

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

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

Present: Chairman Mary Kay Hickey, Comm. David Funk, Stephen Brown, Christine Place, Michael Stoll, Jr., Wayne Hansen, Phyllis McGinley

Staff: Zoning Officer Bruce Weber, Deputy Chief William Knickerbocker

The meeting was called to order at 5:00 PM

**Item #1 – 15 Frederick Street – Dawn Harvey – R2 – Area Variance – Widen Driveway**

Applicant Dawn Harvey was present. The current driveway does not allow for two cars to park side-by-side without doing damage to the lawn.

Area Variance for lot coverage

**Work to be done:**

- Widen driveway, 3 feet on the side and 3 feet on the rear

Motion to close public hearing made by Comm. Place and seconded by Comm. Stoll.

Approved: Ayes – 6

Nays – 0

**Criteria for Area Variance:**

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, many shallow lots with front yard parking
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, has a double lot
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

A motion was made by Comm. Funk and seconded by Comm. Place, to approve the area variance as presented for an extension of 3 feet on the side and 3 feet on the rear.

Approved:                   Ayes – 6

                                  Nays – 0

RESOLVED TO APPROVE THE AREA VARIANCE AS PRESENTED FOR AN EXTENSION OF 3 FEET ON THE SIDE AND 3 FEET ON THE REAR.

Comm. McGinley arrived after the vote on Agenda Item #1.

**Item #2 – 20 Sands St – Denis TenEyck – R1 – Area Variance – Added parking, new sidewalk, small closet addition, windows**

Applicant Denis Ten Eyck was present.

**Work to be done:**

- Clarify parking
- Adding additional exterior entrance
- Revising window wells on both sides of property
- Addition of a new sidewalk
- Construction of exterior utility closet
- Gable roof over existing stairwell
- Changing three windows with larger windows

The construction of the utility closet, which would be attached to the house is the subject of the use variance, as it expands a non-conforming use (three-family dwelling in an R-2 district). The applicant further requests area variances for lot coverage, reduced parking-space-size, re-configuration of parking spaces that would require one vehicle to be moved in order to access another, and addition of a sidewalk.

Motion to close public hearing made by Comm. Funk and seconded by Comm. Place.

Approved:                   Ayes – 7

                                  Nays – 0

State Environmental Assessment was conducted and the form is attached to the minutes.

Motion to find no significant adverse environmental impacts made by Comm. Place and seconded by Comm. Funk.

Approved:                   Ayes – 7

                                  Nays – 0

RESOLVED THAT THERE ARE NO SIGNIFICANT ENVIRONMENTAL IMPACTS.

**Criteria for Use Variance (Utility Closet):**

1. Whether the applicant cannot realize a reasonable return, as shown by competent financial evidence.
  - No, there are alternatives
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.)
  - No, all properties have to shield garbage from view
3. Whether the requested use variance, if granted, will not alter the essential character of the neighborhood.
  - No
4. Whether the alleged hardship has not been self-created.
  - No, it has been self-created

A motion was made by Comm. Funk and seconded by Comm. McGinley, to deny the use variance.

Denied:                   Ayes – 7

                              Nays – 0

RESOLVED TO DENY THE USE VARIANCE.

**Criteria for Area Variance:**

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, no green space and all parking
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, size – no way to configure 10 at required size and layout; sidewalk – no other alternative
3. Whether the requested area variance is substantial.
  - Yes, size – majority of parking spaces do not conform; sidewalk – no, minimal increase; layout – four out of ten spaces block other vehicles from moving and no circulation is possible; sidewalk – increases lot coverage, but is a relatively small portion of the total
4. Whether the proposed variance will have an adverse effect or impact on the physical environmental conditions in the neighborhood or district.
  - Yes, water and fuel runoff, visual impact
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

Motion to deny parking plan as presented, by Comm. Place and seconded Comm. Brown based on the findings above.

Approved:               Ayes – 7

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Nays – 0

RESOLVED THAT THE APPLICATION FOR AREA VARIANCE FOR PARKING AS PRESENTED BE DENIED.

A motion was made by Comm. Place and seconded by Comm. Hansen, to grant the area variance for a 3 foot wide sidewalk from Sands to the back (Water Street side) of the house as proposed.

