

**Zoning Board of Appeals
City of Cortland
April 8, 2013**

A regular meeting of the Zoning Board of Appeals was held on **Monday, April 8, 2013 at 5:00**. in the Mayor's Conference Room at City Hall.

Present: Chair Mary Kay Hickey, Comm. David Funk, Christine Place, Phyllis McGinley and Michael Stoll

Absent: Comm. Stephen Brown

Staff: Zoning Officer Bruce Weber, Deputy Chief William Knickerbocker

The meeting was called to order at 5:00 PM

Item #1 – 7 Kennedy Parkway – (Lafian) – Area Variance – R4 – Parking Area – 300-65A To allow a vegetative strip less than 4 feet

Daniel Giamei was present to speak for the proposal on behalf of the owner, John Lafian. The applicant seeks to construct a 6' X 29' driveway extension in order to provide parking for the tenants of the two dwelling units.

On the motion of Comm. Funk, seconded by Comm. Stoll the Public Hearing was closed, voted and carried.

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. The property is adjacent to a parking lot.
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. Extending the driveway on the other side would put parking in front of the house, which would violate fire code.
3. Whether the requested area variance is substantial. Yes. It reduces the vegetative strip to only about half of the required.

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, especially since some of the tenants are using garage space for storage of property rather than vehicles.

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

Approved: Ayes – 5
 Nays – 0

RESOLVED THAT THE AREA VARIANCE FOR 7 KENNEDY PARKWAY BE APPROVED AS SUBMITTED.

Item #2 – 8 Sunnyfield Drive – (Rosato) – Area Variance – R1 – Shed

Anthony Rosato was present to speak for the proposal. He would like to place a 12' x 24' shed in the side yard next to his house. He did not want to locate it in the rear yard because it would interfere with his garden and dog. In discussion of options, Deputy Chief Knickerbocker indicated that a shed placed close to the house would have to be fire-rated, which would increase its price. Commissioner Place suggested that it might be more economical to add on to the house and create a permanent structure, which would increase the value of the property. After some discussion, Mr. Rosato decided to consider that alternative.

On the motion of Comm. Funk, seconded by Comm. Place, to table the item, allowing Mr. Rosato to return if he needed a variance for an alternative to the shed.

Approved: Ayes – 5
 Nays – 0

RESOLVED THAT THE APPLICATION FOR AN AREA VARIANCE FOR A SHED IN THE SIDE YEAR OF 8 SUNNYFIELD DRIVE BE TABLED.

Item #3 –160 Clinton Avenue – (Bennett / Dickeys) – GB – Sign

Allan Bennett was present to speak to the proposed signage. The applicant would like to put two flat building signs on the northwest corner of the building, one facing north and the other east. Each sign would be 10' x 11' for a total signage of 10' x 22'. Since the sign is on a portion of the building that is not occupied by Dickey's, Commissioner Place asked what would happen if a new tenant moved into the space where the sign would be placed, and wanted a sign for the new business. Mr. Bennett said that the landlord would tell him to take down the sign and he would have to do so.

On the motion of Comm. Stoll, seconded by Comm. Place, the Public Hearing was closed.

Approved: Ayes – 5
 Nays - 0

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, but there were some concerns about distractions for drivers.
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. There is already signage on the building. Two additional signs may not be necessary.
3. Whether the requested area variance is substantial. Yes. The applicant has already placed the allowable number (and area) of signs.
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. McGinley, voted and carried.

Approved: Ayes – 5
 Nays - 0

RESOLVED THAT THE APPLICANT BE PERMITTED TO PLACE ONE SIGN ON EITHER THE NORTH OR WEST FACE OF THE BUILDING. THE APPLICANT MAY CHOOSE WHICH.

Item #4 – 16 Owego Street – (John Barden) – Interpretation

John Barden was present to speak to the interpretation of the decision previously made. He presented the following documents:

1. A letter to the Board from the City Assessor's Office explaining that the property was listed as a single family dwelling in 1976, 1987, and in 1994. In 2010, the property classification was changed to a two family dwelling with two separate distinct living areas. He said that the Assessor had examined the house and found that it was constructed as a 2-family house.

2. A statement from former owner Kong Mou Wang, who said it was a 2-family home when he bought it in 2002 and he used it as such until he sold it to Mr. Barden in 2010.

3. The first page of a realtor's listing indication that the property was a 2-family building.
4. A copy of his application for a CZO for a 2-family building dated 2012.

From the City property file, Zoning Officer Weber produced:

1. A letter from his office to Edward Purser, attorney for Mr. Barden, conveying his finding that the property was used as a single family dwelling in 2002. The letter informed Mr. Barden that he would need to apply for ZBA and Planning Commission approval.
2. A letter from Deputy Chief Knickerbocker to former owner F. K. Wood regarding alleged occupancy of 16 Owego Street by as many as 13 individuals, when only three unrelated are permitted in a single family dwelling.
3. A copy of Mr. Barden's application for a building permit.
4. The last page of the realty listing provided by Mr. Barden showing that it had been listed as a single family dwelling during each of the last three changes of ownership.

Zoning Officer Weber said that if Mr. Barden could provide continuous evidence that the building was 2-family with no lapse of such use, the ZBA could consider that the use was grandfathered. He said that the City property file indicates that it has been classified as a single family dwelling. Furthermore, Mr. Barden made some repairs to the building but then closed it up, let it sit vacant for more than a year, and was required to pay a fine for a vacant building. Mr. Barden claimed that he had never been told that he could apply for ZBA approval to convert to a 2-family if he chose. Commissioner McGinley recalled that she clearly recalled use of the building as a single family, although that was many years ago.

On the motion of Comm. Place, seconded by Comm. Stoll, the Public Hearing was closed.

Approved: Ayes – 5
 Nays - 0

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

Uphold the decision: Ayes – 5
 Nays – 0

RESOLVED THAT THE ZBA UPHOLD THE ZONING OFFICER'S DECISION THAT 16 OWEGO STREET IS A SINGLE FAMILY DWELLING.

Item #5 – 29 Hyatt Street – (Blumenfeld) – Fire escape and deck - R2

Joe Blumenfeld was present to speak for his proposal. The building is a 2-family dwelling, with one apartment upstairs and the second downstairs. He is concerned about the residents' ability to safely exit from the building in an emergency and would

New Business

Adjournment

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

Approved: Ayes – 5
 Nays – 0

I, MARY KAY HICKEY, CHAIRPERSON OF THE ZONING BOARD OF APPEALS FOR THE CITY OF CORTLAND, NY, 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 8th of APRIL, 2013.

MARY KAY HICKEY, CHAIRPERSON