

Zoning Board of Appeals
City of Cortland
July 9, 2012

A regular meeting of the Zoning Board of Appeals was held on Monday, July 9, 2012 at 5:00 p.m. in the Mayor's Conference Room at City Hall.

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

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

Chair Hickey noted that there were two (2) applications that were being moved to the end of the agenda at the request of the applicants. The first was Mr. Maroney, 41 Cleveland Street and the second was Mr. Vatra at 79 ½ Hamlin Street.

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 August 13, 2012 meeting.

Chair Hickey noted that this item would continue to be tabled.

Item No. 3 – 128 Groton Ave. – (Bentley)(R3) – Area Variance – In-ground Pool

Mr. Mike DiBiase from Canon Pools was present and he submitted a revised drawing to scale. He explained that from the concrete apron to the property line there would be a four (4) foot difference and from the current fence line to the concrete apron on the Hamlin Street side; the concrete would be three (3) feet in from that. He noted that it is currently fenced in on two (2) sides and the pool was fitting within those fences.

Comm. Wickman asked if this was an in-ground pool. Mr. DiBiase stated that it was in-ground and the dimensions were sixteen (16) feet wide by twenty-eight (28) feet long with a depth of six (6) feet and will be surrounded by a three (3) foot concrete apron.

Zoning Officer Weber noted that he had spoken with the applicant and they would do whatever needed to be done with regards to fencing requirements and that would be part of the building permit application.

Comm. Place asked how the size of the pool had been determined. Mr. DiBiase explained that it was the largest pool that they could put in their yard and be able to get around it. Mr. DiBiase explained that he had suggested that they consider a fourteen (14) foot width, but they wanted a wider pool. Mr. DiBiase explained that the new drawing that he submitted was drawn to scale and it won't touch the current driveway. He noted that the edge of the pool is about two (2) feet out from the actual garage line and the concrete apron won't touch where the driveway is.

Mr. DiBiase stated that there was three (3) feet from the edge of the concrete to the fence and about another three (3) feet to where the sidewalk is on the other side of that fence. Comm. Brown noted that there was about four (4) feet to the back line and Mr. DiBiase stated that was correct.

Zoning Officer Weber explained that this was a corner lot and the applicant had two (2) front yards and typically accessory structures have to be in the rear yard and there's no physical way that could be done on this property. Zoning Officer Weber also noted that the setback from the property line for accessory structures is typically four (4) feet. Comm. Wickman noted that this pool would be invisible from the street.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE - 128 GROTON AVE. – (BENTLEY)(R3) – AREA VARIANCE – IN-GROUND POOL 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, Mature trees should be preserved and there is a fence. There was some discussion regarding fencing. Zoning Officer Weber noted that an application had not been submitted for a fence. Zoning Office Weber also noted that they would have to apply for a permit if they were doing a fence and it would have to meet State and City requirements.
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. Place, seconded by Comm. Wickman, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE - 128 GROTON AVE. – (BENTLEY)(R3) – AREA VARIANCE – IN-GROUND POOL BE APPROVED PER THE LOCATION INDICATED ON THE REVISED PLAN SUBMITTED JULY 9, 2012.

Item No. 5 – 41 Union St. – (DeMunn)(R2) – Area Variance – Parking

Erich DeMunn was present. He explained that he was seeking a little more parking space for a three (3) bedroom house behind 39-39 ½ Union.

Zoning Officer Weber explained that this application was regarding the loss of the four (4) foot vegetative strip on the side property line. Mr. DeMunn stated that the driveway is right along the strip of grass. He explained that he wasn't eliminating the grass along the side; it only would be eliminated in the proposed parking area. Mr. DeMunn stated that there was currently parking for one (1) car and he would like to expand it to accommodate three (3) cars.

Zoning Officer Weber noted that the lot coverage was fine and the parking in the front yard was fine; they both meet the requirements. He explained that the loss of the vegetative strip for seventeen (17) feet along the property line was the issue. Comm. Brown asked if this was a shared drive. Mr. DeMunn noted that it was.

Comm. Funk asked about snow removal and storage. Mr. DeMunn explained that he plows to the rear and there's ample room in the rear.

Comm. Funk asked what the driveway surface was. Mr. DeMunn stated that the new parking area would be crusher run and he hopes to black top it in a year or so.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 41 UNION ST. – (DEMUNN)(R2) – AREA VARIANCE – PARKING 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, but it is an extraordinary property.

