

Zoning Board of Appeals  
City of Cortland  
May 14, 2012

A regular meeting of the Zoning Board of Appeals was held on Monday, May 14, 2012 at 5:00 p.m. in the Mayor's Conference Room at City Hall, 25 Court Street, Cortland, N.Y.

Present: Vice Chair Brown, Comm. Funk, McGinley, Place, Stoll and Wickman

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

Item No. 1 – 19 W. Court St. - (DeVecchio)(R4) – Interpretation of Zoning Officer's Determination

Vice Chair Brown stated that this item continues to be tabled at the applicant's request.

Item No. 2 – 9 Summit St. – (Vona)(R1) – Area Variance – Non-conforming Lot Size

Vice Chair Brown stated that he will be recusing himself from this item because he is a neighbor.

Katherine Vona was present and explained that she would like to return the house lot at 9 Summit to its original size because she can't maintain all of the property and give the vacant lot at 11 Summit to her neighbor across the street.

Comm. Wickman noted that the house and lot are currently 9 Summit. Mrs. Vona explained that they were once 9 Summit with the house and 11 Summit as the vacant lot, which she had purchased and then had combined it into 9 Summit.

Comm. Place noted that the 9 Summit lot is now one hundred (100) feet wide as existing and the request is to divide it into two (2) non-conforming fifty (50) foot wide lots.

Lorraine Brown was present and she is opposed to this sub-division. She explained that she lives at 13 Summit St. and is opposed to the sub-division. She explained that it doesn't conform to R1 zoning as the request is to create two (2) non-conforming lots of five thousand (5,000) square feet, but lots in an R1 are supposed to be ten thousand (10,000) square feet and these two (2) lots will be substantially short of that.

Ms. Brown noted that her second reason for opposition was that creating the non-conforming lots would affect her property value in a negative way. She explained that when she purchased her house in 2000, her first question was who owned the vacant

lot next door and the neighbor assured her that he was buying the vacant lot and adding it to his deed. She noted that she felt comfortable that zoning would protect her and then she and her husband purchased the house at 13 Summit. She noted that on the flip side, if they were to sell their house and someone asks who owns the lot and she says it's a vacant lot, there might be buyers who think that's a deal breaker. She feels that it's going to affect her in a detrimental way, with her property value. She feels that zoning is supposed to protect property owners and if there's a vacant lot, who's to say what might be built there. She noted that when she purchased her house, there was nothing on that lot. She explained that now, if it's sub-divided, someone could build a garage or a shed and that's not what she bought in to when she purchased her home. She explained that she lives at 13 Summit Street and noted that it used to be 11 Summit Street and that the vacant lot used to be attached to her house before they purchased it. She explained that the former owner had some financial problems, so lots were sold to raise some money. She noted that then the vacant lot became 11 Summit and her house became 13 Summit, but now the vacant lot has been combined with 9 Summit.

Comm. Stoll asked about the history of property exchanges between 9, 11 and 13 Summit Street. Ms. Brown explained how they purchased their house because of assurances received that the 11 Summit Street lot, which was in the process of being sold to the owner of 9 Summit Street was going to be combined and therefore they purchased their house. She is now concerned that by creating a vacant lot, who'll take care of it or what might be built on it. She stated that she felt that they were protected by zoning when they purchased their house ten (10) years ago. She again stated that she's completely opposed to the sub-division. She explained that the whole neighborhood is pretty much double lots and is uniform as it is.

Comm. Wickman asked Ms. Vona about what had been put in her application. He noted that she had indicated that her plan was to give the vacant lot to her neighbor across the street. He asked her what her neighbor's plan was for that property. Ms. Vona stated that she had not asked him. Ms. Vona stated that she would be giving the neighbor the property as a gift and has no knowledge of what his plans are.

Comm. Stoll asked if the neighbor across the street was on a double lot. Ms. Vona stated that he was on a double lot.

Ms. Brown stated that she had another comment. She explained that Ms. Vona is going to move and she's going to sub-divide a lot and then is going to be moving away and who knows what's going to be happening on the lot. Comm. Funk asked if the house had already been sold. Ms. Vona indicated that she has not sold.

