

**Zoning Board of Appeals
City of Cortland
December 10, 2012**

A regular meeting of the Zoning Board of Appeals was held on **Monday, December 10, 2012 at 5:15 p.m.** in the Mayor’s Conference Room at City Hall.

Present: Chair Mary Kay Hickey, Comm. Stephen Brown, David Funk, Christine Place, Phyllis McGinley, Michael Stoll, Jr. and Kenneth Wickman

Staff: Zoning Officer Bruce Weber, Asst. Chief William Knickerbocker

The meeting was called to order at 5:15 PM

Item #1 – 13 Lansing Avenue – (MacHenry) (R1) – Area Variance – Driveway

Representing the MacHenrys was Attorney Fran Casullo explaining what Mr. MacHenry wanted to do, which was to amend his original area variance application to eliminate the area for a turn around and pave a straight area of driveway in order to align with his garage, creating a nice clean, straight driveway keeping the existing trees and planting additional shrubs.

Mr. Casullo noted that the size of the lot is more than sufficient to allow for enlarging the driveway. If the Committee needs to see a more detailed drawing of the plans, that can be done.

There was no one else to speak therefore the Public Hearing and place the item on the table for deliberation

Motion by Comm. Funk, seconded by Comm. Place, voted and carried

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

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 Area Variance.

No, many houses in the neighborhood have two driveways so there would be no undesirable change, and surrounding neighbors are in favor of this project. (A petition signed by 23 residents on Lansing Ave. and Owego Street was presented by the applicant. All supported the application.)

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, water runoff should not be an issue.

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. It is self-created.

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. Wickman	Aye	Comm. McGinley	Aye
Comm. Stoll	Aye		

RESOLVED THAT THE AREA VARIANCE – 13 LANSING AVE. – (MACHENRY) (R1)-AREA VARIANCE – DRIVEWAY BE APPROVED AS PRESENTED TODAY, on the grounds that it keeps with the character of the neighborhood, there will be trees and additional shrubs, the amended application reduced environmental impact, the existing driveway on the opposite side of the house is connected to the neighbor’s driveway and is a shared driveway, and it has the support of the neighbors

Item #2 – 9 Water Street – (Baccille) – (R1) – Interpretation (Bruce Weber) – Chapter 300-143

To speak was Gary Baccille, who purchased this property in August of this year as a two-family unit based on information from the seller, a certificate of zoning occupancy, and the property was listed as a two family residence on the Multiple Listing Service. A bank took over the house in 1995 and sold it as a single family unit in 1996, but it’s not clear what transpired as far as ownership.

Zoning Officer Bruce Weber explained that the reason this is not an allowed use, is because the property is zoned R1 and if occupancy use lapses for one year, the property reverts back to its original use. Mr. Weber had previously asked Mr. Baccille if he could show proof of continuous use.

Documents presented as proof of continued use are:

- Certificate of Zoning Occupancy for a two-family dated December 31, 1986 issued to Francis Moose
- Statement from a former resident, Michael Poole dated 11/5/12, stating during the years he lived there, it was a two family residence.

The Board suggested Mr. Baccile obtain more supporting documentation and bring his application to appeal back before them at the next meeting.

Motion by Comm. Funk, seconded by Comm. Wickman, to keep the public hearing open and to table this agenda item for the January 14th meeting.

Item #3 – 66 Elm Street (Lang) – (R3) – Area Variance – Chapter 300-147 – to allow for and access ramp with front and side yard less than allowed.

To speak was Nancy Lang. Her husband has become disabled and needs a ramp to get in and out of the house. The ramp had already been installed and then they were informed that they needed to obtain the variance.

Ken Dye was also there to speak, as his daughter owns the house next door and she has no problem with the installation of the ramp.

Mr. Lang is scheduled for surgery in January, and if all goes well, the ramp will be taken down shortly after that.

On the motion of Comm. Place, seconded by Comm. McGinley, to close the public hearing and place the item on the table for deliberation.

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

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 Area 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, a letter from Ray & Destiny Sorber at Skyline Medical indicates the front is the only logical place for the ramp.

3. Whether the requested Area Variance is substantial.

Yes, it does take up a lot of space in the front yard.

4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.

No, it is a temporary ramp.

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, it was not self-created.

Motion of Comm. Stoll, seconded by Comm. Place, voted and carried

RESOLVED TO APPROVE THE AREA VARIANCE BASED ON THE LETTER FROM THE DOCTOR AND THE FACT THAT IT IS A TEMPORARY RAMP.

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

Minutes

Comm. Brown was not present at the last meeting, the list of items that were presented by Linda Fox for the property at 108 Groton Avenue is included in the minutes, and also that John and Kathleen Tavarone were present to speak on behalf of Ms. Fox.

On the motion of Comm. Stoll, seconded by Comm. Place, voted and carried
Include the list of supporting documents in the minutes of November 13, 2012.

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

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

RESOLVED THAT THE MINUTES OF NOVEMBER 13, 2012 BE APPROVED, AS AMENDED.

It was suggested that the Board set up a systematic way of communicating to the Chair whether or not a member of the Board would be able to attend the meeting in order to know if there would be a quorum.

Kenneth Wickman’s appointment expires in January, so the Board needs to start looking for a replacement. Comm. Funk is completing someone else’s term and thinks he may need to be reappointed.

Adjournment

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

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 10th DAY OF SEPTEMBER 2012.

MARY KAY HICKEY, CHAIRPERSON