

Zoning Board of Appeals  
City of Cortland  
Monday, May 12, 2014

A regular meeting of the Zoning Board of Appeals was held on Monday, May 12, 2014 at 5:00 PM in the Mayor's Conference Room at City Hall.

Present: Chair, Mary Kay Hickey, Commissioners David Funk, Phyllis McGinley, Wayne Hansen, Dave Dovi (Dave Dovi arrived at 5:21pm)  
Absent: Christine Place  
Staff: Deputy Fire Chief; William Knickerbocker, Secretary; Shellie Blaisdell

The meeting was called to order at 5:00 pm

**Item #1 – 202 S. Main Street – (R2) – (Russell Simonetta) – Area Variance**

Russell Simonetta presented his application request of an Area Variance. Gravel over most of what exists. Small parcel in back. 16 foot. Not paving-7000 sq. ft. there is four floors, only using 2 floors/7 units. Just invested \$30,000 into a new roof. Have good tenants with cars. Remove shed. Driveway on both sides. – have a total of 7 parking spaces. Grandfathered in for gravel vs. paving and the Planning Commission recommended gravel instead of blacktop. Dig out 8 inches deep. The lot coverage is exceeded to allow for gravel. Soil absorption is necessary due to flood plain; will lesson the impact of flooding. The applicant has withdrawn the Use Variance application which would have been needed for front yard parking that is no longer part of the proposal.

A motion was made to close the Public Hearing by Comm. Funk and seconded by Comm. McGinley.

Approved: Ayes – 5  
Nays – 0

A motion was made by Comm. Funk and seconded by Comm. Hansen to grant the Area Variance Application as presented.

Approved: Ayes – 5  
Nays – 0

**Item #2 – Natrium – (GB) – C&S-Mark Chambers/Natrium-Bob Kemp) – Use Variance**

C&S Engineer Mark Chambers and Natrium's Bob Kemp both presented their application. Natrium is looking to build a warehouse of 11,000 sq. foot storage building on a vacant lot. The vacant lot is zoned GB and a warehouse is not an allowed use. There is no need for sewer or water; there will be overhead doors with concrete loading dock. FDA has imposed new requirements to "house" product for a quarantine period before shipping as opposed to make and ship from previous practices. The new warehouse would be the quarantine site.

Letters from residents in the neighborhood are in support of the building with border protection and security measures in place-the product has to be treated as a drug. Natrium cannot meet the requirements of FDA, by doing business as it currently does and long-term will have significant issues.

ZBA cannot grant the Use Variance without evidence of financial hardship and the hardship must not be self-created. ZBA is asking Natrium to return with documented evidence of hardship.

Gary VanGorder, (CCBC) Bob Haight (Chamber of Commerce), Mack Cook, Ric VanDonsel spoke in support of Natrium.

A motion was made by Comm. Funk to table the application and leave the public hearing open to allow Natrium the option of returning with supporting documents for financial hardship. The motion was seconded by Comm. Hansen.

Failed Motion: Ayes – 3  
Nays – 2 (Comm. Dovi, McGinley)

After some discussion of the criteria for granting a Use Variance, Comm. Funk moved again to table the application. The motion was seconded by Comm. Hansen.

Approved: Ayes – 5  
Nays – 0

**Item # 3– 43/45 Charles Street – (R4) – (NYSEG) – R2 – Use Variance**

Bart Bosley presented application of NYSEG installing a new regulator station above ground on Charles St. (exactly like the one installed at the hospital). The sub station will have all new updates, needs to be replaced due to condition and age. All the ones in the ground are being upgraded to above ground; in ground causes corrosion.

Already presented to Planning with no objections.

A motion was made to close the Public Hearing by Comm. Funk and seconded by Comm. McGinley.

Approved: Ayes – 5  
Nays – 0

A motion was made by Comm. McGinley and seconded by Comm. Funk to approve the application as presented.

Approved: Ayes – 5  
Nays – 0

---

---

---

**Item # 4 – 7 Harmony Circle – (R1) – (O’Shea) – Area Variance**

Eamon O’Shea presented his application to install a privacy fence on his corner lot. He has a safety concern for his children.

Construction material is pressure treated lumber. Asking for a two foot height variance.

A motion was made to close the Public Hearing by Comm. Hansen and seconded by Comm. McGinley.

Approved: Ayes – 5  
Nays – 0

A motion was made by Comm. Funk and seconded by Comm. McGinley to grant the Area Variance Application as presented.

Approved:     Ayes – 5  
                  Nays – 0

Item # 5 – 5 Lansing Ave – (R1) – (Colantonio) – Area Variance

This item is tabled until June 9, 2014; there was no prior notification to immediate neighbors regarding this property’s application.

Item # 6 – 101 Owego Street – (R1) – (Marshall) – Area Variance

Scott Marshall presented his application for an Area Variance to extend his deck on the front of the house.

A motion was made to close the Public Hearing by Comm. Funk and seconded by Comm. Hansen.

Approved:     Ayes – 5  
                  Nays – 0

A motion was made to approve the Area Variance as presented by Comm. McGinley and seconded by Comm. Hansen

Approved:     Ayes – 5  
                  Nays – 0

Item # 7 – 140 Groton Ave – (R3) – (Crawford) – Interpretation

Josh Ligus was present to ask for interpretation of 140 Groton Ave as a single family dwelling. His intent is to convert to a two-family dwelling. The bank will not authorize the loan until confirmation of two-family unit. An R3 use by right/very close on lot size. It is a vacant building for sale at least 3 years. A use by right, but a substandard corner lot. Pre-existing, non-conforming-6 unrelated, 2 apartments up and down (3 bedrooms each) for student housing.

Any interpretation sets a precedent. Very few lots that made the code use by right – lot not the right size location of building. No parking issues. Area city charter – lot reverts to the original use after 1 year lapse in use. ~~Nothing specifically in the charter – best practices. Applicant is asking for determination~~ because it is a use by right, he doesn’t need to come back. Discussion – interpreting to be made case law is the bank not willing to loan?

Offer with contingencies – not comfortable interpreting without case law – will need to come back to apply for area variance. Recommends the interpretation upholds the decision of the Zoning Officer.

Item # 8 – 236 Main Street – (R1) – (CAPCO) – Interpretation

Fran Casullo / attorney for CAPCO – under contract to purchase property in question. The back of the building currently being used for the Head Start program. It required a Use Variance from Cortlandville. The interpretation is to see if the same variance extends to the rest of the property – front of the

building as additional space for classrooms as part of the same Head Start program. Federal government to provide a funding source with this expansion. They are just expanding the use.

A motion was made by Comm. Funk the ZBA agrees with the findings of Corporation Counsel that the previously granted Use Variance applies to the land, not the buildings. The applicant may extend the same per-existing non-conforming into another building on the same property. The motion was seconded by Comm. McGinley.

Approved:     Ayes – 5  
                  Nays – 0

**Minutes**

The minutes from April 14, 2014. A motion by Comm. Funk to accept the minutes of April 14, 2014 as amended and seconded by Comm. McGinley.

Approved:     Ayes – 5  
                  Nays – 0

**Adjournment**

On the motion of Comm. Funk and seconded by Comm. McGinley, voted and carried to adjourn meeting.

Approved:     Ayes – 5  
                  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 12<sup>th</sup> DAY OF MAY IN THE YEAR 2014.**

---

**MARY KAY HICKEY, ZBA MEMBER**