

Zoning Board of Appeals  
City of Cortland  
June 11, 2012

A regular meeting of the Zoning Board of Appeals was held on Monday, June 11, 2012 at 5:00 p.m. in the Mayor's Conference Room at City Hall.

Present: Chair Hickey, Comm. Brown, Funk and McGinley

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

Item No. 1 – 19 W. Court St. – (DeVecchio)(R4) – Interpretation of Zoning Officer's Determination (Public Hearing) - Continuation of Tabling at applicant's request until July 9, 2012 meeting.

Item No. 2 – 12 East Ave. – (Southworth)(R2) – Area Variance – Driveway

Mike and Donna Southworth were present. Donna Southworth explained that they wanted another driveway on the other side of their house as they need more parking space for their boat, camper and their daughter's car. Mike Southworth explained that they've owned the house for over twenty-four (24) years and they've been parking a vehicle on the lawn ever since and now with their daughter's vehicle, they are looking to put in a permanent driveway.

Chair Hickey noted that the dimensions on the map were eleven (11) feet wide by thirty-eight (38) feet deep. Mr. Southworth noted that included the new curb cut on the street. Donna Southworth explained that the drawing showed existing gravel that was put in years ago and then the drawing indicated what they were asking to put in now which will be cement.

Comm. Brown asked if they had looked into widening the original driveway. Donna Southworth stated that they had widened it as much as was allowed and there still is not enough room to park the vehicles that they would like to move away from the house in the wintertime to avoid the ice build-up. She stated that they widened the other driveway to about four (4) feet from the neighbor's driveway when they put the cement there and they are actually parking vehicles on the grass for quite a few years. Comm. Funk asked if they could park anything in the back of the house. Donna Southworth stated that they had a garage on the driveway side and living space on the other and a pool in the back so the camper won't go in the back. She stated that they've spoken to the neighbor on the side where they want to put this in, the DiVittos, and they have no issue.

Chair Hickey asked if they planned to have any of the parked vehicles sticking out past the front of the house. The Southworths stated that the vehicles would not stick out.

Comm. Brown noted that zoning doesn't allow for two (2) driveways. Comm. Hickey noted that front yard parking was also an issue. Zoning Officer Weber stated that front yard parking was not an issue in this case, as they are not proposing parking in the front yard, but on the side. There was further discussion regarding front yard parking. Comm. Brown noted. Zoning Officer Weber noted that this application was for greater coverage for the front and then second driveway because it goes up along the side. Chair Hickey asked if there was an issue with the Fire Department. Zoning Officer Weber stated that was not an issue.

Comm. Brown noted that the existing driveway was about seventeen (17) feet wide and asked if two (2) cars could be parked there side by side. Mr. Southworth stated that could be done, but in the winter there was a problem with ice coming down. Donna Southworth stated that they widened the driveway on the left hand side as you were looking at the house and now they are asking for the variance for the other side. Mr. Southworth noted that the neighbor's driveway was right on their property line and it would be a forty (40) foot wide parking lot if they increased the width of the driveway on the other side.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 12 EAST AVE. – (SOUTHWORTH)(R2) – 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. Yes, two driveways are not common although neighbors are okay with this.
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. Could park elsewhere or expand the other driveway.
3. Whether the requested area variance is substantial. Yes, creating two (2) driveways.
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. Funk, seconded by Comm. McGinley, voted and **DENIED**.

Chair Hickey	Nay	Comm. Brown	Nay
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 12 EAST AVE. – (SOUTHWORTH)(R2) – AREA VARIANCE – DRIVEWAY BE APPROVED – MOTION FAILED & APPLICATION IS DENIED.**

Item No. 3 – 41 Cleveland St. – (Maroney)(GI) – Area Variance – Driveway/Parking

There was no one present to represent the application and answer questions.

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 41 CLEVELAND ST. – (MARONEY) (GI) – AREA VARIANCE – DRIVEWAY BE TABLED.**

Item No. 4 – 13 Cherry La. – (Morgan) (R1) – Area Variance – Deck Addition

Mr. & Mrs. Beard (owners) were present. Mrs. Beard explained that they currently have a six (6) foot by ten (10) foot deck and they would like to extend it by eight (8) feet to make a deck that's fourteen (14) feet by ten (10) feet. Mrs. Beard had contacted the neighbors and there was no opposition and signatures were submitted. Mr. Beard noted that the current deck needs repair and they wanted to increase the size of the deck while that repair work is being done. Zoning Officer Weber noted that there was not enough rear yard setback as a twenty-five (25) foot setback was required. Comm. Brown asked if there was a rear yard fence. Mrs. Beard stated that there was no fence between the properties, but the neighbor was planning to put up a chain link fence. Comm. Funk asked if they planned to cover the deck. Mrs. Beard stated that they did not plan to put on a roof. Zoning Officer Weber noted that they could put a roof on in the future once the variance has been approved.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE 13 CHERRY LA. – (MORGAN) (R1) – AREA VARIANCE – DECK ADDITION 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/Yes, but it's going parallel to the house.
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. Funk, seconded by Comm. McGinley, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE 13 CHERRY LA. – (MORGAN) (R1) – AREA VARIANCE – DECK ADDITION BE APPROVED.**