Comm. Place asked if Ms. Vona had a problem with maintaining the lot, why not make her lot seventy-five (75) feet wide and give twenty-five (25) feet to the adjoining property owners if they wanted it. Ms. Vona explained that she just wanted to do exactly what had been done before, separate the same size lot that had previously been adjoined to

9 Summit. She explained that she hadn't thought of doing anything different than what was done before.

Zoning Officer Weber explained that the 9 Summit Street lot was actually sixty-seven (67) foot wide and then the two (2) parcels had been combined to make a total parcel width of one hundred seventeen (117) feet. He noted that the request was to return 9 Summit Street to its original width of sixty-seven (67) feet and the lot which would once again become 11 Summit Street to its original width of fifty (50) feet.

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

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

Vice Chair Brown	Recused	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE AREA VARIANCE – 9 SUMMIT ST. – (VONA)(R1) – AREA VARIANCE – NON-CONFORMING LOT SIZE BE PLACED ON THE TABLE FOR DELIBERATION.**

Comm. Place noted that her concern was that when she drove through the neighborhood, everyone had conforming lot sizes. She noted that zoning was there for the purpose of having certain lot sizes and the City is aiming for people to be more conforming rather than less conforming. She noted that here the situation was the applicant is asking to create two (2) non-conforming lots and she finds that is not a good thing for the City.

Comm. Funk noted that what this really doesn't address is what 11 Summit could become in the future. He noted that the concern was warranted as someone could only build a conforming garage without requiring a variance, but that isn't necessarily desirable. He further explained that if someone wanted to build a house they would have to come to the Zoning Board for variances. Comm. Place felt that it would be a very unique home. Comm. Funk felt that it wouldn't fit the neighborhood as most of the houses are ranches. Comm. Wickman noted that the only way around the space problem would be to build a multi-story home.

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. Yes
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. She could sub-divide and sell it to the neighbors and sell her lot as a larger conforming lot or sell it as is.

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, self-created.

On the motion of Comm. Funk, seconded by Comm. Stoll, voted and carried to **DENY**.

Vice Chair Brown	Recused	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE AREA VARIANCE – 9 SUMMIT ST. – (VONA)(R1) – AREA VARIANCE – NON-CONFORMING LOT SIZE BE DENIED.**

Item No. 3 – 64 N. Main St. – (ZoomTan)(SD) – Area Variance – Signage

Rob O’Neil, Construction Manager, was present. He explained that an Area Variance was needed for the sign for Zoom Tan. He explained that they want to place their sign on the front of the building.

Vice Chair Brown asked if they were renting space from Family Video. Mr. O’Neill stated that they were.

Zoning Officer Weber explained that a variance was previously granted to Family Video for excess signage. He noted that while ZoomTan’s sign conformed to the space that they have rented, the overall signage for the property is over the allowed signage. Vice Chair Brown noted that Family Video could take some of their signage down. Zoning Officer Weber stated that they could. He further explained that Family Video has a free standing sign as well as two (2) signs on the building and noted that a variance was granted to Family Video for their signage as it was over the allowed signage amount which is sixty-four (64) square feet. Zoning Officer Weber further explained that businesses are supposed to share signage proportionately, so while ZoomTan is taking twenty-four (24) feet of the building their signage would be in compliance with that, it’s not in compliance with the overall allowed signage for the property.

Vice Chair Brown asked if this was the only sign that ZoomTan was asking for. Mr. O’Neill stated that it was the only sign. Vice Chair Brown asked about the window sign. Zoning Officer Weber stated that he had spoken with a gentleman and that window sign is not part of the application and the Zoning Board is not looking at that.

Comm. Wickman asked if ZoomTan was part of a national franchise. Mr. O'Neill stated that their corporate headquarters are out of Naples, Florida. Comm. Wickman noted that when this was originally approved, he hadn't anticipated that this building would be sub-divided for another business. Comm. Funk asked about any other issues that needed to be looked at with regards to this sub-division. Zoning Officer Weber noted that there was none; same use and same requirements as previously approved.

Comm. Funk asked what the hours of business operation would be. Mr. O'Neill stated that they were open 9:00 AM until 9:00 PM Monday through Friday and 9:00 AM to 6:00 PM on Saturday and noon to 6:00 PM on Sunday, for a total of seventy-five (75) hours per week.

Vice Chair Brown asked if the sign would be illuminated. Mr. O'Neill stated that it would be lit, it would be on from 7:00 PM to 7:00 AM daily and it would be on a timer. Comm. Place noted that the sign doesn't light up the neighborhood. Mr. O'Neill noted that it was a five thousand (\$5,000) dollar sign.