Approved: Ayes – 6

Nays – 1 Commissioner Stoll

**Item #3 – 13 Bellrose Avenue – Fulton – R1 – Area Variance – Entryway and Porch**

Applicant Bernard Fulton was present.

**Work to be done:**

- New entry and porch on front of house

Mr. Fulton explained that the existing porch is deteriorating and he wants to replace it with a slightly larger porch.

A motion was made by Comm. Brown and seconded by Comm. Place, to close the public hearing.

Approved: Ayes – 7

Nays – 0

**Criteria for Area Variance:**

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, will enhance neighborhood.
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, front of house at setback
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, wants to expand porch

A motion was made by Comm. Brown and seconded by Comm. Stoll, to grant the area variance for construction of a new porch as presented.

Approved: Ayes – 7

Nays – 0

**Item #4 – 185 Port Watson Street – Pothos – GB – Area Variance – Parking Lot Size**

Applicant Emmanuel Pothos was present, as well as his attorney, Fran Casullo. Mr. Pothos wants to rehabilitate the property, creating an upstairs apartment and a business downstairs. The property doesn't meet the minimum lot size and width requirements. Mr. Pothos would also like to surface the parking lot with gravel rather than the required paving.

County Planning originally recommended that the applicant seek a use variance for using crushed stone for the parking lot rather than blacktop or concrete. Upon further discussion, the Director of Planning and the Chief Zoning Officer concluded that paving was an area variance matter. The recommendations from County Planning, therefore include: delineation of parking spaces, approval of expansion of driveway entrance by City DPW, and a 10 foot buffer strip on south property line.

**Work to be done:**

- Parking, lot size

Motion was made by Comm. Stoll and seconded by Comm. Place, to close the public hearing.

Approved: Ayes – 7

Nays – 0

**Criteria for Area Variance:**

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, mixed use with commercial already
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, crush gravel is not asphalt, width and coverage (75%) are substantial
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, in terms of parking, not lot size (pre-existing)

A motion was made by Comm. Stoll and seconded by Comm. Funk, to approve the area variance as presented, complying with the recommendations from County Planning, with the stipulation that within a 5-year period, the applicant pave the parking lot with either blacktop or concrete.

Approved:                   Ayes – 7

                                  Nays – 0

**Item #5 – 16 Court Street – Cleary – GB – Area Variance – Signage**

Applicant Dan Cleary and David McNeil of the Cortland Beer Company were present. They would like to place a business sign on an existing billboard that is larger than allowed. Addition of this sign will exceed the number of signs allowed.

**Work to be done:**

- Signage

Motion was made by Comm. Brown and seconded by Comm. McGinley to close the public hearing.

Approved:    Ayes – 7

                  Nays – 0

**Criteria for Area Variance:**

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, it is a commercial 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.
  - No
3. Whether the requested area variance is substantial.
  - Yes, size and number but half of sign is being devoted to welcome to Historic Downtown Cortland
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

A motion was made by Comm. Stoll and seconded by Comm. Hansen, to grant the area variance as presented.

Approved:                   Ayes – 7

                                  Nays – 0

**Minutes**

Minutes of the June 10, 2013 meeting.

**Amendments to the minutes:**

- Name spelling changes to Commissioners
  - Stephan Brown to Stephen Brown
  - Christina Place to Christine Place
- Delete: Absent: Comm. Wayne Hansen
- Item #1:
  - Criteria for Area Variance:
    - 3. Add “is minimal” to end of sentence
  - Change 5 to 6 for Aye votes
- Item #2:
  - Add: He had previously applied for permission to erect a shed in his side yard. The ZBA did not give permission, but he has since erected a structure. The original hearing was not closed because the applicant wanted to look into an alternate plan and seek legal advice.
  - Change 0 to 6 for Aye votes
  - Change 5 to for Nay votes
- Adjournment:
  - Comm. Brown from Stoll
  - Change 5 to 6 for Aye votes

On the motion of Comm. Stoll and seconded by Comm. McGinley, voted and carried to accept the minutes of the **June 10, 2013** meeting, as amended.

**Adjournment**

On the motion of Comm. Brown, seconded by Comm. Stoll, voted and carried to adjourn.

Approved:

Ayes – 7

Nays – 0

**I, MARY KAY HICKEY, MEMBER 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 8<sup>TH</sup> OF JULY, 2013.**

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**MARY KAY HICKEY, CHAIR**