Item No. 5 – 138 Madison St. – (Lann)(R1) – Area Variance - Driveway

Margie Lann was present. She explained that she currently has an eight (8) foot eight (8) inch wide driveway and she would like to widen it to twelve (12) feet five (5) inches to remedy plowing problems. Comm. Brown asked if there was a greenspace issue. Zoning Officer Weber stated that was not an issue. Comm. Funk asked how the driveway was currently plowed. Ms. Lann stated that it's currently being plowed to the back and pushing the gravel to the back is an issue. She would like to put asphalt down back to forty-nine (49) feet. Ms. Lann stated that the neighbor, her mother, did not object to this driveway proposal. The proposal is to widen and to extend the driveway and put down asphalt behind the house and not to have gravel.

Comm. Brown asked if when they were pushing the snow it would be pushing it on to the neighbor's lawn. Comm. Funk noted a concern about snow build up and it draining onto the neighbor's property. Comms. Brown & Funk noted that water draining off of

the blacktop would impact the neighbor's house. Ms. Lann stated that there was no basement there, only a crawlspace of some kind and a slab.

Comm. Funk stated that the plan could be revised to narrow the proposed driveway in the back and get the width in the front and retaining the vegetative strip. Chair Hickey noted that heavy rain or snowmelt could increase the likelihood of flooding problems for the neighbor. Ms. Lann noted that she wanted a straight line driveway to look pretty. Comm. Hickey noted that they could widen the driveway, but make the edge of the existing driveway the edge of the new driveway to the end of the deck and then narrowing the driveway. Comm. Funk asked that the driveway be graded toward their backyard to further mitigate water run-off on the neighbor's property. Zoning Officer Weber was unsure of how the topography in the area sloped, but felt that the street side would be lower than the driveway and they would probably have a better chance to direct the water to the street than to the back yard.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 138 MADISON ST. – (LANN) (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. Yes, covering vegetative strip.
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district. Yes, potentially, but grading it correctly could be less of a problem.
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. Funk, seconded by Comm. Brown, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 138 MADISON ST. – (LANN) (R1) – AREA VARIANCE – DRIVEWAY BE APPROVED TO PAVE IN THE VEGETATIVE STRIP FROM THE PROPERTY LINE TO THE POINT EQUAL TO THE REAR OF THE EXISTING DECK TOWARDS THE NORTH OF THE HOUSE AND TO MAINTAIN THE TWO AND A HALF (2 ½) FOOT VEGETATIVE STRIP THAT EXISTS BEYOND THAT POINT AND TO HAVE THE CONTRACTOR GRADE THE ASPHALT TOWARD THE REAR OF THE YARD IF FEASIBLE.**

Item No 6 – 21 Pleasant St. – (Hage)(R1) – Area Variance – Front Deck and Stairs

Joey Hage was present. He would like to build a front deck and stairs. He explained that there were slate stairs on the front of the house with a landing that was three (3) feet deep by six (6) feet wide and steps coming down to the concrete walk up to the actual sidewalk. He noted that the steps were broken and he had them removed. He explained that the stairs used to come up to the front of the house on the west side and he would like to now have the stairs go to the concrete driveway on the south side and to put grass in the front of the house. He would like an eight (8) foot by eight (8) foot deck. Comm. Brown noted that the proposed deck would be wider than the original deck. Mr. Hage stated that he was not planning to put a roof on the proposed deck.

Comm. Funk asked if he planned to finish off the lower part of the deck. Mr. Hage stated that he planned to finish off the whole lower part of the house in a skirting of a real stone veneer including the front of the deck.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 21 PLEASANT ST. – (HAGE)(R1) – AREA VARIANCE – FRONT DECK AND STAIRS 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. Brown, seconded by Comm. McGinley, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 21 PLEASANT ST. – (HAGE)(R1) – AREA VARIANCE – FRONT DECK AND STAIRS BE APPROVED.**

Item No. 7 – 38 E. Court St. – (Hodge) (R4) – Area Variance – Handicapped Lift

Doug Withey, the contractor, was present. He explained that Mrs. Hodge is in a wheelchair and it is hard for her to access her apartment. He noted that Access to Independence has come up with a plan and the funding to give her a wheelchair lift in the front of the home at the existing deck. He explained that the deck would have to be widened to meet ADA requirements for wheelchairs and a six (6) foot by six (6) foot pad would have to be poured to support the lift. He noted that another issue was the sidewalk from the public walk back to the house is thirty-eight (38) inches wide and he would like to widen it to five (5) feet to accommodate the wheelchair. He presented a doctor's letter stating she qualifies for this. The letter mentions a ramp, but due to her condition, a ramp would not help her to maintain her independence. He noted that this was also a more attractive way to meet her access needs.

