

**Zoning Board of Appeals
City of Cortland
January 14, 2013**

A regular meeting of the Zoning Board of Appeals was held on **Monday, January 14, 2013 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, and Kenneth Wickman

Staff: Zoning Officer Bruce Weber, Deputy Chief William Knickerbocker

The meeting was called to order at 5:15 PM

Item #1 – 9 Water Street (Baccille) – (R1) – Interpretation

To speak was Gary Baccille and Robin Potter, a neighbor who has resided at 8 Water Street for about 27 years. Mr. Baccille presented a signed affidavit from Ms. Potter stating that for a brief period of time back in fall of 1995 that the house was vacant. Other than that, the house has been occupied by mostly students on the first and second floors. Another neighbor, Tim Stramba concurs with the information regarding occupancy, and said a relative of his resided at the residence in 1996. Mr. Baccille has possession of a Certificate of Occupancy for a two family dwelling, and the property is equipped with two gas meters and two electric meters. He asked that the Board agree that this is a two-family dwelling.

Chair Hickey noted the documents provided from the City Assessor's Office with different dates, some of which are not clearly legible, appear to date back to 1990.

Bruce Weber stated that the important thing was that there is now proof of occupancy during the period which had previously been shown as vacant. If the Committee accepts this affidavit as proof of that occupancy, then there is no contention as the other spans of time were not in question.

A picture of property showed that the lawn was totally overgrown. The possibility of a bank having taken possession for a period of time during which the lawn was very seldom mowed was discussed, but for the most part students resided there and just didn't keep up the yard.

There was no one else to speak, therefore the Public Hearing was closed and the item was placed on the table for deliberation.

On the motion of Comm. Wickman, seconded by Comm. McGinley, voted and carried to close the Public Hearing.

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

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

RESOLVED THAT THE USE VARIANCE – 9 WATER STREET – BE APPROVED DUE TO THE FACT THAT THE PROPERTY HAS BEEN CONTINUOUSLY USED AS A TWO- FAMILY RESIDENCE, SUPPORTED BY ROBIN POTTER’S AFFIDAVIT THAT THERE WAS CONTINUED OCCUPANCY.

Item #2 – 34 Glenn Street – (Webber) – Area Variance – (R1) – Front yard less than allowed, Chapter 300-12C.

To speak was Lynn Webber. He explained that he was applying for an Area Variance to replace the existing porch, expanding it around the house, making the structure within 25’ of the street. The front of the porch extends 8’ from the house and the steps are 32” closer to the street, but don’t extend out as far as the neighboring steps. No building permit was obtained prior to the work being done.

There was no one else to speak, therefore the Public Hearing was closed and the item was placed on the table for deliberations.

On the motion of Comm. Funk, seconded by Comm. Place, voted and carried to close the Public Hearing.

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, it’s a big improvement and is more in line with other houses in the area.
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. Yes, could have just replaced the existing steps and porch, but the new porch would now need to be torn down.
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, the property is at the end of a dead end street and other houses are as close or closer to the road.

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 was self-created.

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

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

RESOLVED TO APPROVE THE AREA VARIANCE APPLICATION BASED ON THE FACT THAT IT WILL NOT CHANGE THE CHARACTER OF THE NEIGHBORHOOD AND WILL NOT HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENTAL CONDITIONS DUE TO BEING AT THE END OF A DEAD END STREET, AND OTHER HOUSES ON THE STREET EXTEND INTO THE ZONING SETBACK.

Item #3 – 166 Madison Street – (Lane) – Use Variance – (R1) – and signage – Chapters 300-11, 105I, and 109C.

To speak was Jim Lane, owner and operator of Digipro Photography located at 129 Main Street, with a revised copy of the sign proposal based on some research he had looked over. The new proposal will be a ground sign, 5' from the sidewalk since the sign originally planned is not allowed. Mr. Lane explained the use will be digital portrait studio: family portraits, senior portraits, restoration of photographs, and some online work. The plan is to expand into school photography as well. Business hours will be Monday through Friday with standard hours of 10 TO 5, open on Saturdays by appointment. Foot traffic will be minimal and deliveries somewhat rare. The sign will not be lit.

Bruce Weber indicated that Mr.Lane will need a permit for the sign and requested that be submitted as soon as possible.

There was no one else to speak, therefore the Public Hearing was closed.

On the motion of Comm. Wickman, seconded by Comm. McGinley to close the Public Hearing.

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

The criteria for a use variance were reviewed.

1. Whether the applicant cannot realize a reasonable return, as shown by competent financial evidence. The lack of return must be substantial. Yes, the Board received a letter from the Vice President of Finance at Cortland Regional Medical Center on

Mr.Lane’s behalf, as two previous purchase offers failed and the Hospital wants to sell the property to Mr. Lane. (**Note:** The two previous purchase offers were contingent upon use variances granted by the ZBA, based on detailed financial evidence submitted at the time. The building was purchased for \$145,000, and after being on the market for 7 years, will be sold for \$40,000.)

2. Whether the alleged hardship relating to the property is unique, (The hardship may not apply to a substantial portion of the zoning district or neighborhood.) Yes, it is unique to that neighborhood. It is the only commercial property in a residential area and has been commercial since it was built.

3. Whether the requested use variance, if granted, will not alter the essential character of the neighborhood. No, the structure will not be changed and there will be less traffic than when the building housed a doctor’s office.

4. Whether the alleged hardship has not been self-created. No, not for the Cortland Regional Medical Center.

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. Wickman	Aye	Comm. McGinley	Aye

RESOLVED TO APPROVE THE USE VARIANCE AS REQUESTED SINCE THE APPLICANT DESCRIBES IN HIS APPLICATION BUSINESS HOURS AND THE TYPE OF BUSINESS TO BE OPERATED THERE AS THE SITE PLAN SHOWS, ON THE GROUNDS THAT THE PROPERTY HAS BEEN NEGLECTED FOR SEVEN YEARS, THE VALUE DROPPING FROM \$145,000 TO \$40,000. IT HAS ALWAYS BEEN A BUSINESS AND NEVER A RESIDENCE, AND IT WILL HAVE LESS IMPACT ON THE NEIGHBORHOOD.

Discussion ensued regarding nomination of Chair and Vice Chair. Mr. Wickman stated his desire to not serve another term as Vice Chair.

On the motion by Comm. Place, seconded by Comm. McGinley, to nominate David Funk as Vice Chair, voted and carried.

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

Minutes

Corrections on the December 10th minutes, the date at the bottom of each page was not correct, on item #1 Comm. Funk made the motion and on page 4, Comm. Stoll seconded the minutes.

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

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

RESOLVED TO APPROVE THE DECEMBER MINUTES AS AMENDED.

Adjournment

On the motion of Comm. Funk, seconded by Comm. Wickman, 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 14th DAY OF JANUARY, 2013.

MARY KAY HICKEY, CHAIRPERSON