Vice Chair Brown asked Zoning Officer Weber for the percentage of overage. Zoning Officer Weber noted that Family Video had already been over by fifteen (15) to twenty (20) percent. Vice Chair Brown noted that the proposed sign had sixteen (16) inch letters. Zoning Officer Weber noted that the proposed sign was twenty (20) square feet. Comm. Wickman noted that he was concerned about the increased traffic flow. Comm. Place noted that they were only approving the sign. Vice Chair Brown noted that there were three (3) exits to the site.

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

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

Vice Chair Brown	Aye	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE AREA VARIANCE – 64 N. MAIN ST. – (ZOOMTAN)(SD) – AREA VARIANCE –SIGNAGE BE PLACED ON THE TABLE FOR DELIBERATION.**

Comm. Place noted that it was hard to have a business without a sign. She noted that the Planning Commission had approved the business and she saw no reason not to approve the sign. She noted that they should think about these types of things in the future as a strip mall could have narrow storefronts with five (5) stores in one hundred (100) feet and they would each need a visible sign. Comm. Wickman suggested that it could be a smaller sign. Comm. Funk asked Mr. O'Neill if they could have a smaller sign. Mr. O'Neill stated that the owner is going with the smallest sign that is still visible. Comm. Place noted that even a smaller sign still requires a permanent variance.

Vice Chair Brown noted that this was the only sign except for the one on the front door. Zoning Officer Weber agreed. Vice Chair Brown noted that it was not a flashy sign. Comm. McGinley asked if the same person owned both businesses. Mr. O'Neill stated that there were two (2) different owners.

It was noted that the Zoning Board probably was going to run into this issue more often.

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, they need a sign.
3. Whether the requested area variance is substantial. Yes and No, for one business.
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 and No because Family Video has excess signage

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

Vice Chair Brown	Aye	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE AREA VARIANCE – 64 N. MAIN ST. – (ZOOMTAN)(SD) – AREA VARIANCE –SIGNAGE BE APPROVED AS PRESENTED ON THE APPLICATION.**

Item No. 3 – 4 Sunnyfield Dr. – (Hall)(R1) – Area Variance – Flag Pole

Mr. Hall was present. He explained that there had been a large pine tree in the front of his house which has been removed and he would now like to replace it with a rose garden and place a metal flagpole in the middle of that garden. He explained that the rose garden is already in and he now needs a variance to install the flag pole. He stated that the flagpole is twenty (20) feet tall, but he's only going to put up sixteen (16) feet of the pole to be safe, as it will be under some power lines. He presented a survey that he made of his neighbors and they all approved of his project. He noted that he would not have a weight on the flagpole, so that there will be no clanging against the pole.

Vice Chair Brown asked him for the diameter of the proposed flag pole. Mr. Hall stated that it will be three (3) to four (4) inches in diameter aluminum pole.

Zoning Officer Weber stated that a flagpole is considered a structure and noted that it is too close to the property line. Comm. Stoll asked if he planned to illuminate the flag. Mr. Hall stated that he planned to illuminate it and thought about solar, but he wasn't sure of the technology. Comm. Place asked him if he planned to illuminate the flag twenty-four (24) hours a day. Mr. Hall stated that he would illuminate it twenty-four (24) hours and he would probably use a small floodlight from the porch. He thought it was required if you flew the flag twenty-fours (24) a day.

Asst. Chief Knickerbocker agreed with the Zoning Officer Weber and he thanked Mr. Hall for his time and cooperation.

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

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

Vice Chair Brown	Aye	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE AREA VARIANCE – 4 SUNNYFIELD DR. – (HALL)(R1) – AREA VARIANCE – FLAG POLE 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. McGinley, voted and carried.

Vice Chair Brown	Aye	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE AREA VARIANCE – 4 SUNNYFIELD DR. – (HALL)(R1) – AREA VARIANCE – FLAG POLE BE APPROVED FOR A MAXIMUM HEIGHT OF SIXTEEN (16) FEET.**

Item No.4 – 40 Delaware Ave. – (Lawrence/Valentine)(R1) – Area Variance – Ramp

Mr. Lawrence and Mr. Gary Valentine were present.

Zoning Officer Weber explained that this was not an application for a ramp that meets the criteria under the variance requirements for a temporary ramp; this would be a permanent ramp. He noted that there are criteria for the Zoning Board to grant a variance for a ramp on a temporary basis based on need being shown and this application is not being made on that criteria, this would be a permanent ramp.

Gary Valentine explained that his wife’s health was bad and that in a few years she would be in a wheel chair most of the time. He explained that she currently uses a wheelchair and if she wants to leave the house by herself, she needs a ramp.