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 41 UNION ST. – (DEMUNN)(R2) – AREA VARIANCE – PARKING BE APPROVED AS PRESENTED.

Item No. 6 – 13 Lansing Ave. – (MacHenry)(R1) – Area Variance – Driveway and Garage

Robert MacHenry was present. He explained that he wants to put up a garage and to install a driveway to it. Zoning Officer Weber explained that this application was for a second driveway, that the driveway is in the side yard and that's the reason for the variance request.

Comm. Place noted that the drawing that was submitted was not to scale. Chair Hickey noted that the back boundary of the garage would be sixty (60) feet back in line with the back of the existing patio. Mr. MacHenry explained that he needed the second driveway to get to the proposed garage. Comm. Wickman asked why he needed a second garage. Mr. MacHenry explained that he had many vehicles, recreational vehicles and yard machinery and they wouldn't fit into his current garage.

Comm. Wickman asked if the garage would be consistent with the rest of his property. Mr. MacHenry stated that it would, he might use a T-1-11 painted the same color as his house. He planned to put in a couple of nice doors as well as walk-through doors and to install some lights. He noted that he's not going to put up a shack.

Comm. Brown stated that two (2) driveways were a problem and he asked if there was a way to eliminate the original driveway. Mr. MacHenry noted that it was blacktop and concrete and it goes up to the existing garage. Mr. MacHenry stated that he intended to put crusher run down for the new driveway and to let it settle in to make a good base and after a year or so, blacktop it.

Comm. Place noted that the proposed thirty (30) foot by forty (40) foot garage will be larger than his house. Comm. Funk asked if there would be living space above the garage. Mr. MacHenry stated that there would be no living space.

Chair Hickey noted that the only question was in regards to the driveway, the garage is not the issue. She explained that the garage was a use by right, he has the space and meets all of the setbacks. Comm. Funk asked him if he had spoken with his neighbors. Mr. MacHenry stated that he had not spoken with the neighbors, but stated that many others in the neighborhood have two (2) driveways. Comm. Wickman noted that there was some precedent for having two (2) driveways.

Comm. Funk asked if the lot could be re-subdivided to accommodate this application. Zoning Officer Weber explained that as long as it was conforming, it could be subdivided, but with a garage on one (1) parcel the applicant would need to apply for a use variance because a storage building on a lot is not an allowed use. Chair Hickey noted that two (2) driveways detract from a property, but in this case, this is a large lot.

Comm. Funk asked if the applicant could carry the existing driveway over to the new proposed garage by moving his fence and thus only have one (1) driveway. Mr. MacHenry explained that the existing fence is already cemented in and he didn't feel that there was enough room to provide clearance. Comm. Place suggested that he could eliminate the existing driveway and turn his single car garage into a pool house. Mr. MacHenry stated that others have two (2) driveways and he didn't understand why he couldn't have two (2). Comm. Place noted that the proposed garage was larger than most houses in the City.

Comm. Wickman suggested that he delay his plans and to rethink the design and return to the Zoning Board with a more detailed diagram and to try to find ways to eliminate the need for two (2) driveways. There was much back and forth discussion regarding various options. Mr. MacHenry stated that he could build his proposed garage and then just drive across the grass to get to it.

Zoning Officer Weber explained that he'd then be in violation. He explained that Mr. MacHenry could build the garage, but he could not drive across the grass to get to it. He explained that the proposal submitted was for a second driveway, but Mr. MacHenry could submit another proposal to him for review. Mr. MacHenry stated that he will not tear up his existing driveway. He stated that he wanted to put his items in a garage and he wanted to be able to drive to it.

Chair Hickey stated that he had a right to build the building, but he couldn't create a second driveway. Mr. MacHenry stated that he didn't get it. Comm. Wickman stated

that it was important to draw a line with regards to a having a single driveway. Mr. MacHenry stated that he sees many properties in the neighborhood that have two (2) driveways. Comm. Place noted that taking out the existing driveway would improve his property. Mr. MacHenry stated that if he did that he would have no access to his house from the proposed new garage. Comm. Wickman noted that it would be unreasonable to expect him to come up with a solution this evening and he urged him to give his plan some further thought.

Chair Hickey noted that they could table this request and keep the public hearing open, thereby allowing him to revise his plan.

