

Zoning Board of Appeals
City of Cortland
December 12, 2011

A regular meeting of the Zoning Board of Appeals was held on Monday, December 12, 2011, at 5:00 p.m. in the Mayor's Conference Room at City Hall.

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

Staff: Mayor Feiszli, Zoning Officer Bruce Weber, Capt. William Knickerbocker and Cheryl Massmann, Deputy City Clerk

Chair Hickey announced that 19 W. Court Street will not be heard this evening at the applicant's request and will be on the January 9, 2012 agenda.

Item No. 1 –5 Lauder St. – (Bible Baptist Church)(R1) – Area Variance and Special Use Permit – School Expansion and Playground (Public Hearing)

Youth Pastor Nate Cobb and Atty. Casullo were present. They were there on behalf of the Bible Baptist Church and the Cortland Christian Academy. He noted that the Cortland Christian Academy would like to use the building on Lauder Street as a pre-school and in the backyard install a playground for young children to be used on school days and church hours. He noted that parking would be at the West Road parking lot. He noted that there may be some lot coverage issues necessitating the area variance.

Chair Hickey noted that they are no longer looking for a Use Permit, which simplifies this matter. Pastor Cobb stated that the church will be combining the church property and 5 Lauder Street together and the boundary line is no longer an issue. Atty. Casullo noted that a Use Variance is not required for church use. Comm. Wickman noted that that was a neater arrangement.

Chair Hickey explained that at a training seminar it was learned that a church is considered a good use in a community and that it puts it in a different light than other uses.

Comm. Wickman asked if the neighbors had been contacted and were any problems noted. Pastor Cobb noted that the church is the neighbor to 5 Lauder Street and that no other neighbors had indicated any issues.

Chair Hickey noted that the Area Variance issue was one of lot coverage. Zoning Officer Weber indicated that was correct. Atty. Casullo stated that all required permits would be obtained after the plans were thoroughly reviewed by the Code Office.

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

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

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

RESOLVED THAT THE AREA VARIANCE AND SPECIAL USE PERMIT - 5 LAUDER ST. – (BIBLE BAPTIST CHURCH)(R1) – AREA VARIANCE AND SPECIAL USE PERMIT – SCHOOL EXPANSION AND PLAYGROUND BE PLACED ON THE TABLE FOR DELIBERATION.

The criteria for a Special Use Permit were reviewed.

1. That the lot area is sufficient, appropriate and adequate for the use and the reasonable anticipated operation and expansion thereof. Yes, there will only be 20 to 30 children using it
2. That the proposed use will not prevent the orderly and reasonable use of adjacent properties. A ten (10) foot buffer will be observed
3. That the site is particularly suitable for the location of the proposed use in the community. Yes, adjacent to the church
4. That the characteristics of the proposed use are not such that it's proposed location would be unsuitably near to a church, school, public park or other similar uses.
Irrelevant
5. That the access facilities are adequate for the estimated traffic from public streets or highways, so as to assure the public safety and to avoid traffic congestion, and further that the vehicular entrances and exits shall be clearly visible from the street and not be within fifty (50) feet. Parking is off 281

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

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

RESOLVED THAT THE SPECIAL USE PERMIT - 5 LAUDER ST. – (BIBLE BAPTIST CHURCH)(R1) – SPECIAL USE PERMIT – SCHOOL EXPANSION AND PLAYGROUND BE APPROVED.

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. 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. Place, seconded by Comm. McGinley, voted and carried.

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

RESOLVED THAT THE AREA VARIANCE - 5 LAUDER ST. – (BIBLE BAPTIST CHURCH)(R1) – AREA VARIANCE – SCHOOL EXPANSION AND PLAYGROUND BE APPROVED CONTINGENT UPON THE JOINING OF THE TWO (2) PROPERTIES.

Item No. 2 – 19 W. Court St. – (DelVecchio)(R4) – Interpretation of Zoning Officer’s Determination

Chair Hickey indicated that this had been tabled at the last meeting and at the request of the applicant, they are asking for it to be tabled again until the January 9, 2012 meeting.

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

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

RESOLVED THAT 19 W. COURT ST. – (DELVECCHIO)(R4) – INTERPRETATION OF ZONING OFFICER’S DETERMINATION BE TABLED UNTIL THE JANUARY 9, 2012 MEETING AT APPLICANT’S REQUEST.

Item No. 3 – 3-5 Main St. – (VanDeusen)(CB) – Area Variance – Signage (Public Hearing)

Mr. VanDeusen was present. He explained that he wanted to have his sign as large as the neighboring store's as each had similar space. He noted that it had already been done and that he had been before the Historic Board and had received their approval.

Comm. Brown asked if the sign would be lit or have flashing lights. Mr. VanDeusen indicated that would not be the case. Comm. Place noted that architecturally the sign fits the building and the space.

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

On the motion of Comm. Place, seconded by Comm. McGinley, voted and carried

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

RESOLVED THAT THE AREA VARIANCE 3-5 MAIN ST. – (VANDEUSEN)(CB) – AREA VARIANCE – SIGNAGE BE PLACE 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, but could make a smaller sign
3. Whether the requested area variance is substantial. No, neighboring properties have similar signs
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. Place, seconded by Comm. Wickman, voted and carried.

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

RESOLVED THAT THE AREA VARIANCE 3-5 MAIN ST. – (VANDEUSEN)(CB) – AREA VARIANCE – SIGNAGE BE APPROVED.

Item No. 4 – 17 Randall St. – (Whalen/Andersen)(R1) – Area Variance – Driveway (Public Hearing)

Dan Whalen was present. He stated that he had a four (4) bedroom house and he has a two (2) car driveway and there is no street parking. He stated that his sister is attending TC3 and she has a vehicle and he will soon have two (2) cars. He only would like permission to widen the driveway to allow two (2) cars to park side by side and he would not be lengthening the driveway.

