARIANCE – 5 CHESTNUT ST. – (SANDERSON)(R1) – AREA VARIANCE – 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. It's an improvement
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, already out of compliance
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, but already out of compliance

On the motion of Comm. Wickman, seconded by Comm. Dailey, voted and carried to approve the construction of a rear deck as proposed.

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT THE AREA VARIANCE – 5 CHESTNUT ST. – (SANDERSON)(R1) – AREA VARIANCE – LOT COVERAGE – BE APPROVED AS PROPOSED.

Item No. 4 – 18 Pendleton St. – (Barbieri)(R4) – Area Variance – Handicap Ramp

Al Barbieri was present. He explained that he would like to set up a handicap ramp for one of his tenants. He noted that the tenant is currently capable of walking, but also

needs a ramp. She has lived there for two (2) years. He noted that there has been a bit of a change in the plans, he will now go parallel with the house.

Comm. Wickman asked if this ramp would be constructed so that it could be easily removed when no longer needed. Mr. Barbieri stated that it would. He noted that no holes would be dug in the ground and that the ramp support posts sit on the ground. This is being done through Access to Independence and he is responsible to do this. He stated that the ramp was being built by 3C Construction. He noted that because Access to Independence was paying for this, he was obligated to advertise for a handicapped tenant for this unit for the next seven (7) years or he would have to repay them for the construction cost.

Chair Hickey noted that the total extension of the ramp from the front of the house looked to be about thirteen and a half (13 ½) feet.

Mr. Barbieri stated that he often gets calls from individuals looking for accessible apartments.

Comm. Brown asked if this led to a shared entrance. Mr. Barbieri noted that this was not a shared entrance. It was for that specific tenant's apartment.

Comm. Wickman noted that this ramp would be noticeable. Chair Hickey asked if he had looked to put the ramp in the back of the house. Mr. Barbieri stated that he had, but the door access for the rear door and the porch were quite small and wouldn't accommodate a wheelchair.

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.

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT THE AREA VARIANCE – 18 PENDLETON ST. – (BARBIERI)(R4) – AREA VARIANCE – HANDICAP RAMP 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 evidence shown

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, backyard doesn't work.

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 determined

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. Brown, voted and approved.

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT THE AREA VARIANCE – 18 PENDLETON ST. – (BARBIERI)(R4) – AREA VARIANCE – HANDICAP RAMP BE APPROVED FOR CONSTRUCTION OF A REMOVABLE HANDICAP RAMP FOLLOWING THE REQUIRMENTS OF CITY CODE SECTION 300-147B.

Minutes – July 11, 2011

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

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | Aye |
| Comm. Wickman | Aye | | |

RESOLVED THAT JULY 11, 2011 MINUTES BE APPROVED.

Adjournment

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

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| Chair Hickey | Aye | Comm. Brown | Aye |
| Comm. Dailey | Aye | Comm. Haskell | 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 23rd DAY OF AUGUST
2011.**

MARY KAY HICKEY, CHAIRPERSON