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 13 LANSING AVE. – (MACHENRY)(R1) – AREA VARIANCE – DRIVEWAY AND GARAGE BE TABLED AND TO KEEP THE PUBLIC HEARING OPEN.

Mr. MacHenry stated that he wasn't going to change anything.

Item No. 2 – 41 Cleveland St. – (Maroney)(G1) – Area Variance – Driveway/Parking

Christopher Maroney was present. He explained that he has a two-family side by side building. He explained that the property line goes through the middle of the existing driveway on one side of the house and it's shared. He wants to expand the driveway on the other side, the right hand side of the building, as you face the street from eleven (11) feet to twenty (20) feet wide. He wants to make more parking and he will use the existing curb cut. He explained that the long term tenant had a handicapped ramp installed some years ago before he purchased the property. He explained that it infringed on the length of the original driveway and there is only room to park one car there. He explained that the tenant was trying to wedge a second car in there and they were rutting up the lawn area and he received a citation for that. Now he's proposing to widen the driveway using the existing single car curb cut and then widening the driveway out toward the factory.

Zoning Officer Weber explained that this parking area doesn't go into the required side yard where the limitation on the two (2) driveways is and the variance is for more than thirty-five (35) percent coverage of the front in a non-vegetative covering and he is currently cited for having a car parking in the yard. Zoning Officer Weber further noted that this building had two (2) accesses to the property and that the limitation on the driveways is that only one (1) side yard can be used as a driveway. He explained that in this case the owner is not encroaching into the side yard.

Comm. Brown asked the applicant what he planned to use for a surface for the expanded parking. Mr. Maroney stated that he would use crusher run. Mr. Maroney stated that the handicapped ramp was still needed as there was a disabled person living in that unit. Comm. Place suggested that the proposed parking spot depth be increased from seventeen feet (17 ft.) to twenty feet (20 ft.) to comply with zoning regulations.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 41 CLEVELAND ST. – (MARONEY)(GI) – AREA VARIANCE – DRIVEWAY/PARKING 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
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. Stoll, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 41 CLEVELAND ST. – (MARONEY)(GI) – AREA VARIANCE – DRIVEWAY/PARKING PLAN BE APPROVED TO EXPAND THE PARKING AREA TO A DEPTH OF TWENTY (20) FEET AND TO NOT GO BEYOND THE FRONT OF THE HOUSE.

Item No. 4 – 79 ½ Hamlin St. – (Vatra/Engst)(R1) – Area Variance – Deck

Mr. & Mrs. Bogdan Vatra and their contractor, David Engst, were present. Mr. Engst explained that they would like to add a ten (10) foot by thirteen (13) foot deck to the rear of their house on Hamlin Street. He explained that the previous homeowner had added rear doors as if there were a deck, but it was never built.

Zoning Officer Weber explained that the issue was that the deck was too close to the property line. He explained that it needed to be seven (7) feet off of the property line because it's attached to the house and the proposed plan is only a foot and a half (1 ½ ft.) feet off the property line.

Chair Hickey noted that the proposed deck follows the north edge of the house. Mrs. Vatra stated that she has spoken with two (2) neighbors and they have had no complaints.

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

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 79 ½ HAMLIN ST. – (VATRA/ENGST)(R1) – AREA VARIANCE – DECK 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
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. Stoll, voted and carried.

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE AREA VARIANCE – 79 ½ HAMLIN ST. – (VATRA/ENGST)(R1) – AREA VARIANCE – DECK BE APPROVED AS PRESENTED FOR A THIRTEEN (13) FOOT BY TEN (10) FOOT DECK.

Item No. 7 – Minutes – June 11, 2012

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	Aye	Comm. Wickman	Aye

RESOLVED THAT THE MINUTES OF JUNE 11, 2012 BE APPROVED AS AMENDED.

New Business

Comm. Funk reported that he has talked with Mayor Tobin about revising the City Zoning Ordinance. He also would like to see a change to the application process regarding the notification of the neighbors. He would like to see wording on the application that proof of that notification must be provided at the time of application.

Adjournment

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

Chair Hickey	Aye	Comm. Brown	Aye
Comm. Funk	Aye	Comm. Place	Aye
Comm. Stoll	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 9th DAY OF JULY 2012.

MARY KAY HICKEY, CHAIRPERSON