Chair Hickey noted that there is a four (4) foot buffer. Zoning Officer Weber noted that the total width of the driveway would be nineteen (19) feet which puts him over the thirty-five (35) percent lot coverage allowance. He noted that it was not total lot coverage, but this is for that section of the code that requires no more than thirty-five (35) percent of an area for parking and he's over that.

Comm. Brown asked if he would be paving the driveway. Mr. Whalen stated that he would be paving it. Comm. Place commended him for asking for the area variance rather than just parking on the grass. She noted that most City lots exceed lot coverage. Comm. Brown asked if there was a garage out back. Mr. Whalen stated that there was no garage. Comm. Brown asked if the driveway had to be blacktopped. Deputy Chief Knickerbocker stated that single family homes are exempt.

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

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

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

RESOLVED THAT THE AREA VARIANCE - 17 RANDALL ST. – (WHALEN/ANDERSEN)(R1) – AREA VARIANCE – DRIVEWAY 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, only 3% over
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. Place, seconded by Comm. Brown, voted and carried.

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

RESOLVED THAT THE AREA VARIANCE - 17 RANDALL ST. – (WHALEN/ANDERSEN)(R1) – AREA VARIANCE – DRIVEWAY BE APPROVED TO WIDEN THE FULL LENGTH OF THE EXISTING DRIVEWAY TO NINETEEN (19) FEET.

Item No. 5 – 207 Central Ave. – (Petrella)(R2) – Area Variance – Access Ramp (Public Hearing)

John Petrella was present. He stated that he was the applicant’s son. He stated that his mother was 87 and she is having some difficulty getting up and down the front steps. He stated that he went to Access to Independence for assistance in the design and best approach to build a handicapped ramp at this property. After several designs were looked at, it was decided the best approach was to come straight out the front and to cut around both trees and then come out to the edge of the driveway. He noted that the two (2) trees would remain. Mr. Petrella noted that the front porch will be elevated three (3) to four (4) inches so that the ramp and door jamb will be the same height.

Comm. Place suggested that the front porch have side steps installed for those who don’t need to use the ramp. Comm. Brown asked if there had been alternative designs. Mr. Petrella noted that they had looked at several draft designs, but this design provided the best access to the driveway. He also noted that he and his sister have decided to wait until the ramp is installed to see what they should do about steps.

Comm. Place noted that the ramp design had to be thirty-three (33) feet in order to go up thirty-three (33) inches, not including the landings and those have to be five (5) foot square landings. Mr. Petrella noted that they also had to work around the location of the gas meter.

Comm. Wickman noted that he would prefer to see a simpler design, but there were many issues to consider. He also noted that there was the issue of permanence, noting that the ramp should be removed when no longer needed.

Mr. Petrella noted that the ramp will be a modular aluminum ramp assembled in sections and it will be removed when no longer needed.

Chair Hickey then read aloud the City Code requirements for installing a handicapped ramp. Mr. Petrella noted that his mother had a prescription from her doctor for this ramp and it would be rewritten every year as needed. Chair Hickey also reminded him that the ramp must be removed within sixty (60) days of termination of need for it.

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

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

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

RESOLVED THAT THE AREA VARIANCE - 207 CENTRAL AVE. – (PETRELLA)(R2) – AREA VARIANCE – ACCESS 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, a little undesirable.
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. Not uncommon and there is a recognized need.
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. No, this is beyond her control.

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

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

**RESOLVED THAT THE AREA VARIANCE - 207 CENTRAL AVE. – (PETRELLA)(R2)
– AREA VARIANCE – ACCESS RAMP BE APPROVED UNDER CITY CODE
CRITERIA SECTION 300-147.**

Old Business

Chair Hickey asked Zoning Officer Weber to provide an explanation of the request for a special meeting for 54 Lincoln Avenue property.

Zoning Officer Weber stated that 54 Lincoln was sold by the City as a two (2) family. He explained that it had been vacant for over two (2) years and as such, it can only be resumed in compliance with the regulations. He noted that the lot is non-conforming and lot coverage is greater than allowed. He stated that he will put together some of the facts. He noted that it has the same issues as those in the similar denials that the ZBA gave last year to 53 Lincoln and 90 Lincoln. He stated that there has been some discussion as to what may or may not occur if the property can't be used as a two (2) family and one of the suggestions is that the building come down and the property be used as a single family dwelling for Habitat for Humanity. He stated that given the size of the lot, may be a very appropriate use. He provided some history of other denials for variances requested on Lincoln.

Chair Hickey asked for the reason that a special meeting was asked for. Zoning Officer Weber explained that the applicant who had purchased the property at auction had requested it as they had certain things that they were trying to accomplish to get ready for the students for the next semester. He noted that the issue was that it was advertised and sold as a two (2) family and it was left vacant for over two (2) years and therefore it can only resume compliance within current regulations. He noted that it has been discussed that the City may buy it back from the people who bought it. He noted that there was also a question about getting it on the County auction. He noted that when it comes before the ZBA it would be for an Area Variance and not for a Use Variance because the building covers the lot. He noted that a two (2) family is allowed in this area.

Comm. Place asked if Atty. Snyder had provided the EPA environmental items requested regarding the Truman application on Pendleton Street. Chair Hickey indicated that it had been received.

Item No. 6 – Minutes – November 14, 2011

Chair Hickey noted some minor changes.

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

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

RESOLVED THAT THE MINUTES OF NOVEMBER 14, 2011 BE APPROVED AS AMENDED.

Adjournment

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Dailey	Aye	Comm. McGinley	Aye
Comm. Place	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 12th DAY OF DECEMBER 2011.

MARY KAY HICKEY, CHAIRPERSON