Chair Hickey noted that one of the advantages to a ramp was its temporary installation. Mr. Withey stated that the lift installation was temporary as well. He stated that when the need goes away, so will the lift and the deck would go back to its current width. Comm. Funk asked if the cold weather package would also be installed with the lift. Mr. Withey stated that this was a reconditioned lift, the cold weather package would be installed, but it would have no roof. Comm. McGinley asked if the entrance door was wide enough for wheelchair use. Mr. Withey stated that it was adequate, but noted that there was a proposal in to replace the current door and to make the floor access level from the deck. Comm. Brown asked how other people accessed the house. Mr. Withey stated that there was a back side entrance. Comm. Funk expressed concerns regarding the current door. Mr. Withey stated that Access to Independence will meet all of the applicant's needs with regards to the door.

Comm. Funk asked if cost was the issue as far as putting a temporary roof over the lift. Mr. Withey stated that it would be an issue, but he would talk with them, because he noted that they are at their top dollar now for the project. He noted that Access to Independence would have to get back with the owner, Mr. Jackson. Comm. Funk noted that the Zoning Board could allow for a temporary roof in their motion and then the applicant wouldn't have to return if funding was found to do it. Zoning Officer Weber noted that if they put in their motion that the roof was temporary, then it would be removed along with the lift setup when there was no longer a need. Chair Hickey asked if the deck extension was temporary. Mr. Withey stated that it was.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE - 38 E. COURT ST. – (HODGE) (R4) – AREA VARIANCE – HANDICAPPED LIFT 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. No, doctor ordered.

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE - 38 E. COURT ST. – (HODGE)(R4) – AREA VARIANCE – TEMPORARY HANDICAPPED LIFT BE APPROVED AS PRESENTED AND TO ALLOW THEM TO ADD A TEMPORARY ROOF, IF REQUIRED; AND WHEN THE NEED IS NO LONGER THERE, THE ROOF IS REMOVED AND THE DECK IS RETURNED TO ITS ORIGINAL LINE AND THE LIFT IS REMOVED.**

Item No. 8 – 109 River St. – (Reynolds) (R2) – Area Variance – Handicapped Ramp

Daniel Adams was present. He's an installer of handicapped ramps for the Veterans' Administration. He noted that this ramp installation has already been approved by them and he presented a doctor's statement for the record. He explained that the ramp is all aluminum and it's classified as temporary. He explained that the legs sit on concrete blocks or little vinyl pads and his company has installed about three hundred (300) units this past year.

Comm. Funk asked if these ramps had strips to prevent slipping. Mr. Adams stated that the ramps are designed with a one twelve (1:12) pitch with an aggressive tread pattern and had handrails as well as side rails on the platform.

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. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 109 RIVER ST. – (REYNOLDS) (R2) – AREA VARIANCE – HANDICAPPED RAMP BE PLACED ON THE TABLE FOR DELIBRATION.**

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, 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. 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. No

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 109 RIVER ST. – (REYNOLDS) (R2) – AREA VARIANCE – HANDICAPPED RAMP BE APPROVED.**

Item No. 9 – 29 Evergreen St. – (Beardsley) (R1) – Area Variance – Handicapped Ramp

Again, Daniel Adams, the installer, represented this Area Variance application. He submitted a doctor’s statement. He informed the Zoning Board that this ramp already had been installed before the variance was applied for as the veteran didn’t think that a building permit was necessary to do the installation. He explained that a few weeks later, the installer was informed otherwise. That is why he is here. He noted that the veteran is in a wheelchair and uses the ramp all of the time.

Mr. Adams noted that this ramp met all VA and ADA standards. He noted that the installation was done so as not to run under the eaves of the house and to not disturb the vegetative plantings in the front of the house.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 29 EVERGREEN ST. – (BEARDSLEY) (R1) – AREA VARIANCE – HANDICAPPED 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
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, but temporary.
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. Funk, seconded by Comm. McGinley, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE AREA VARIANCE – 29 EVERGREEN ST. – (BEARDSLEY) (R1) – AREA VARIANCE – HANDICAPPED RAMP BE APPROVED.**

Item No. 10 – Minutes – May 14, 2012 as amended

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	Aye

**RESOLVED THAT THE MINUTES OF MAY 14, 2012 BE APPROVED AS AMENDED.**

New Business

Comm. Funk reported that he has met with Mayor Tobin regarding potential changes to Zoning regulations and some problem areas that have been identified. Discussion was about establishing a committee to review it. Chair Hickey noted that an attorney should also review it. Chair Hickey thought that this should be a topic of discussion when more members of the Zoning Board were present.

Adjournment

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. McGinley	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 11th DAY OF JUNE 2012.**

**MARY KAY HICKEY, CHAIRPERSON**