Vice Chair Brown asked what the issue was. Zoning Officer Weber stated that it was non-conforming to the front yard requirement. Zoning Officer Weber explained that in the City Code there was criteria for the Zoning Board to grant an area variance for a temporary ramp based on certain criteria that the applicant meets and that’s in section 300-147 and this application does not meet those six (6) criteria. He explained that he had contacted the applicant to ask if this was a permanent ramp or if they wanted to make an application under the temporary ramp section and there decision was to apply for a permanent ramp.

Comm. Place asked if the applicant had gotten a doctor’s note. Mr. Valentine stated that he didn’t know that he needed one. Comm. Place explained that the Zoning Board would grant a temporary ramp variance if there was a doctor’s note. Zoning Officer Weber stated that he had contact Mr. Lawrence, the contractor and asked if this was a temporary or permanent ramp and the two (2) different ways the application could be made. One could be made through the special regulations for the access ramp or the other was for a permanent ramp and you indicated that you wanted apply for a permanent ramp. Mr. Lawrence agreed.

Vice Chair Brown stated that temporary could be long term. Zoning Officer Weber agreed and stated that as long as they could show that there is continued need for the ramp where each year they provide documentation that the ramp is still needed. Mr. Valentine stated that he didn’t plan to go anywhere. Comm. Place stated that as long

as the ramp is needed, it can be there and it is not classified as permanent. Zoning Officer Weber stated that's for the applicant to decide.

Mr. Valentine stated that he wants a permanent ramp. Comm. Funk asked what the ramp would be made out of. Mr. Valentine stated that it would be made out of pressure treated lumber and composite. Comm. Stoll asked if the plan met the drop requirements for a ramp. Zoning Officer Weber stated that was not a matter for his review, only the zoning.

Vice Chair Brown asked if the setbacks were met with regards to the ramp. Zoning Officer Weber stated that it doesn't meet the setback requirements. He again reiterated that this was a permanent ramp rather than a temporary ramp and he had not seen an application for a permanent ramp since he had been the City Zoning Officer. Mr. Valentine stated that his wife wanted a nice ramp. Comm. Place noted that a temporary ramp could be beautiful and it could be made out of any material. She explained to Mr. Valentine that a temporary ramp could be beautiful and could stay in place until the person who needs the ramp no longer needs it and then the ramp would go away. Comm. Wickman stated that the ramp could stay in place as long as it was needed and when it is no longer needed, the ramp is removed. Mr. Valentine stated that a permanent ramp could be designed to be removed. Comm. Place noted that they would have no problem approving a temporary ramp with a doctor's note. Further discussion took place regarding permanent versus temporary.

Mr. Valentine and Mr. Lawrence stated that they could design a temporary one. Comm. Place stated that all that was needed is a doctor's note, as the Board wouldn't be approving the construction material or design.

Vice Chair Brown asked if this could be approved as a temporary ramp contingent upon the receipt of a doctor's note. Zoning Officer Weber stated that they could go through a couple of things through the standpoint of the application. He noted that criteria No. 2, about the existing entrance where a ramp could be built without a variance, he asked the Board to refer to the application. The Board reviewed the drawing. Zoning Officer Weber stated that all Mr. Valentine needed to do was provide a written statement from a licensed physician stating the need for a ramp. He noted that the need for the variance must be recertified annually by a licensed physician and then the ramp must be dismantled and removed within sixty (60) days of the termination of the need for the ramp. Zoning Officer Weber noted that the Code Office would deal with the construction of the ramp.

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

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

Vice Chair Brown	Aye	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE AREA VARIANCE – 40 DELAWARE AVE. – AREA VARIANCE – 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, because it's temporary.
- 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. No.

On the motion of Comm. Stoll, seconded by Comm. Funk, voted and carried.

Vice Chair Brown	Aye	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE AREA VARIANCE – 40 DELAWARE AVE. – (LAWRENCE/VALENTINE)(R1) – RAMP – BE APPROVED FOR THE CONSTRUCTION OF A TEMPORARY RAMP CONTINGENT UPON RECEIPT OF THE DOCTOR'S NOTE.**

Item No. 5 – Minutes – April 9, 2012

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

Vice Chair Brown	Aye	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**RESOLVED THAT THE MINUTES OF APRIL 9, 2012 BE APPROVED.**

Adjournment

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

Vice Chair Brown	Aye	Comm. Funk	Aye
Comm. McGinley	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

**I, STEVE BROWN, 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 14th DAY OF MAY 2012.**

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**STEVE BROWN, VICE CHAIRPERSON**